



Gloria Olmos, Mayor
Gracie Retamoza, Mayor Pro Tem
Manuel Acosta, Councilmember
Richard Angel, Councilmember
Hector Delgado, Councilmember

Anthony R. Taylor, City Attorney
Rachel Barbosa, City Manager
Donna G. Schwartz, City Clerk

CITY OF SOUTH EL MONTE

REGULAR MEETING OF THE SOUTH EL MONTE CITY COUNCIL

AGENDA

October 13, 2020 at 6:00 PM
City Council Chambers
1415 N. Santa Anita Avenue
South El Monte, CA 91733

EFFECTIVE SEPTEMBER 8, 2020

City Councilmembers have returned to City Hall to Conduct City Council Meetings.
These Meetings are not Open to the Public until Further Notice.

*****SPECIAL NOTICE REGARDING COVID-19*****

On March 17, 2020, Governor Newsom issued Executive Order N-29-20 in response to the COVID-19 pandemic, which authorizes the City Council to hold public meetings via teleconferencing and to make public meetings accessible telephonically or otherwise electronically to all members of the public seeking to observe and to address the local legislative body. All requirements of the Brown Act requiring the physical presence of Council Members, staff, or the public as a condition of participation in or quorum for a public meeting have been waived.
Public participation will be allowed via the information below.

TELECONFERENCE

Members of the public will have access to listen to and participate in the meeting by calling-in at the information below. Teleconference participation shall be available to the public at the following USA Toll-Free number,
1-888-204-5987, Access Code: 9671457.

LIVE TELECAST

The public may also view a live telecast online at
www.cityofsouthelmonte.org/129/City-Council-Agendas-Minutes

GENERAL COMMENT

Members of the public wishing to submit a general comment or a comment on an agenda item, can email dschwartz@soelmonte.org or call (626) 579-6540 to leave a voicemail message. All comments received an hour before the scheduled meeting will be added to the City Council agenda as part of the public comment.

MEETINGS

The [City Council](#) holds regular meetings on the second and fourth Tuesday of every month. Regular meetings start at 6 p.m. in the Council Chambers at City Hall, 1415 N Santa Anita Avenue, South El Monte, California. Special and Adjourned Regular meetings start time are to be determined.

POSTING LOCATIONS OF AGENDA AND/OR CANCELLATION NOTICES

Regular and Adjourned Regular meeting agendas will be posted at least 72 hours before the meeting (GC 54954(a)(1)).

Agenda and Cancellation Notices can be viewed online and are also posted at the following three (3) locations: City Hall located at 1415 Santa Anita Avenue, Senior Center located at 1556 Central Avenue and the Community Center located at 1530 Central Avenue, South El Monte, California.

VIEWING OF AGENDA PACKETS

Full agenda packet can be viewed either at www.cityofsouthelmonte.org/129/City-Council-Agendas-Minutes or in the City Clerk's Office during normal business hours Monday through Thursday 7:00 a.m. to 5:30 p.m. Closed on Fridays and major holidays.

ISSUES RELATED TO AGENDA

For issues related to the agenda, including a disability-related accommodation necessary to participate in this meeting, please contact Donna G. Schwartz, CMC, City Clerk at (626) 579-6540 ext. 3280 or (626) 274-0412 Cell or Paola Lara, Deputy City Clerk at (626) 579-6540 ext. 3220 or (626) 522-5341 Cell.

[Agenda Begins on the Following Page]

1. **ROLL CALL** Councilmembers: Acosta, Angel, Delgado, Retamoza, and Mayor Olmos
2. **PLEDGE OF ALLEGIANCE** Mayor Pro Tem Gracie Retamoza
3. **INVOCATION** Planning Commissioner Jeff Ortiz
4. **PRESENTATIONS** None.
5. **APPROVAL OF THE AGENDA AND WAIVER OF FULL READING OF ORDINANCES**

By motion of the City Council, this is the time to notify the public of any changes to the agenda, remove items from the consent calendar for individual consideration and/or rearrange the order of the agenda.

6. **PUBLIC COMMENT**

Speakers may provide public comment on any matter that is within the subject matter jurisdiction of the City Council, including items on the agenda. Each speaker may speak for up to five minutes. With respect to non-public hearing agenda items, speakers shall provide their comments at this time. With respect to public hearing agenda items, speakers are encouraged to speak during the public hearing if they want their comments to be included in the record of the public hearing. Unless a majority of the Council objects, the Mayor may provide to speakers more or less time to speak. Any documents for review should be presented to the City Clerk for distribution.

7. **CONSENT CALENDAR**

Items on the consent calendar are considered routine and customary and are enacted by a single motion with the exception of items previously removed by a member of the City Council during "Approval of the Agenda" for individual consideration. Any items removed shall be individually considered immediately after taking action on the Consent Calendar.

7.a. **SPECIAL CITY COUNCIL MEETING, ADJOURNED REGULAR CITY COUNCIL MEETING, AND REGULAR CITY COUNCIL MEETING MINUTES**

Staff seeks Council approval of the Minutes for the Special Meeting of September 16, 2020, Adjourned Regular and Regular Meetings of September 22, 2020, and Special Meeting of September 29, 2020.

RECOMMENDED ACTION: Staff recommends City Council approve the above referenced minutes.

7.b. WARRANTS

Authorizing payment of City expenditures for the period of September 23, 2020 through October 13, 2020 totaling \$1,536,444.33.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 20-105, authorizing payment of City expenditures.

7.c. CONSIDERATION OF RESOLUTION NO. 20-106, APPROVING AMENDMENT NO. 1 TO THE AGREEMENT WITH CALPROMAX ENGINEERING FOR PUBLIC WORKS SERVICES FOR THE TRAFFIC SIGNAL REHABILITATION PROJECT AT RUSH STREET AND PECK ROAD (PROJECT NO. 67-900-9020-293)

On November 12, 2019, the City Council awarded an agreement for Public Works Services to Calpromax Engineering (Agreement) for the rehabilitation of the traffic signal at Rush St. and Peck Rd. (Project No. 67-900-9020-293). An extension of the term of the Agreement is necessary for project completion. No additional compensation is required.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 20-106, approving amendment no. 1 extending the term of the Public Works Services Agreement between the City and Calpromax Engineering to November 12, 2021.

7.d. CONSIDERATION OF RESOLUTION NO. 20-107, APPROVING AMENDMENT NO. 1 TO THE PROFESSIONAL SERVICES AGREEMENT WITH KOA CORPORATION FOR DESIGN ENGINEERING SERVICES FOR THE SANTA ANITA AVENUE & KLINGERMANN STREET, SANTA ANITA AVENUE & RUSH STREET, AND SANTA ANITA AVENUE & CENTRAL AVENUE SIGNAL MODIFICATION PROJECT (HSIPL 5352(019))

On October 23, 2018, the City Council awarded a Professional Services Agreement to KOA Corporation for Design Engineering Services for the Santa Anita Avenue & Klingerman Street, Santa Anita Avenue & Rush Street, and Santa Anita Avenue & Central Avenue Signal Modification Project (HSIPL 5352(019)). An extension of the term of the agreement is necessary for design phase completion. No additional compensation is required.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 20-107, approving amendment no. 1 extending the term of the Professional Services Agreement between the City and KOA Corporation to October 23, 2021 to complete the project.

7.e. CONSIDERATION OF RESOLUTION NO. 20-108, APPROVING AMENDMENT NO. 1 TO THE AGREEMENT WITH THE COUNTY OF LOS ANGELES FOR THE ELDERLY NUTRITION PROGRAM SERVICES

On July 1, 2020, a one-year agreement between the County of Los Angeles through its Department of Workforce Development, Aging and Community Services (WDACS) and the City of South El Monte was entered into to assist with the funding for the City's Elderly Nutrition Program Services. This Amendment will increase the allocated baseline funding from \$209,000 to \$288,000 resulting in an increase of \$79,000 for Fiscal Year (FY) 2020-21 only.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 20-108, approving amendment No. 1 to the agreement with the County of Los Angeles and authorizing the City Manager to execute the agreement.

7.f. CONSIDERATION OF RESOLUTION NO. 20-109, APPROVING THE AGREEMENT WITH THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ASSOCIATED WITH THE RECEIPT OF FEDERAL TRANSPORTATION AUTHORITY (LACMTA) SECTION 5310 GRANT FUNDING FOR TRANSPORTATION SERVICES

On July 30, 2019, the City submitted a Federal Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program grant application to enhance the transportation division's efficiency. On September 16, 2020, the Los Angeles County Metropolitan Transportation Authority (LACMTA) notified the City that \$272,089 was awarded to the City for traditional capital and operating improvements. As part of the follow-up application process, LACMTA requires a resolution, authorizing the City Manager to enter into an agreement with LACMTA for the grant funds.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 20-109, approving the agreement and authorizing the City Manager to enter into a grant contract with LACMTA for the Federal Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program grant.

7.g. APPROVAL OF PROPOSED DARK CITY COUNCIL MEETING DATES

Staff is requesting City Council consider "going dark" on Tuesday, November 24, 2020, due to the Thanksgiving holiday and Tuesday, December 22, 2020, due to the Christmas holiday.

RECOMMENDED ACTION: Staff recommends City Council "goes dark" on Tuesday November 24, 2020, due to the Thanksgiving holiday and Tuesday, December 22, 2020, due to the Christmas holiday.

7.h. CONSIDERATION OF RESOLUTION NO. 20-110, APPROVING THE EMPLOYMENT AGREEMENT FOR COMMUNITY DEVELOPMENT DIRECTOR

Approve the attached resolution and employment agreement for Colby Cataldi as Community Development Director.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 20-110, approving employment agreement with Colby Cataldi as Community Development Director and authorizing Mayor to execute agreement.

7.i. CONSIDERATION OF RESOLUTION NO. 20-111, RE-ADVERTISING BIDS FOR ENVIRONMENTAL SERVICES INCLUDING NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) REPORTING REQUIREMENTS, AND APPROVING THE EXTENSION OF AGREEMENT WITH JOHN HUNTER AGREEMENT UNTIL JANUARY 30, 2021

Staff only received one bid during the RFP process. Staff recommends to re-advertise for environmental services to receive at least two bids for price comparisons and to extend the current Environmental Service with John L. Hunter to January 30, 2021.

RECOMMENDED ACTION: Staff recommends City Council reject the bid for solicited environmental services including annual NPDES reporting requirements, rebid for environmental services, and adopt Resolution No. 20-111, approving an amendment to the agreement with John L. Hunter to extend the term until January 30, 2021.

8. PUBLIC HEARINGS None.

9. GENERAL BUSINESS

9.a. CONSIDERATION OF URGENCY ORDINANCE 1249-U AMENDING URGENCY ORDINANCE 1244-U, COMMERCIAL EVICTION PROTECTIONS AND RESIDENTIAL RENT DEFERRALS RELATING TO THE COVID-19 PANDEMIC

On April 7, 2020, the City Council of the City of South El Monte adopted Urgency Ordinance 1244-U, which established protections against evictions of businesses from commercial property and residential rent deferrals during the current declared state of emergency related to the COVID-19 pandemic. Amendments are necessary to Urgency Ordinance 1244-U in order to ensure that it continues to effectively protect the health, safety, and welfare of the citizens of South El Monte and to address changes in State law.

RECOMMENDED ACTION: Staff recommends City Council adopt Urgency Ordinance No. 1249-U, amending Urgency Ordinance 1244-U to make technical changes relating to commercial eviction protections and residential rent deferrals related to the COVID-19 Pandemic.

9.b. CONSIDERATION OF RESOLUTION NO. 20-112, TO AWARD PROFESSIONAL SERVICES AGREEMENT TO NBS GOVERNMENT FINANCE GROUP FOR A COST ALLOCATION, USER FEE STUDY, AND BUSINESS LICENSE FEE UPDATE STUDY, AND REQUEST FOR AN ADDITIONAL ALLOCATION OF FUNDS

On July 30, 2020, the City issued a Request for Proposals (RFP) for a cost allocation analysis, user fee study, and business license fee update study. There were five firms that submitted proposals by the deadline of August 31, 2020 by 4 p.m. Staff reviewed the proposals, conducted interviews, and determined that, of the five companies NBS Finance Group (NBS) is the consulting firm that best meets the needs of the City and also provided the lowest bid.

RECOMMENDED ACTION: Staff recommends City Council adopt Resolution No. 20-112, awarding a Professional Services Agreement to NBS Government Finance Group, an independent consulting firm serving local governmental agencies in the areas of Cost Allocation Analysis, User Fee Study, and Business License Fee Update. NBS was judged to be the best firm to fulfill the City's needs and was also the lowest cost proposal submitted. Staff is also requesting approval of an allocation of additional funds in the amount of \$17,920, which is the amount in excess of what was previously budgeted in the Fiscal Year 2020-21 budget to perform this study.

9.c. DISCUSSION AND/OR ACTION - CONSIDERATION OF ASSEMBLY BILL (AB 571) IMPOSING CAMPAIGN CONTRIBUTION LIMITS COMMENCING JANUARY 1, 2021

Beginning on January 1, 2021, Assembly Bill 571 (AB 571) imposes default campaign contribution limits upon city elected offices and certain regulations relating to campaign funds for cities with no local campaign contribution limit, but also permits cities to enact their own local campaign contribution limits as explained further in the staff report. The City Council is asked to consider either establishing a local campaign contribution limits ordinance or maintaining the status quo of no local ordinance and default to the State requirements of AB 571.

RECOMMENDED ACTION: Staff recommends City Council receive information, discuss, deliberate, and provide direction to staff regarding AB 571 and the following two options: 1. Maintain the status quo of no local ordinance and default to the requirements of AB 571 setting a campaign contribution limit of \$4,700, which is updated by the State in odd-numbered years, and establishing regulations for campaign funds; or 2. Establish an ordinance with local campaign contribution limits lower or higher than the State contribution limit and set standard enforcement regulations as explained further in the staff report.

10. COMMITTEE REPORTS, INCLUDING AB 1234 REPORTS

AB 1234 requires that councilmembers must briefly report, orally or in writing, on meetings attended at City expense (for example, Contract City and League of California Cities Conferences, ICSC conferences, etc.) at the City Council meeting following the meeting.

11. CORRESPONDENCE None.

12. COUNCILMEMBERS' AGENDA

12.a. MAYOR GLORIA OLMOS

1. Discussion and/or Action on Canvassing Fraud and Misrepresentation of Tax Measure and Census Information
2. Waive fees for the Valle Lindo School District "Drive Thru Costume Parade" for families of Shively Middle School and New Temple Elementary on Friday, October 30, 2020 from 2:00 to 4:00 p.m. in the Shively Middle School Parking Lot.
3. COVID-19 City Facility Space Planning Including Staff Lounge, Exercise Room, Outdoor Patio and Main Area Office Space.

12.b. COUNCILMEMBER MANUEL ACOSTA

1. Update on the Effort to Increase Voter Awareness and Participation in the Upcoming Election.
2. Update on the City's Sales Tax Measure ES to Help Maintain Essential Public Safety and Neighborhood Services in the City.

12.c. COUNCILMEMBER RICHARD ANGEL

1. Consideration of Re-naming El Poche Street to IMS Way Between Santa Anita Avenue/Tyler Avenue.

13. CLOSED SESSION None.

14. ADJOURNMENT Tuesday, October 27, 2020 at 5:30 p.m.



City Council Agenda Report

**Agenda
Item No.
7.a.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

SUBMITTED BY: Donna Schwartz, City Clerk

SUBJECT: SPECIAL CITY COUNCIL MEETING, ADJOURNED REGULAR CITY COUNCIL MEETING, AND REGULAR CITY COUNCIL MEETING MINUTES

SUMMARY: Staff seeks Council approval of the Minutes for the Special Meeting of September 16, 2020, Adjourned Regular and Regular Meetings of September 22, 2020, and Special Meeting of September 29, 2020.

RECOMMENDATION: Staff recommends City Council approve the above referenced minutes.

ATTACHMENTS:

[Minutes](#)

**CITY OF SOUTH EL MONTE
SPECIAL CITY COUNCIL MEETING - MINUTES
WEDNESDAY, SEPTEMBER 16, 2020**

1. ROLL CALL

Mayor Olmos called the meeting to order at 5:31 p.m.

PRESENT: Councilmember(s): Acosta, Angel, Delgado, Retamoza, and Mayor Olmos.

STAFF PRESENT: Anthony R. Taylor, City Attorney; Rachel Barbosa, City Manager; Donna G. Schwartz, City Clerk; Ian McAleese, Assistant Planner and Paola Lara, Deputy City Clerk (Via teleconference).

Pursuant to Government Code Section 54953, Subdivision (B) and Governor Newsom's Executive Order N-25-20, dated March 12, 2020, and Executive Order N-29-20, dated March 17, 2020, Teleconference was provided for the Public and Zoom/Video was utilized By All City Councilmembers and the City Attorney's Office.

2. APPROVED THE AGENDA

A motion was made by Acosta seconded by Angel and carried 5 – 0, to approve the agenda.

AYES: Councilmember(s): Acosta, Angel, Delgado, Retamoza, and Mayor Olmos.
NAYS: None.

3. PUBLIC COMMENT

Mayor Olmos opened public comment, there being none, closed public comment.

4. CORRESPONDENCE

- a. **CONSIDERATION OF A REQUEST BY THE CITY OF PALMDALE FOR CONTRIBUTIONS TOWARDS A REWARD FUND TO HELP FIND, ARREST, AND CONVICT PERPETRATOR(S) WHO ABMUSHED AND SHOT TWO LOS ANGELES COUNTY SHERIFF'S DEPUTIES WHILE ON DUTY ON SEPTEMBER 12, 2020**

City Manager Barbosa presented the staff report.

A motion was made by Acosta, seconded by Angel and carried 5 – 0, to approve a \$5,000 contribution towards a reward fund to help find, arrest, and convict perpetrator(s) who ambushed and shot two Los Angeles County Sheriff's Deputies while on duty on September 12, 2020.

AYES: Councilmember(s): Acosta, Angel, Delgado, Retamoza, and Mayor Olmos.
Nays: None.

5. **ADJOURNMENT**

There being no further business coming before this body, at 5:39 p.m. Mayor Olmos adjourned the meeting.

Donna G. Schwartz, CMC, City Clerk

Gloria Olmos, Mayor

**CITY OF SOUTH EL MONTE
ADJOURNED REGULAR CITY COUNCIL MEETING - MINUTES
TUESDAY, SEPTEMBER 22, 2020**

1. ROLL CALL

Mayor Olmos called the meeting to order at 5:30 p.m.

PRESENT: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

ABSENT: Mayor Pro Tem Retamoza

Mayor Olmos announced Mayor Pro Tem Retamoza would not be attending tonight's meeting and was excused.

STAFF PRESENT: Anthony R. Taylor, City Attorney; Rachel Barbosa, City Manager; Donna G. Schwartz, City Clerk; Rene Salas, Public Works Director; Raul Rodriguez, Code Enforcement Officer; Ian McAleese, Assistant Planner and Paola Lara, Deputy City Clerk (Via teleconference).

Pursuant to Government Code Section 54953, Subdivision (B) and Governor Newsom's Executive Order N-25-20, dated March 12, 2020, and Executive Order N-29-20, dated March 17, 2020, Teleconference was provided for the Public and Zoom/Video was utilized By Councilmember Angel, Councilmember Delgado and the City Attorney's Office.

2. APPROVED THE AGENDA

A motion was made by Angel seconded by Acosta and carried 4 – 0, (Retamoza – Absent), to approve the agenda.

AYES: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

NAYS: None

ABSENT: Mayor Pro Tem Retamoza

3. PUBLIC COMMENT

Mayor Olmos opened public comment, there being none, closed public comment.

4. PRESENTATIONS

a. CODE ENFORCEMENT AND PUBLIC SAFETY DEPARTMENT REPORT FOR THE MONTHS OF AUGUST AND SEPTEMBER 2020

Code Enforcement Officer Rodriguez provided a presentation on the August and September calls for service including Property Maintenance, Health and Safety, Building Code, Zoning, Streets and Sidewalks, Vehicle and Traffic, and Business, and the Department's monitoring of bulk items, graffiti, the homeless, and property maintenance in the City.

b. **SHERIFF'S DEPARTMENT REPORT FOR THE MONTH OF AUGUST 2020**

Deputy Rosales provided a presentation on the statistics for Part 1 Crime, Target Crimes, Part I Crime Statistics Year to Date, Part I Crimes 2019, August Arrests 2019-2020, and Part I Crimes Year End 2018-2019.

5. **CLOSED SESSION**

Mayor Olmos moved this item to the 6:00 Regular City Council Meeting, Council concurred.

a. PUBLIC EMPLOYMENT GOVERNMENT CODE SECTION 54957(B)(1)

Title: Community Development Director

6. **ADJOURNEMENT**

There being no further business coming before this body, at 5:53 p.m. Mayor Olmos adjourned the meeting.

Donna G. Schwartz, CMC, City Clerk

Gloria Olmos, Mayor

**CITY OF SOUTH EL MONTE
REGULAR CITY COUNCIL MEETING - MINUTES
TUESDAY, SEPTEMBER 22, 2020**

1. ROLL CALL

Mayor Olmos called the meeting to order at 6:01 p.m.

PRESENT: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

ABSENT: Mayor Pro Tem Retamoza

Mayor Olmos announced Mayor Pro Tem Retamoza would not be attending tonight's meeting and was excused.

STAFF PRESENT: Anthony R. Taylor, City Attorney; Rachel Barbosa, City Manager; Donna G. Schwartz, City Clerk; Rene Salas, Public Works Director; William Fox, Interim Finance Director; Ian McAleese, Assistant Planner and Paola Lara, Deputy City Clerk (Via teleconference).

Pursuant to Government Code Section 54953, Subdivision (B) and Governor Newsom's Executive Order N-25-20, dated March 12, 2020, and Executive Order N-29-20, dated March 17, 2020, Teleconference was provided for the Public and Zoom/Video was utilized By Councilmember Angel, Councilmember Delgado, and the City Attorney's Office.

2. PLEDGE OF ALLEGIANCE

Councilmember Acosta led the Pledge of Allegiance.

3. INVOCATION

Richard Major, Code Enforcement Officer, offered the Invocation.

4. PRESENTATIONS: None

5. APPROVED THE AGENDA AND WAIVER OF FULL READING OF ORDINANCES.

A motion was made by Acosta seconded by Delgado and carried 4 – 0, (Retamoza – Absent), to approve the agenda.

AYES: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

NAYS: None

ABSENT: Mayor Pro Tem Retamoza

6. **PUBLIC COMMENT**

Mayor Olmos announced and read a public comment received via email from Townsend Public Affairs in regards to Item 7.e. and their previous experience as grant writing consultants for the City and qualifications to continue to provide these services.

Mayor Olmos advised the public not to be deceived when approached by cannabis canvassers or sign anything without knowing what they are signing, requested that residents complete the Census, and extended an invitation to the public to participate in the final Census parade on Saturday September 26, 2020.

Mayor Olmos opened public comment, there being none, closed public comment.

7. **CONSENT CALENDAR**

City Attorney Taylor read the compensation term for Item 7.d.

City Manager Barbosa requested Item 7.c. be discussed with Item 9.a. Council concurred.

a. **MINUTES**

Approved the Minutes for the Adjourned Regular Meeting of September 8, 2020.

b. **WARRANTS**

Adopted Resolution No. 20-100, authorizing payment of City expenditures for the period of September 9, 2020 through September 22, 2020 totaling \$848,673.66.

c. Approved the 2020 "Christmas Wish Toy Giveaway" Event Donation Letter, Authorization to Include the City Councilmembers' Signatures, and the Distribution of Letters to the South El Monte Business Community

d. Adopted Resolution No. 20-101, Approving the Appointment of Rene Salas as Deputy City Manager and Approval of Deputy City Manager Employment Agreement

e. Approved a Bidder's List for On-Call Grant Writing Services

f. Adopted Resolution No. 20-103, Approving Retention of Outside Council for Personnel-Related Services

A motion was made by Delgado, seconded by Acosta and carried 4 – 0, (Retamoza – Absent), to approve the Consent Calendar.

AYES: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

NAYS: None

ABSENT: Mayor Pro Tem Retamoza

Mayor Olmos reopened Public Comment.

Pam Rio, South El Monte business owner, spoke of the effect COVID-19 has had on small businesses in the City including her business, of the City's ordinance and the criteria needed in order to receive assistance, her situation and struggle for rent relief with her landlord, the construction of a back patio at her business, and inquired who can protect small businesses in the City.

Mayor Olmos closed public comment after determining there was no one else wishing to speak.

8. **PUBLIC HEARINGS:** None.

9. **GENERAL BUSINESS:**

a. **UPDATE ON THE CITY'S 2020 EVENTS DURING THE COVID-19 PANDEMIC**

Recreation Coordinator Perez presented the staff report.

Council received the report, no action was taken.

b. **CONSIDERATION OF RESOLUTION NO. 20-102, AUTHORIZING THE MAYOR, OR DESIGNEE, TO SIGN A CONTRACT FOR FUNDING TO APPROVE PARTICIPATION IN THE LOS ANGELES URBAN COUNTY PERMANENT LOCAL HOUSING ALLOCATION PROGRAM (PLHA)**

Public Works Director Salas presented the staff report.

A motion was made by Acosta, seconded by Angel and carried 4 – 0, (Retamoza – Absent), to approve Resolution No. 20-102, authorizing City Manager to designate the funding allocation for the PLHA funds and authorizing the Mayor, or designee, to sign a contract for funding to approve participation in the Los Angeles Urban County Permanent Local Housing Allocation Program.

AYES: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

NAYS: None

ABSENT: Mayor Pro Tem Retamoza

c. **COUNCIL DIRECTION ON REQUEST RELATED TO EXISTING AGREEMENT WITH AKITOI LEARNING CENTER TO LEASE CITY PROPERTY AT 1824 CENTRAL AVENUE**

Interim Finance Director Fox and City Manager Barbosa presented the staff report.

A motion was made by Delgado, seconded by Acosta and carried 4 – 0, (Retamoza – Absent), to approve the request from Akitoi Learning Center for financial assistance in the amount of \$2,500 for outside rubberized playground flooring and \$1,000 for parts and labor to install a shade structure in the playground area in front of the Mini Center.

AYES: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

NAYS: None

ABSENT: Mayor Pro Tem Retamoza

10. COMMITTEE REPORTS, INCLUDING AB 1234 REPORTS.

Councilmember Acosta reported on his participation on the Census Committee, Census Drive-Through Giveaway at Epiphany and Community Center, and Grandparent's Day.

Councilmember Angel reported on his participation in the Census Drive-Through Giveaway at Epiphany and Grandparent's Day.

Mayor Olmos reported on her participation and attendance at SEAACA meeting, SGVCOG meeting, Grandparent's Day, Census Committee meeting, and Census Drive-Through Giveaway at Epiphany.

11. CORRESPONDENCE:

a. CORRESPONDENCE BY THE EL MONTE/SOUTH EL MONTE CHAMBER OF COMMERCE REQUESTING FINANCIAL ASSISTANCE FOR AN "OPEN FOR BUSINESS" BANNER PROGRAM DUE TO ECONOMIC HARDSHIPS TO THE BUSINESS COMMUNITY DURING COVID-19

Ken Rausch, El Monte/South El Monte Chamber of Commerce, provided information about the "Open for Business" banner program.

Mayor Olmos requested a second quote be obtained and the banners be purchased from the vendor with the lowest cost. Council concurred.

A motion was made by Delgado, seconded by Angel and carried 4 – 0, (Retamoza – Absent), to approve the funding request from the El Monte/South El Monte Chamber of Commerce for the "Open For Business" Banner Program at the not-to-exceed amount \$1,540.00, appropriated from the Community Promotional Fund.

AYES: Councilmember(s): Acosta, Angel, Delgado, and Mayor Olmos.

NAYS: None

ABSENT: Mayor Pro Tem Retamoza

12. COUNCILMEMBERS' AGENDA:

a. **COUNCILMEMBER MANUEL ACOSTA**

1. **Discussion on the “Get Out the Vote” Campaign in Order to Raise the City’s Efforts to Increase Voter Participation**

Councilmember Acosta inquired what efforts can be done to promote and encourage community members to exercise their right to vote.

City Clerk Schwartz informed the Council that the County has requested to use the Community Center as an 11 day vote center.

City Manager Barbosa stated the City is advertising voting on the website, social media and City Hall’s message board, it will be covered in the October newsletter, and additionally two mailings will be sent to resident’s with voting information before the election.

2. **Discussion/Update on the Pothole Priority and Fill-In List**

Councilmember Acosta suggested a priority list for potholes be created to efficiently track and manage the potholes in the City.

Public Works Director Salas stated potholes are maintained on a regular basis, an average of 30 – 40 potholes are filled monthly, there is a list used in addition to the GoGov requests that are submitted, and there will be an upcoming RFP for street reconstruction that will include streets that are heavily affected by potholes.

13. **CLOSED SESSION**

At 7:19 p.m. City Attorney Taylor recessed Council into closed session.

a. **PUBLIC EMPLOYMENT GOVERNMENT CODE SECTION 54957(B)(1)**

Title: Community Development Director

At 7:53 p.m. Mayor Olmos reconvened to open session with the exception of Mayor Tem Pro Retamoza, Absent.

City Attorney Taylor announced Council discussed closed session Items 13.a., there was no action taken nothing to report.

At 7:54 p.m. Mayor Olmos recessed the meeting.

At 7:56 p.m. Mayor Olmos reconvened the meeting.

14. ADJOURNMENT

There being no further business coming before this body, at 7:56 p.m. Mayor Olmos adjourned to an Adjourned Regular Meeting on Tuesday, October 13, 2020 at 5:30 p.m.

Donna G. Schwartz, CMC, City Clerk

Gloria Olmos, Mayor

**CITY OF SOUTH EL MONTE
SPECIAL CITY COUNCIL MEETING - MINUTES
TUESDAY, SEPTEMBER 29, 2020**

1. ROLL CALL

Mayor Olmos called the meeting to order at 5:31 p.m.

PRESENT: Councilmember(s): Acosta, Angel, Retamoza, and Mayor Olmos.

ABSENT: Councilmember(s): Delgado

STAFF PRESENT: Anthony R. Taylor, City Attorney; Rachel Barbosa, City Manager; Donna G. Schwartz, City Clerk; Ian McAleese, Assistant Planner and Paola Lara, Deputy City Clerk (Via teleconference).

Pursuant to Government Code Section 54953, Subdivision (B) and Governor Newsom's Executive Order N-25-20, dated March 12, 2020, and Executive Order N-29-20, dated March 17, 2020, Teleconference was provided for the Public and Zoom/Video was utilized By All City Councilmembers and the City Attorney's Office.

2. APPROVED THE AGENDA

City Attorney Taylor announced there was an update to the Attachment "A" Resolution to Item 4.a. He stated in order to conform with Government Code requirements, he recommended the agenda title be amended to read: Appoint of the Community Development Director and to have the contract be brought back for Council approval at the next regular meeting.

A motion was made by Acosta seconded by Angel and carried 4 – 0, (Delgado – Absent), to approve the agenda as amended.

AYES: Councilmember(s): Acosta, Angel, Retamoza, and Mayor Olmos.

NAYS: None.

ABSENT: Councilmember(s): Delgado.

3. PUBLIC COMMENT

Mayor Olmos opened public comment, there being none, closed public comment.

4. CONSENT CALENDAR

a. ADOPTED RESOLUTION NO. 20-104, APPROVING THE APPOINTMENT OF COLBY CATALDI AS COMMUNITY DEVELOPMENT DIRECTOR

A motion was made by Acosta, seconded by Angel and carried 4 – 0, (Delgado – Absent), to approve the Consent Calendar item 4.a. title as amended during the approval of agenda.

AYES: Councilmember(s): Acosta, Angel, Retamoza, and Mayor Olmos.

Nays: None.

ABSENT: Councilmember(s): Delgado.

5. **ADJOURNMENT**

There being no further business coming before this body, at 5:34 p.m. Mayor Olmos adjourned the meeting.

Donna G. Schwartz, CMC, City Clerk

Gloria Olmos, Mayor



City Council Agenda Report

**Agenda
Item No.
7.b.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

SUBMITTED BY: William Fox, Interim Finance Director

SUBJECT: WARRANTS

SUMMARY: Authorizing payment of City expenditures for the period of September 23, 2020 through October 13, 2020 totaling \$1,536,444.33

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 20-105, authorizing payment of City expenditures.

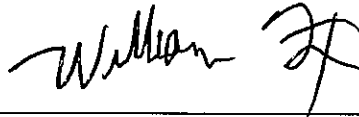
ATTACHMENTS:
[Resolution No. 20-105](#)

RESOLUTION NO. 20-105

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL ALLOWING
CERTAIN CLAIMS AND DEMANDS FOR THE PERIOD OF SEPTEMBER 23, 2020
THROUGH OCTOBER 13, 2020 TOTALING \$1,536,444.33

THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE DOES HEREBY RESOLVE,
DETERMINE, AND ORDER AS FOLLOWS:

SECTION 1: That in accordance with Section 37202 of the Government Code, the Finance Director hereby certifies to the accuracy of the following demands and the availability of funds for payment thereof.



Finance Director

SECTION 2: That the following claims and demands have been audited as required by law and that the same are hereby allowed in the amounts hereafter set forth.

	<u>CLAIMANT</u>	<u>CLAIM PERIOD</u>	<u>WARRANT #'S</u>	<u>AMOUNT</u>
FY 20/21	Electronic Warrants	09/23/2020 – 10/13/2020	4810-4822	\$138,907.32
FY 20/21	Hand Typed Warrants	09/23/2020 – 10/13/2020	136615-136634	\$49,349.69
FY 20/21	Regular Warrants	09/23/2020 – 10/13/2020	136635-136716	\$1,141,128.42
Payroll	Check	PPE 09/19/2020	27249-27256	\$6,091.98
Payroll	Direct Deposit	PPE 09/19/2020	757621-757699	\$94,390.58
Payroll	Check	PPE 10/03/2020	27257-27263	\$6,028.19
Payroll	Direct Deposit	PPE 10/03/2020	757700-757784	\$100,548.15

TOTAL EXPENDITURES RESOLUTION NO. 20-105 \$1,536,444.33

PASSED, APPROVED, AND ADOPTED this 13th day of October 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-105, was duly passed and approved by the City Council of the City of South El Monte at a adjourned regular meeting of said Council held on the 13th day of October 2020, and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

City of South El Monte
Warrant Register
Council Meeting of 10/13/2020

Date: 10/8/2020

Time: 11:24AM

FY	Budget Unit	Vendor Name	Check Number	Check Date	Description	Amount
21	05	AFLAC WORLDWIDE HEADQUARTERS	4817	9/30/2020	SEPT 2020	1,521.18
						\$1,521.18
21	011001050	CALPERS	4818	9/30/2020	OCT'20 ADMIN RETIRED	15.32
21	011001050		4818	9/30/2020	OCT'20 ADMIN ACTIVE	129.61
21	011001050		4818	9/30/2020	OCT'20 RETIRED HEALTH	973.00
21	05		4818	9/30/2020	OCT'20 ACTIVE HEALTH	54,004.21
						\$55,122.14
21	05	CALPERS RETIREMENT	4810	9/23/2020	SEPT'20 27216 COUNCIL	116.63
21	05		4819	9/30/2020	PPE 9/19 PLAN 23047	1,312.20
21	05		4819	9/30/2020	PPE 9/19 PLAN 27216	8,292.28
21	05		4819	9/30/2020	PPE 9/19 PLAN 685	10,057.54
						\$19,778.65
21	05	DEPARTMENT OF THE TREASURY	4811	9/23/2020	PPE 9/19 FEDERAL	13,566.52
21	05		4811	9/23/2020	PPE 9/19 MED	4,188.26
21	05		4811	9/23/2020	PPE 9/19 FICA	17,908.60
						\$35,663.38
21	05	EMPLOYMENT DEVELOPMENT DEPT.	4812	9/23/2020	PPE9/19 TNG WITHD'G	4.74
21	05		4812	9/23/2020	PPE9/19 UITAX WITHD'G	213.71
21	05		4812	9/23/2020	PPE9/19 STATE WITHD'G	4,495.55
						\$4,714.00
21	05	HARTFORD INSURANCE	4820	9/30/2020	9/1-9/30 LT DISABILTY	5,768.59
21	05		4821	9/30/2020	10/1-10/31 LT DISABIL	5,913.25
						\$11,681.84
21	011301320	HDL SOFTWARE,LLC	4813	9/23/2020	AUG'20 BANK FEES	447.85
21	011301320		4813	9/23/2020	AUG'20 HDL FEES	1,728.50
21	011301320		4813	9/23/2020	AUG'20 STATE FEES	55.20
						\$2,231.55
21	011701760	SOUTHERN CALIFORNIA EDISON	4814	9/23/2020	7/25-8/25 10838 MICHEA	25.77
21	011701730		4814	9/23/2020	JUL'20 2028 CENTRAL	30.00
21	011701760		4814	9/23/2020	8/17-9/19 1 CHICO/GAR	33.21
21	011701760		4814	9/23/2020	8/17-9/19 9755 RUSH	36.98
21	011701760		4814	9/23/2020	8/17-9/19 1 KLINGERMA	40.46
21	011701760		4814	9/23/2020	8/17-9/19 1 SLACK/SAN	42.51
21	011701760		4814	9/23/2020	8/17-9/19 1348 SANTA	44.40
21	011701760		4814	9/23/2020	8/17-9/19 9200 GARVEY	46.76
21	011701760		4814	9/23/2020	8/17-9/19 1 PECK/RUSH	47.23
21	011701760		4814	9/23/2020	8/17-9/19 9601 RUSH	47.71
21	011701760		4814	9/23/2020	8/17-9/19 2400 SANTA	49.91
21	011701760		4814	9/23/2020	8/17-9/19 1 DURFEE	51.48
21	011701760		4814	9/23/2020	8/17-9/19 2001 MERCED	59.52
21	011701730		4814	9/23/2020	7/27-8/25 2028 CENTRA	65.68
21	011701760		4814	9/23/2020	8/17-9/19 1 POTR/GARV	67.56
21	011701760		4814	9/23/2020	8/17-9/19 10303 RUSH	77.48
21	011701760		4814	9/23/2020	8/17-9/19 1100 SANTA	78.12
21	011701760		4814	9/23/2020	8/1-8/31 2551 HAVENPK	82.56

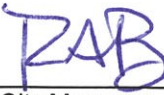
City of South El Monte
Warrant Register
Council Meeting of 10/13/2020

Date: 10/8/2020

Time: 11:24AM

FY	Budget Unit	Vendor Name	Check Number	Check Date	Description	Amount
21	011701760	SOUTHERN CALIFORNIA EDISON...	4814	9/23/2020	8/1-8/31 SCHMIDT/SAN	82.81
21	011701760		4814	9/23/2020	8/17-9/19 1955 ROSEME	83.31
21	011701730		4814	9/23/2020	8/11-9/10 10861 THIEN	93.02
21	011701760		4814	9/23/2020	8/17-9/19 1 DUR/THIEN	93.09
21	011701760		4814	9/23/2020	8/17-9/19 1 GARV/ROSE	95.76
21	011701730		4814	9/23/2020	CREDIT PREV BILLING	-150.53
21	011701760		4814	9/23/2020	8/17-9/19 1 DURFEE SW	108.40
21	011701760		4814	9/23/2020	8/17-9/19 1 RUSH/TYLE	112.63
21	011701760		4814	9/23/2020	8/17-9/19 1 DURF/PECK	114.67
21	011701760		4814	9/23/2020	8/17-9/19 1 RUSH/DURF	134.85
21	011701730		4814	9/23/2020	AUG'20 2028 CENTRAL	179.76
21	011701760		4814	9/23/2020	8/1-8/31 SANTA/FAWCET	580.67
21	011601630		4814	9/23/2020	8/17-9/16 1824 CENTRA	976.35
21	011701710		4814	9/23/2020	8/27-9/16 1415 SANTA	1,457.93
						\$4,890.06
21	05	STATE DISBURSEMENT UNIT	4815	9/23/2020	PPE 9/19 CASE 0980438	150.00
21	05		4815	9/23/2020	PPE 9/19 CASE 1457313	603.50
21	05		4815	9/23/2020	PPE 9/19 CASE 2135289	646.15
						\$1,399.65
21	011501530	WALMART COMMUNITY/GEGRB	4816	9/23/2020	REFUND FOR SUPPLIES	-50.11
21	011501530		4816	9/23/2020	ANTENNA FOR TV	9.72
21	011501530		4816	9/23/2020	FALL CRAFT ACTIVITY	15.36
21	011511543		4816	9/23/2020	8/15 CENSUS CARAV SUP	18.32
21	011511543		4816	9/23/2020	8/19 BACKPACK GIVEWAY	44.50
21	011501530		4816	9/23/2020	FALL CRAFT SUPPLIES	57.51
21	011501530		4816	9/23/2020	SUPPLIES FOR OFFICE	95.61
						\$190.91
21	05	WASHINGTON NATIONAL INSURANCE CO	4822	9/30/2020	PPE 9/5 LIFE INSURAN	856.98
21	05		4822	9/30/2020	PPE 9/19 LIFE INSURAN	856.98
						\$1,713.96

Report Total 138,907.32


City Manager

City of South El Monte
Warrant Register
Council Meeting of 10/13/2020

Date: 10/8/2020

Time: 11:27AM

FY	Budget Unit	Vendor Name	Check Number	Check Date	Description	Amount
21	011701770	ABS AUTO BODY REPAIR & PAINT	136635	10/13/2020	MINOR SVCS/AC RPLC#23	200.00
21	011701770		136635	10/13/2020	STARTER RPLC #2	230.00
						\$430.00
21	689009000	ADVANCED MICROCOMPUTING CONCEP	136636	10/13/2020	LMS SOFTWARE #410	10,766.33
21	011301330		136636	10/13/2020	LAPTOPS/LABOR #502	21,653.07
						\$32,419.40
21	011701720	AIRGAS USA, LLC	136637	10/13/2020	LATEX GLOVES	125.99
21	011701720		136637	10/13/2020	LATEX GLOVES	209.99
						\$335.98
21	011001030	ALESHIRE & WYNDER, LLP	136638	10/13/2020	AUG'20 LEGAL COVID#502	2,042.50
21	011001030		136638	10/13/2020	AUG'20 REIMBURSABLE	90.55
21	011001030		136638	10/13/2020	AUG'20 LITIGATION	316.50
21	011001030		136638	10/13/2020	AUG'20 SPECIAL PROJEC	989.00
21	011001030		136638	10/13/2020	AUG'20 PUBLIC WORKS	1,462.00
21	011001030		136638	10/13/2020	AUG'20 PERSONNEL	2,067.00
21	011001030		136638	10/13/2020	AUG'20 CODE ENFORCEME	4,055.50
21	011001030		136638	10/13/2020	AUG'20 PLANNING	5,246.14
21	011001030		136638	10/13/2020	AUG'20 GENERAL LEGAL	33,383.02
						\$49,652.21
21	01	ALVARO GONZALEZ	136667	10/13/2020	AMPHITHEATER DEP 7/18	900.00
						\$900.00
21	011001050	AMAZON CAPITAL SERVICES, INC	136639	10/13/2020	PRIVACY FILTER CREDIT	-118.22
21	011001050		136639	10/13/2020	IPHONE SCREEN PROTECT	16.48
21	689009020		136639	10/13/2020	DECAL STICKER FIT#252	70.38
21	011501530		136639	10/13/2020	HALLOWEEN BAGS SCTR	131.90
21	011001050		136639	10/13/2020	PRIVACY FILTER/BOXES	141.93
						\$242.47
21	011301310	ANDY HEATH	136669	10/13/2020	18/19 FIN TRANS RPT'G	1,625.00
						\$1,625.00
21	011701720	AQUA PURE DRINKING WATER	136640	10/13/2020	SEPT'20 WATER SVCS YD	111.39
						\$111.39
21	011301330	AT&T	136615	9/24/2020	8/15-9/14 BAN 1037026	0.04
21	011301330		136615	9/24/2020	8/12-9/11 BAN 1067917	21.66
21	011301330		136615	9/24/2020	8/15-9/14 BAN 1034755	21.80
21	011301330		136615	9/24/2020	8/15-9/14 BAN 1034759	43.16
21	011301330		136626	10/7/2020	8/22-9/21 9391034752	20.69
						\$107.35
21	011701710	AT&T MOBILITY	136627	10/7/2020	8/19-9/18 SEMS NEWS	36.55
21	011401440		136627	10/7/2020	8/19-9/18 BUILDING	40.47
21	011101110		136627	10/7/2020	8/19-9/18 SHERIFF	51.64
21	011701740		136627	10/7/2020	8/19-9/18 DIR P-WORKS	53.03
21	011001020		136627	10/7/2020	8/19-9/18 CITY MANAGE	53.32
21	011201210		136627	10/7/2020	8/19-9/18 CITY CLERK	127.34
21	011301310		136627	10/7/2020	8/19-9/18 FINANCE	150.32

City of South El Monte
Warrant Register
Council Meeting of 10/13/2020

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FY	Budget Unit	Vendor Name	Check Number	Check Date	Description	Amount
21	011401430	AT&T MOBILITY...	136627	10/7/2020	8/19-9/18 CODE ENFORC	185.01
21	011001010		136627	10/7/2020	8/19-9/18 COUNCIL	758.17
21	011001020		136627	10/7/2020	8/19-9/18 HR	1,030.35
21	011701750		136627	10/7/2020	8/19-9/18 PUBLIC WORK	1,835.34
						\$4,321.54
21	011701770	AUTOZONE	136641	10/13/2020	BATTERY/COOLANT #94	195.64
21	011701770		136641	10/13/2020	COIL CYLINDER RPR #5	84.74
21	011701770		136641	10/13/2020	RETURN BATTERY	-18.00
21	448008010		136641	10/13/2020	MIN SVCS OIL&FIL #20	32.04
21	011701770		136641	10/13/2020	VEHICLE SUP	54.58
						\$349.00
21	011701020	BELLA SANCHEZ	136698	10/13/2020	52 PW WORK HATS	812.31
						\$812.31
21	011501515	BLANCA M. FIGUEROA	136664	10/13/2020	SEPT'20 PATRIOTIC MTG	100.00
						\$100.00
21	05	BLUE SHIELD OF CA LIFE & HEALTH	136628	10/7/2020	OCT'20 VISON	757.33
						\$757.33
21	011511541	BSN SPORTS	136643	10/13/2020	T-BALL UNIFORMS	453.80
						\$453.80
21	011601620	CAPITOL DOOR SERVICE SO. CALIFORNI	136644	10/13/2020	SIDE DOOR MTNC SCTR	445.50
						\$445.50
21	689009000	CARAHSOFT TECHNOLOGY CORPORATI	136645	10/13/2020	LMS/ACCELA 45HRS #410	7,717.50
21	689009000		136645	10/13/2020	LMS/ACCELA 98HRS #410	24,524.50
						\$32,242.00
21	011001040	CARRELL ASSOCIATES, INC.	136646	10/13/2020	BALLOT MEASURE NEWSLE	13,000.00
						\$13,000.00
21	011001050	CHRISTOPHER HERRERA	136670	10/13/2020	LIVE SCAN REIMB	20.00
						\$20.00
21	011601620	CINTAS CORP. #693	136648	10/13/2020	MAT CLEANING SCTR	24.43
21	011601620		136648	10/13/2020	MAT CLEANING SCTR	32.68
21	011601620		136648	10/13/2020	9/29 MAT CLEAN'G SCTR	32.68
21	011701710		136648	10/13/2020	MAT CLEANING CHALL	66.89
						\$156.68
21	011301460	CITY OF DOWNEY	136649	10/13/2020	ANIMALCONTROL/SHELTER	48,133.00
						\$48,133.00
21	011701770	CITY OF EL MONTE-FINANCE DEPT.	136650	10/13/2020	AUG'20 CNG #28	94.87
						\$94.87
21	011001050	CONCENTRA	136652	10/13/2020	PHYS LVL 2 ALVAREZ	206.00
21	011001050		136652	10/13/2020	PHYS LVL 2-NGUYEN T	206.00
21	011001050		136652	10/13/2020	PHYS LVL 2 RODRIGUEZ	206.00
21	011001050		136652	10/13/2020	PHYS LVL 2 HERRERA	287.50
21	011001050		136652	10/13/2020	PHYS LVL 2 TANG	287.50

City of South El Monte
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FY	Budget Unit	Vendor Name	Check Number	Check Date	Description	Amount
21	011001050	CONCENTRA...	136652	10/13/2020	AUDIOGRAM APODACA	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM FIGUEROA	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM HERNANDEZ	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM MENDIVIL	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM ROBLES	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM TINOCO	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM PAEZ	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM PEREZ	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM ULLOA	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM VALENZUELA	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM FERNANDEZ	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM GUTIERREZ	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM LAM	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM MONTEJANO	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM SAUCEDO	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM TEJEDA	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM VASQUEZ	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM GRANADOS	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM MORENO	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM PADILLA	31.50
21	011001050		136652	10/13/2020	AUDIOGRAM AGUILA	31.50
						\$1,854.50
21	397007070	DANNY HUANG	136616	9/24/2020	RENTAL ASSIST CHENG	3,450.00
						\$3,450.00
21	011501515	DAVID DEL RIO	136653	10/13/2020	SEPT'20 PATRIOTIC MTG	100.00
						\$100.00
21	011701720	DDC ELECTRIC SUPPLY, INC.	136654	10/13/2020	A/C UNIT SWITCH REPAI	165.47
						\$165.47
21	011701020	DE LAGE LANDEN	136655	10/13/2020	OCT'20 COPIER LEASE	4,441.80
						\$4,441.80
21	011001050	DEPT. OF JUSTICE-ACCOUNTING OFFICE	136656	10/13/2020	FINGERPRINT APPS	32.00
						\$32.00
21	011501530	DRIFTWOOD DAIRY, INC	136657	10/13/2020	GRANDPARENT ICECREAM	72.00
21	063003020		136657	10/13/2020	9/9 BREAD NUTR PRGM	5.27
21	063003020		136657	10/13/2020	MILK NUTR PRGM	9.47
21	063003020		136657	10/13/2020	BREAD&MILK NUTR PRGM	12.99
21	063003020		136657	10/13/2020	MILK&BREAD NUTR PRGM	17.55
21	063003020		136657	10/13/2020	MILK&BREAD NUTR PRGM	19.55
21	063003020		136657	10/13/2020	BREAD&MILK NUTR PRGM	22.71
21	063003020		136657	10/13/2020	MILK&BREAD NUTR PRGM	24.46
21	063003020		136657	10/13/2020	BREAD&MILK NUTR PRGM	24.46
21	063003010		136657	10/13/2020	9/9 BREAD NUTR PRGM	47.43
21	063003010		136657	10/13/2020	MILK NUTR PRGM	85.30
21	063003010		136657	10/13/2020	BREAD&MILK NUTR PRGM	116.91
21	063003010		136657	10/13/2020	MILK&BREAD NUTR PRGM	157.98

City of South El Monte
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FY	Budget Unit	Vendor Name	Check Number	Check Date	Description	Amount
21	063003010	DRIFTWOOD DAIRY, INC...	136657	10/13/2020	MILK&BREAD NUTR PRGM	176.00
21	063003010		136657	10/13/2020	BREAD&MILK NUTR PRGM	204.41
21	063003010		136657	10/13/2020	MILK&BREAD NUTR PRGM	220.23
21	063003010		136657	10/13/2020	BREAD&MILK NUTR PRGM	220.23
						\$1,436.95
21	011701770	DWS TIRES	136658	10/13/2020	RPLC RIGHT TIRE #5	125.00
						\$125.00
21	011601620	ECOLAB PEST ELIM. DIVISION	136659	10/13/2020	SEPT'20 PEST CON SCTR	254.20
21	011601620		136659	10/13/2020	MAY'20 PEST CON SCTR	254.20
21	011601620		136659	10/13/2020	AUG'20 PEST CON SCTR	254.20
21	011701710		136659	10/13/2020	AUG'20 PEST CON CHALL	194.39
21	011701710		136659	10/13/2020	SEP'20 PEST CON CHALL	194.39
21	011601610		136659	10/13/2020	AUG'20 PEST CON CCTR	69.18
21	011701720		136659	10/13/2020	SEPT'20 PEST CON YARD	144.14
21	011601610		136659	10/13/2020	SEPT'20 PEST CON CCTR	69.18
						\$1,433.88
21	011701710	EL MONTE PRINTING	136660	10/13/2020	CITY EMBLEMED ENVELOP	1,085.70
						\$1,085.70
21	011001010	EM/SEM CHAMBER OF COMMERCE	136661	10/13/2020	10/1-12/31 QTR DUES	2,500.00
						\$2,500.00
21	011601650	EWING IRRIGATION	136662	10/13/2020	IRRIGATION SUP NTP	309.36
21	011601660		136662	10/13/2020	IRRIGATION SUP SHVELY	325.45
21	011601660		136662	10/13/2020	IRRIGATION SUP SHIVEL	719.51
						\$1,354.32
21	011301310	FEDEX	136663	10/13/2020	AUDIT DOCS DELIVERY	22.35
						\$22.35
21	011401100	GALLS LLC	136665	10/13/2020	POLO/EMBROIDERY/PANTS	116.03
21	011407020		136665	10/13/2020	POLO/EMBROIDERY/PANTS	200.31
21	011407020		136665	10/13/2020	CODE ENF UNIF/BELTS	15.40
21	011407020		136665	10/13/2020	UNIFORM BELTS/CODE	46.20
21	011407020		136665	10/13/2020	TACTICAL PANTS	47.25
21	011401100		136665	10/13/2020	PSO UNIFORM BELTS	61.60
						\$486.79
21	011701750	GARVEY EQUIPMENT COMPANY	136666	10/13/2020	ECHO BLOWER/RPLC HARN	41.37
21	011701750		136666	10/13/2020	CONCRETE CUT/ENG OIL	42.13
21	011701750		136666	10/13/2020	GENERATOR/RPLC BADCAP	89.30
21	011701750		136666	10/13/2020	4ECHO BLOWER/RPLC HAR	110.47
21	011701750		136666	10/13/2020	MOWER BLADES/WHE BOLT	143.86
21	011701750		136666	10/13/2020	TRIMMER/BKUP BAR/FILT	153.95
21	011701750		136666	10/13/2020	TRIMMER'S STRING	264.38
						\$845.46
21	397007070	GARY A. LEE	136617	9/24/2020	RENTAL ASSIST HERNAND	1,000.00
21	397007070		136630	10/7/2020	RENTAL ASSIT HERNANDE	2,700.00

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						\$3,700.00
21	011001050	GOVERNMENT JOBS.COM, INC.	136629	10/7/2020	8/15-8/15/21 SUB FEE	992.25
						\$992.25
21	011701720	GRANT'S TRUE VALUE HARDWARE	136668	10/13/2020	KEYS/MOSQUITO SPRAY	38.39
21	011701720		136668	10/13/2020	SUPPLIES CITY YARD	6.59
21	011601620		136668	10/13/2020	KEY PAPER DISPEN SCTR	16.87
						\$61.85
21	011301310	HINDERLITER, DE LLAMAS & ASSOC	136671	10/13/2020	CONTRACT SVCS SALE TX	1,444.73
21	011301310		136671	10/13/2020	AUDIT SVCS SALES TAX	2,296.62
						\$3,741.35
21	011701750	HONEYCOTT, INC	136672	10/13/2020	BEE REMOVAL CITY ST	150.00
						\$150.00
21	063003020	HUNTINGTON CULINARY	136673	10/13/2020	9/8-9/10 FRZN MEALS	295.00
21	063003020		136673	10/13/2020	9/15-9/17 FRZN MEALS	354.00
21	063003010		136673	10/13/2020	9/15-9/17 FRZN MEALS	4,974.90
21	063003010		136673	10/13/2020	9/8-9/10 FRZN MEALS	5,291.51
						\$10,915.41
21	011701770	HYDRAULICS & GASKETS	136674	10/13/2020	ASPHALT TOR/RPLC HOSE	82.50
						\$82.50
21	011301330	IRMA S. PENICHE	136691	10/13/2020	2 CASHIER PRINTERS	400.86
						\$400.86
21	011701760	JCL TRAFFIC SERVICES	136675	10/13/2020	BARRICADE & STENCIL	724.21
						\$724.21
21	011701020	JEFFREY CHAVEZ	136647	10/13/2020	FY19-20 BOOT ALLOWANC	50.00
						\$50.00
21	011401410	JEFFREY MICHAEL ORTIZ	136689	10/13/2020	SEPT'20 PLAN COM MTG	150.00
						\$150.00
21	448008010	L.A. COUNTY MTA AUTHORITY	136676	10/13/2020	AUG'20 EZ PASS S/D Z0	84.00
21	448008010		136676	10/13/2020	AUG'20 METRO 30DAY SR	20.00
						\$104.00
21	011101110	L.A. COUNTY SHERIFF'S DEPT.	136677	10/13/2020	7/1-7/6 FIREWKS SATUR	14,460.97
21	011101110		136677	10/13/2020	AUG'20 LAW ENFORCEMNT	387.50
21	011101110		136677	10/13/2020	AUG'20 LAW ENFORCEMNT	16,768.33
21	011101110		136677	10/13/2020	AUG'20 LAW ENFORCEMNT	45,644.86
21	011101110		136677	10/13/2020	AUG'20 LAW ENFORCEMNT	398,184.96
						\$475,446.62
21	011401410	LARRY RODRIGUEZ	136695	10/13/2020	SEPT'20 PLAN COM MTG	150.00
						\$150.00
21	011701760	LBC LIGHTING	136678	10/13/2020	LIGHT-PECK UNDERPASS	1,143.56
						\$1,143.56
21	011401410	LEONELA. BARRERA JR	136679	10/13/2020	SEPT'20 PLAN COM MTG	150.00

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						\$150.00
21	011601610	LIGHT & POWER INTERNATIONAL	136618	9/24/2020	STAGE FLOOR REFINISH	2,300.00
						\$2,300.00
21	011401430	LOS ANGELES COUNTY ASSESSOR	136682	10/13/2020	3 UPDATED MAPS	15.00
						\$15.00
21	011401440	MAIQUES INSPECTION SERVICE	136683	10/13/2020	8/31-10/4 INSPEC/MILE	7,203.54
						\$7,203.54
21	011201210	MUNICIPAL CODE CORPORATION	136684	10/13/2020	MUNI CODE SUPPLMNT#47	1,481.98
						\$1,481.98
21	448008020	NADA BUS, INC.	136685	10/13/2020	2/12/19 SENIOR TRIP	690.00
						\$690.00
21	011501515	NAOMI LOPEZ	136681	10/13/2020	SEPT'20 PATRIOTIC MTG	100.00
						\$100.00
21	05	NATIONWIDE RETIREMENT SOLUTIONS	136620	9/24/2020	PPE 9/19 2ND PAYROLL	5,270.50
						\$5,270.50
21	011701710	NEW SIGN SOLUTION, INC.	136686	10/13/2020	ACRYLIC CONF ROOM#502	632.00
21	011701710		136686	10/13/2020	ACRYLIC CONF ROOM#502	1,744.00
						\$2,376.00
21	397007070	NICKOLE LO	136619	9/24/2020	RENTAL ASSIST OLGUIN	3,200.00
						\$3,200.00
21	011701710	OFFICE DEPOT	136687	10/13/2020	OFFICE SUPPLIES CHALL	596.98
						\$596.98
21	011701020	OFFICETEAM	136688	10/13/2020	PPE 9/18 PW ANALYST	1,606.50
21	011701020		136688	10/13/2020	PPE 9/25 PW ANALYST	1,836.00
						\$3,442.50
21	689009000	PACIFIC PRODUCTS AND SERVICES LLC	136690	10/13/2020	MATRIX READ BOARD#411	14,190.00
						\$14,190.00
21	011701770	PHIL'S CERTIFIED AUTO CENTER	136692	10/13/2020	MINOR SVCS #3	344.00
						\$344.00
21	011601620	QUENCH USA, INC.	136693	10/13/2020	H2O SYSTEM SVC	55.32
						\$55.32
21	011701770	RAY'S OK TIRES INC.	136694	10/13/2020	BOBCAT TIRE REPAIR	30.50
						\$30.50
21	011301310	RUBBER STAMP CHAMP	136696	10/13/2020	ACCOUNTING STAMP	79.06
						\$79.06
21	011401410	RUBY YEPEZ	136715	10/13/2020	SEPT'20 PLAN COM MTG	150.00
						\$150.00
21	011401410	RUDY BOJORQUEZ	136642	10/13/2020	SEPT'20 PLAN COM MTG	150.00
						\$150.00
21	011501515	RUDY LOPEZ	136680	10/13/2020	SEPT'20 PATRIOTIC MTG	100.00

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						\$100.00
21	011701720	SAFETY-KLEEN SYSTEMS, INC.	136697	10/13/2020	CLARIFIER PUMP SVC	2,025.00
						\$2,025.00
21	376706710	SAN GABRIEL VALLEY COUNCIL OF GOV	136621	9/24/2020	SGV VMT ANALYSIS	2,500.00
						\$2,500.00
21	011701730	SAN GABRIEL VALLEY WATER	136622	9/24/2020	8/17-9/16 2004 ROSEME	18.77
21	011701730		136622	9/24/2020	8/12-9/11 11016 GOMEZ	19.77
21	011701730		136622	9/24/2020	8/12-9/11 THIENES/PKW	19.77
21	011701730		136622	9/24/2020	8/12-9/11 FARNDON/PEC	57.48
21	011701730		136622	9/24/2020	8/12-9/11 2000 SANTA	84.29
21	011701730		136622	9/24/2020	8/17-9/16 2218 ROSEME	93.86
21	011701730		136622	9/24/2020	8/12-9/11 1660 DURFEE	98.87
21	011701730		136622	9/24/2020	8/17-9/16 1675 DURFEE	118.97
21	011701730		136622	9/24/2020	8/12-9/11 1109 PECK	158.23
21	011701730		136622	9/24/2020	8/12-9/11 1710 DURFEE	178.34
21	011701730		136622	9/24/2020	8/12-9/11 1508 PECK	190.40
21	011701730		136622	9/24/2020	8/12-9/11 1222 PECK	210.51
21	011701730		136622	9/24/2020	8/12-9/11 1628 DURFEE	214.53
21	011701730		136622	9/24/2020	8/12-9/11 1502 PECK	246.69
21	011701730		136631	10/7/2020	8/14-9/15 MERCED/SANT	52.98
21	011601640		136631	10/7/2020	8/14-9/15 1500 CENTRA	1,289.37
21	011701730		136631	10/7/2020	8/14-9/15 2022 CENTRA	84.29
21	011701730		136631	10/7/2020	8/14-9/15 10452 RUSH	88.32
21	011701730		136631	10/7/2020	8/14-9/15 2464 ROSEME	92.86
21	011701730		136631	10/7/2020	8/14-9/15 2620 ROSEME	92.86
21	011701730		136631	10/7/2020	8/14-9/15 1707 MERCED	95.72
21	011701730		136631	10/7/2020	8/11-9/10 1903 DURFEE	99.87
21	011701720		136631	10/7/2020	8/14-9/15 1900 CENTRA	112.48
21	011701730		136631	10/7/2020	8/14-9/15 MERCED/SANT	116.22
21	011701730		136631	10/7/2020	8/14-9/15 1819 MERCED	132.61
21	011701730		136631	10/7/2020	8/14-9/15 1652 TYLER	140.38
21	011601670		136631	10/7/2020	8/14-9/15 1819 CENTRA	157.80
21	011601660		136631	10/7/2020	8/14-9/15 LERMA/MILLE	161.83
21	011601660		136631	10/7/2020	8/14-9/15 LERMA/MILLE	161.83
21	011701730		136631	10/7/2020	8/11-9/10 2018 DURFEE	167.87
21	011601620		136631	10/7/2020	8/14-9/15 1556 CENTRA	210.15
21	011601610		136631	10/7/2020	8/14-9/15 1530 CENTRA	214.18
21	011701730		136631	10/7/2020	8/11-9/10 1926 DURFEE	244.22
21	011701710		136631	10/7/2020	8/14-9/15 1415 SANTA	274.58
21	011601630		136631	10/7/2020	8/14-9/15 1824 CENTRA	322.91
						\$6,023.81
21	011301310	SECTRAN SECURITY INC.	136699	10/13/2020	SEPT'20 ARMORED SVCS	139.53
						\$139.53
21	011701760	SOUTHEAST CONSTRUCTION PRODUCT	136700	10/13/2020	GRAFFITI REMOVAL MTRL	90.20
21	011701760		136700	10/13/2020	ASPHALT PATCH'G C-WID	112.20

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						\$202.40
21	011101100	SPARKLETT'S	136701	10/13/2020	WATER FOR P-SFTY CTR	6.49
21	011407020		136701	10/13/2020	WATER FOR P-SFTY CTR	6.50
						\$12.99
21	011701750	SPRINT	136702	10/13/2020	8/12-9/11 CELL PHONE	253.99
21	011501530		136702	10/13/2020	8/12-9/11 CELL PHONE	111.99
21	011501540		136702	10/13/2020	8/12-9/11 CELL PHONE	144.61
21	011701740		136702	10/13/2020	8/12-9/11 CELL PHONE	43.96
21	011001020		136702	10/13/2020	8/12-9/11 CELL PHONE	48.30
21	011001040		136702	10/13/2020	8/12-9/11 CELL PHONE	58.12
21	011401440		136702	10/13/2020	8/12-9/11 CELL PHONE	187.40
21	011401100		136702	10/13/2020	8/12-9/11 CELL PHONE	216.15
21	011101110		136702	10/13/2020	8/12-9/11 CELL PHONE	264.28
21	448008010		136702	10/13/2020	8/12-9/11 CELL PHONE	523.12
						\$1,851.92
21	011701760	ST. FRANCIS ELECTRIC, LLC	136703	10/13/2020	AUG'20 SIGNAL MTNC	822.75
21	011701760		136703	10/13/2020	AUG'20 SIGNAL CALLOUT	3,303.27
						\$4,126.02
21	05	STANDARD INSURANCE	136632	10/7/2020	OCT'20 LIFE & AD&D	820.45
						\$820.45
21	05	STANDARD INSURANCE D2	136633	10/7/2020	SEPT'20 DENTAL	5,209.92
						\$5,209.92
21	011701760	SUNBELT RENTALS, INC.	136704	10/13/2020	CON & MIX RENTAL	578.51
						\$578.51
21	011501530	SUPERIOR WAREHOUSE GROCERS	136705	10/13/2020	BASIC FOOD SENIOR#502	30.66
						\$30.66
21	011701770	SUPERKLEEN CARWASH, INC.	136706	10/13/2020	3 WASH MTNC VEHICLES	228.99
21	448008010		136706	10/13/2020	10 WASH TRANS VEH	253.90
						\$482.89
21	011701720	THE GAS COMPANY	136623	9/24/2020	8/13-9/14 1900 CENTRA	32.62
21	011601650		136623	9/24/2020	8/13-9/14 1450 LIDCOM	50.56
21	011601630		136623	9/24/2020	8/13-9/14 1824 CENTRA	61.78
21	011601610		136623	9/24/2020	8/13-9/14 1530 CENTRA	94.32
21	011601620		136623	9/24/2020	8/13-9/14 1556 CENTRA	171.75
21	011601640		136623	9/24/2020	8/16-9/14 1500 CENTRA	232.35
						\$643.38
21	011601640	THE ILLINI COMPANIES, INC	136651	10/13/2020	MAY'20 CHEMICALS	163.22
21	011601640		136651	10/13/2020	JUNE'20 CHEMICALS	233.17
						\$396.39
21	011511543	THE PIN CENTER	136707	10/13/2020	COPPER KEY CENSUS2020	2,825.00
						\$2,825.00
21	011001040	THE SAUCE CREATIVE SERVICES CORP.	136708	10/13/2020	OCT'20 NEWSLETTER	4,812.05

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						\$4,812.05
21	011701710	TIME WARNER CABLE	136709	10/13/2020	7/16-8/15 CABLE SVCS	279.99
						\$279.99
21	011401440	TRANSTECH ENGINEERING, INC.	136710	10/13/2020	MAR'20 PLAN RVW HRLY	1,265.00
21	011401440		136710	10/13/2020	MAY'20 PLAN REVIEW	1,265.00
21	011401440		136710	10/13/2020	FEB'20 PLAN RVW HRLY	2,185.00
21	011401440		136710	10/13/2020	MAR'20 PLAN CK FEES	23,322.51
21	011401440		136710	10/13/2020	FEB'20 PLAN CK FEES	27,654.70
21	011401440		136710	10/13/2020	JUN'20 PLAN CK FEES	89,288.75
21	011401440		136710	10/13/2020	APR'20 PLAN CK FEES	96,623.46
21	011401440		136710	10/13/2020	MAY'20 PLAN CK FEES	150,147.20
21	011401440		136710	10/13/2020	APR'20 PLAN REVIEW	230.00
						\$391,981.62
21	011701720	ULINE	136711	10/13/2020	PALLET RACKS YARD	446.09
						\$446.09
21	011301310	UNITED STATES TREASURY	136624	9/24/2020	95-6006084 2ND QTR'19	4,516.01
						\$4,516.01
21	011511543	VICTORY AUTHORITY CORP	136712	10/13/2020	CENSUS GIVEAWAY	1,615.38
						\$1,615.38
21	05	VONS CREDIT UNION	136625	9/24/2020	PPE 9/5/20	46.50
21	05		136625	9/24/2020	PPE 9/19/20	46.50
						\$93.00
21	011701710	WATER CHEMISTS, DIV. OF CCI CHEMICAL	136713	10/13/2020	SEPT'20 H2O TREATMENT	200.00
						\$200.00
21	011701760	WHITTIER FERTILIZER	136714	10/13/2020	TRASH CAN FOR STREET	142.23
21	011701750		136714	10/13/2020	TRASH CAN FOR LANDSCAPE	142.23
21	011701710		136714	10/13/2020	MULCH CHALL	229.32
21	011701710		136714	10/13/2020	RED CHIPS CHALL	231.23
21	011701710		136714	10/13/2020	RED CHIPS CHALL	231.24
21	011601670		136714	10/13/2020	MULCH MVD	287.23
21	011701710		136714	10/13/2020	RED CHIPS CHALL	464.00
21	011701710		136714	10/13/2020	PLANTER MULCH CHALL	687.96
21	011601670		136714	10/13/2020	MULCH FOR MVD	873.18
21	011601610		136714	10/13/2020	MULCH CCTR	1,102.50
21	011701750		136714	10/13/2020	GORILLA HAIR LANDSCAP	1,231.65
21	011701750		136714	10/13/2020	GORILLA HAIR LANDSCAP	1,231.65
21	011601660		136714	10/13/2020	GOPHER BAIT SHIVELY	64.49
						\$6,918.91
21	011301330	WINDSTREAM HOLDINGS, INC	136634	10/7/2020	8/18-9/17 CITY PHONES	5,444.15
						\$5,444.15
21	011701770	ZOOM AUTO PARTS, INC	136716	10/13/2020	4 TIRES & ALIGNMT #22	520.00
						\$520.00

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Report Total 1,190,478.11



City Manager



City Council Agenda Report

**Agenda
Item No.
7.c.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: Okan Demirci, Deputy City Engineer

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-106,
APPROVING AMENDMENT NO. 1 TO THE AGREEMENT
WITH CALPROMAX ENGINEERING FOR PUBLIC
WORKS SERVICES FOR THE TRAFFIC SIGNAL
REHABILITATION PROJECT AT RUSH STREET AND
PECK ROAD (Project No. 67-900-9020-293)

SUMMARY: On November 12, 2019, the City Council awarded an agreement for Public Works Services to Calpromax Engineering (Agreement) for the rehabilitation of the traffic signal at Rush St. and Peck Rd. (Project No. 67-900-9020-293). An extension of the term of the Agreement is necessary for project completion. No additional compensation is required.

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 20-106, approving amendment no. 1 extending the term of the Public Works Services Agreement between the City and Calpromax Engineering to November 12, 2021.

FISCAL IMPACT: There is no additional cost for the extension of the Agreement. The established budget for construction is \$669,984 including 10% contingency for unforeseen conditions as necessary.

DISCUSSION: On November 12, 2019, the City Council awarded a Public Works Services Agreement to Calpromax Engineering for rehabilitating the traffic signal at Rush St. and Peck Rd. (Project No. 67-900-9020-293) in the amount of \$609,076. The work includes installation of traffic signal and lighting to include new poles, foundations, controllers, conduit, traffic striping, curb, gutter, sidewalk, and curb ramps at Rush Street

and Peck Road intersection. The Agreement had a term of one year, expiring on November 12, 2020.

Project construction phase is in progress and Calpromax ordered long lead time material (traffic signal poles, etc.). The lead time for such material requires the extension of the contract duration. Therefore, it is necessary to extend the Agreement until November 12, 2021.

ATTACHMENTS:

[Amendment A - Resolution 20-106](#)

[Amendment B - Amendment No. 1](#)

[Attachment C - Calpromax Agreement](#)

ATTACHMENT A

RESOLUTION NO. 20-106

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL
APPROVING AN AMENDMENT OF THE AGREEMENT
BETWEEN THE CITY AND CALPROMAX ENGINEERING FOR
THE TRAFFIC SIGNAL REHABILITATION PROJECT AT RUSH
STREET AND PECK ROAD (Project No. 67-900-9020-293)

WHEREAS, the City Council awarded a Public Works Agreement to Calpromax Engineering (“Calpromax”) for the traffic signal rehabilitation project at Rush Street and Peck Road (Project No. 67-900-9020-293) on November 12, 2019; and

WHEREAS, the project construction phase is in progress and Calpromax has ordered long lead time material (traffic signal poles, etc.). The lead time for such material requires the extension of the contract duration; and

WHEREAS, the City Council now wishes to amend the Agreement with Calpromax in order extend the term of the agreement until November 12, 2021.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of South El Monte as follows:

SECTION 1: The City Council authorizes and directs the City Manager to execute the Amendment No. 1 to the Agreement in substantially the form attached as Attachment B to the staff report accompanying this Resolution, subject to approval as to form by the City Attorney. The Council further directs the City Manager to take all actions necessary to effectuate the Amendment No. 1 to the Agreement.

SECTION 2: The City Clerk shall certify to the adoption of this Resolution.

ADOPTED this 13nd day of October, 2020.

Gloria Olmos, Mayor

ATTEST:

Donna Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution No. 20-106, was adopted by the South El Monte City Council at a duly noticed council meeting held on October 13, 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna Schwartz, City Clerk

ATTACHMENT B

AMENDMENT NO. 1

THIS AMENDMENT TO THE AGREEMENT FOR PUBLIC WORKS SERVICES (“Amendment”) by and between the **CITY OF SOUTH EL MONTE** (“City”) and **CALPROMAX ENGINEERING, INC.**, a California corporation (“Contractor”) is effective as of October 13, 2020.

RECITALS

A. On November 12, 2019, the City and Contractor entered into an agreement for public works services for the Contractor to provide public works construction services for Project No. 67-900-9020-293 – Traffic Signal Rehabilitation Project at Rush Street and Peck Road (“Agreement”).

B. City and Contractor now desire to amend the Agreement to extend the Term of the Agreement until November 12, 2021.

TERMS

1. Contract Changes. The Agreement is amended as provided herein. Deleted text is indicated in ~~strike through~~ and added text in ***bold italics***.

A. Section 3.5, Term, is hereby amended as follows:

“Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding ***November 12, 2021*** ~~one (1) years from the date hereof~~, except as otherwise provided in the Schedule of Performance (Exhibit “D”).”

2. Continuing Effect of Agreement. Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. Affirmation of Agreement; Warranty Re Absence of Defaults. City and Contractor each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Contractor represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Contractor that, as of the date of this Amendment, Contractor is not in default of any material term of the Agreement and that there have been no

events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. Adequate Consideration. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. Authority. The persons executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF SOUTH EL MONTE, a municipal corporation

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Anthony R. Taylor, City Attorney

CONTRACTOR:

CALPROMAX ENGINEERING, INC., a California corporation

By:_____
Name: Maria Armogeda
Title: President

By:_____
Name:
Title:

Address: 650 N. Rose Drive #186
Placentia, CA 92870

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2020 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐

INDIVIDUAL

☐

CORPORATE OFFICER

TITLE(S)

☐

PARTNER(S)

☐

LIMITED

☐

GENERAL

☐

ATTORNEY-IN-FACT

☐

TRUSTEE(S)

☐

GUARDIAN/CONSERVATOR

☐

OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2020 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

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CORPORATE OFFICER

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SIGNER(S) OTHER THAN NAMED ABOVE



CITY OF SOUTH EL MONTE

1415 N. SANTA ANITA AVENUE
SOUTH EL MONTE, CALIFORNIA 91733
(626) 579-6540 • FAX (626) 579-2107



December 19, 2019

Maria Armogeda
Calpromax Engineering, Inc.
650 N. Rose Drive #186
Placentia, CA 92870

Dear Ms. Armogeda:

Enclosed for your records please find an original Public Works Agreement by and between the City of South El Monte and Calpromax Engineering, Inc. for the Rush Street and Peck Road Traffic Signal and Lighting Modification Project.

Should you have any questions, please do not hesitate to contact me at 626-579-6540, extension 3280.

Sincerely,

Rose Juárez, CMC
City Clerk

Enclosure

PUBLIC WORKS AGREEMENT

By and Between

CITY OF SOUTH EL MONTE

and

CALPROMAX ENGINEERING, INC.

**AGREEMENT FOR PUBLIC WORKS SERVICES
BETWEEN THE CITY OF SOUTH EL MONTE AND
CALPROMAX ENGINEERING, INC.**

THIS AGREEMENT FOR PUBLIC WORKS SERVICES (herein "Agreement") is made and entered into this 12th day of November, 2019 by and between the City of SOUTH EL MONTE, a municipal corporation ("City") and Calpromax Engineering, Inc., a California corporation ("Contractor"). City and Contractor may be referred to, individually or collectively, as "Party" or "Parties."

RECITALS

A. City has sought, by issuance of a Notice Inviting Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of South El Monte Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. WORK OF CONTRACTOR

1.1 Scope of Work.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Work" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the work required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest

professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Bid Documents.

The Scope of Work shall include the “General Provisions” and “Special Provisions” in the bid documents for the project entitled Rush Street and Peck Road Traffic Signal and Lighting Modification Project, including any documents or exhibits referenced therein (collectively, “bid documents”), all of which are incorporated herein by this reference. In the event of any inconsistency between the terms of the bid documents and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Compliance with California Labor Law.

(a) Public Work. The Parties acknowledge that the work to be performed under this Agreement is a “public work” as defined in Labor Code Section 1720 and that this Agreement is therefore subject to the requirements of Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code relating to public works contracts and the rules and regulations established by the Department of Industrial Relations (“DIR”) implementing such statutes. The work performed under this Agreement is subject to compliance monitoring and enforcement by the DIR. Contractor shall post job site notices, as prescribed by regulation.

(b) Prevailing Wages. Contractor shall pay prevailing wages to the extent required by Labor Code Section 1771. Pursuant to Labor Code Section 1773.2, copies of the prevailing rate of per diem wages are on file at City Hall and will be made available to any interested party on request. By initiating any work under this Agreement, Contractor acknowledges receipt of a copy of the Department of Industrial Relations (DIR) determination of the prevailing rate of per diem wages, and Contractor shall post a copy of the same at each job site where work is performed under this Agreement.

(c) Penalty for Failure to Pay Prevailing Wages. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1774 and 1775 concerning the payment of prevailing rates of wages to workers and the penalties for failure to pay prevailing wages. The Contractor shall, as a penalty to the City, forfeit two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing rates as determined by the DIR for the work or craft in which the worker is employed for any public work done pursuant to this Agreement by Contractor or by any subcontractor.

(d) Payroll Records. Contractor shall comply with and be bound by the provisions of Labor Code Section 1776, which requires Contractor and each subcontractor to: keep accurate payroll records and verify such records in writing under penalty of perjury, as specified in

Section 1776; certify and make such payroll records available for inspection as provided by Section 1776; and inform the City of the location of the records.

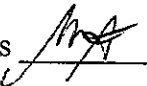
(e) Apprentices. Contractor shall comply with and be bound by the provisions of Labor Code Sections 1777.5, 1777.6, and 1777.7 and California Code of Regulations Title 8, Section 200 *et seq.* concerning the employment of apprentices on public works projects. Contractor shall be responsible for compliance with these aforementioned Sections for all apprenticeable occupations. Prior to commencing work under this Agreement, Contractor shall provide City with a copy of the information submitted to any applicable apprenticeship program. Within sixty (60) days after concluding work pursuant to this Agreement, Contractor and each of its subcontractors shall submit to the City a verified statement of the journeyman and apprentice hours performed under this Agreement.

(f) Eight-Hour Work Day. Contractor acknowledges that eight (8) hours labor constitutes a legal day's work. Contractor shall comply with and be bound by Labor Code Section 1810.

(g) Penalties for Excess Hours. Contractor shall comply with and be bound by the provisions of Labor Code Section 1813 concerning penalties for workers who work excess hours. The Contractor shall, as a penalty to the City, forfeit twenty-five dollars (\$25) for each worker employed in the performance of this Agreement by the Contractor or by any subcontractor for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and forty (40) hours in any one calendar week in violation of the provisions of Division 2, Part 7, Chapter 1, Article 3 of the Labor Code. Pursuant to Labor Code section 1815, work performed by employees of Contractor in excess of eight (8) hours per day, and forty (40) hours during any one week shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than one and one-half (1 ½) times the basic rate of pay.

(h) Workers' Compensation. California Labor Code Sections 1860 and 3700 provide that every employer will be required to secure the payment of compensation to its employees if it has employees. In accordance with the provisions of California Labor Code Section 1861, Contractor certifies as follows:

"I am aware of the provisions of Section 3700 of the 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 I will comply with such provisions before commencing the performance of the work of this contract."

Contractor's Authorized Initials 

(i) Contractor's Responsibility for Subcontractors. For every subcontractor who will perform work under this Agreement, Contractor shall be responsible for such subcontractor's compliance with Division 2, Part 7, Chapter 1 (commencing with Section 1720) of the California Labor Code, and shall make such compliance a requirement in any contract with any subcontractor for work under this Agreement. Contractor shall take all actions necessary to enforce such contractual provisions and ensure subcontractor's compliance, including without limitation,

conducting a review of the certified payroll records of the subcontractor on a periodic basis or upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages. Contractor shall diligently take corrective action to halt or rectify any such failure by any subcontractor.

1.5 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits, registrations, and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.6 Familiarity with Work.

(a) By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of work to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder.

(b) Contractor shall promptly, and before the following conditions are disturbed, notify the City, in writing, of any: (i) material Contractor believes may be hazardous waste as defined in Section 25117 of the Health & Safety Code required to be removed to a Class I, II, or III disposal site in accordance with existing law; (ii) subsurface, unknown or latent conditions, materially different from those indicated; or (iii) unknown physical conditions at the site of any unusual nature, different from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement, and will materially affect the performance of the services hereunder.

(c) City shall promptly investigate the conditions, and if it finds that the conditions do materially differ, or do involve hazardous waste, and cause a decrease or increase in Contractor's cost of, or the time required for, performance of any part of the work, shall issue a change order per Section 1.10 of this Agreement.

(d) In the event that a dispute arises between City and Contractor whether the conditions materially differ, or involve hazardous waste, or cause a decrease or increase in Contractor's cost of, or time required for, performance of any part of the work, Contractor shall not be excused from any scheduled completion date set, but shall proceed with all work to be performed under the Agreement. Contractor shall retain any and all rights provided either by contract or by law, which pertain to the resolution of disputes and protests between the contracting parties.

(e) City will compensate Contractor to the extent required by Government Code Section 4215 by issuing a change order per Section 1.10 of this Agreement.

1.7 Protection and Care of Work and Materials.

The Contractor shall adopt reasonable methods, including providing and maintaining storage facilities, during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as caused by City's own negligence. Stored materials shall be reasonably accessible for inspection. Contractor shall not, without City's consent, assign, sell, mortgage, hypothecate, or remove equipment or materials which have been installed or delivered and which may be necessary for the completion of the work.

1.8 Warranty.

Contractor warrants all work under the Agreement (which for purposes of this Section shall be deemed to include unauthorized work which has not been removed and any non-conforming materials incorporated into the work) to be of good quality and free from any defective or faulty material and workmanship. Contractor agrees that for a period of one year (or the period of time specified elsewhere in the Agreement or in any guarantee or warranty provided by any manufacturer or supplier of equipment or materials incorporated into the work, whichever is later) after the date of final acceptance, Contractor shall within ten (10) days after being notified in writing by the City of any defect in the work or non-conformance of the work to the Agreement, commence and prosecute with due diligence all work necessary to fulfill the terms of the warranty at its sole cost and expense. Contractor shall act as soon as requested by the City in response to an emergency. In addition, Contractor shall, at its sole cost and expense, repair, remove and replace any portions of the work (or work of other contractors) damaged by its defective work or which becomes damaged in the course of repairing or replacing defective work. For any work so corrected, Contractor's obligation hereunder to correct defective work shall be reinstated for an additional one year period, commencing with the date of acceptance of such corrected work. Contractor shall perform such tests as the City may require to verify that any corrective actions, including, without limitation, redesign, repairs, and replacements comply with the requirements of the Agreement. All costs associated with such corrective actions and testing, including the removal, replacement, and reinstitution of equipment and materials necessary to gain access, shall be the sole responsibility of the Contractor. All warranties and guarantees of subcontractors, suppliers, and manufacturers with respect to any portion of the work, whether express or implied, are deemed to be obtained by Contractor for the benefit of the City, regardless of whether or not such warranties and guarantees have been transferred or assigned to the City by separate agreement and Contractor agrees to enforce such warranties and guarantees, if necessary, on behalf of the City. In the event that Contractor fails to perform its obligations under this Section, or under any other warranty or guaranty under this Agreement, to the reasonable satisfaction of the City, the City shall have the right to correct and replace any defective or non-conforming work and any work damaged by such work or the replacement or correction thereof at Contractor's sole expense. Contractor shall be obligated to fully reimburse the City for any expenses incurred hereunder upon demand.

1.9 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments,

prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.10 Additional Work and Change Orders.

(a) City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Work or make changes by altering, adding to, or deducting from said work. No such extra work may be undertaken unless a written change order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor ("Change Order"). All Change Orders must be signed by the Contractor and Contract Officer prior to commencing the extra work thereunder.

(b) Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or any increase in the time to perform of up to one hundred eighty (180) days; and does not materially affect the Work and which are not detrimental to the Work or to the interest of the City, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council.

(c) Any adjustment in the Contract Sum for a Change Order must be in accordance with the rates set forth in the Schedule of Compensation in Exhibit "C". If the rates in the Schedule of Compensation do not cover the type of work in the Change Order, the cost of such work shall not exceed an amount agreed upon in writing and signed by Contractor and Contract Officer. If the cost of the Change Order cannot be agreed upon, the City will pay for actual work of the Change Order completed, to the satisfaction of the City, as follows:

(i) Labor: the cost of labor shall be the actual cost for wages of workers and subcontractors performing the work for the Change Order at the time such work is done. The use of labor classifications that would increase the cost of such work shall not be permitted.

(ii) Materials and Equipment: the cost of materials and equipment shall be at cost to Contractor or lowest current price which such materials and equipment are reasonably available at the time the work is done, whichever is lower.

(iii) If the cost of the extra work cannot be agreed upon, the Contractor must provide a daily report that includes invoices for labor, materials, and equipment costs for the work under the Change Order. The daily report must include: list of names of workers, classifications, and hours worked; description and list of quantities of materials used; type of equipment, size, identification number, and hours of operation, including loading and transportation, if applicable; description of other City authorized services and expenditures in such detail as the City may require. Failure to submit a daily report by the close of the next working day may, at the City's sole and absolute discretion, waive the Contractor's rights for that day.

(d) It is expressly understood by Contractor that the provisions of this Section 1.10 shall not apply to services specifically set forth in the Scope of Work. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of

Work may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors.

(e) No claim for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.11 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed \$609,076.00 (Six Hundred and Nine Thousand and Seventy-Six Dollars and Zero Cents) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.10.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services less the contract retention; (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Finance Director. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall contain all information specified in Exhibit "C", and shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall, as soon as practicable, independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will cause Contractor to be paid within thirty (30) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event that City does not cause Contractor to be paid within thirty (30) days of receipt of an undisputed and properly submitted invoice, Contractor shall be entitled to the payment of interest to the extent allowed under Public Contract Code Section 20104.50. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor, not later than seven (7) days after receipt by the City, for correction and resubmission. Returned invoices shall be accompanied by a document setting forth in writing the reasons why the payment request was rejected. Review and payment by the City of any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Inspection and Final Acceptance.

City may inspect and accept or reject any of Contractor's work under this Agreement, either during performance or when completed. City shall reject or finally accept Contractor's work within forty-five (45) days after submitted to City. City shall accept work by a timely written acceptance, otherwise work shall be deemed to have been rejected. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as to amount to fraud. Acceptance of any work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Articles 1 and 5, pertaining to warranty and indemnification and insurance, respectively.

3.5 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Maria Armogeda (Name)	President (Title)
Max Kabany (Name)	Manager (Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the Principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be Rene Salas, Public Works Director, or such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City.

City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. All subcontractors shall obtain, at its or Contractor's expense, such licenses, permits, registrations and approvals (including from the City) as may be required by law for the performance of any services or work under this Agreement. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance Coverages.

Without limiting Contractor's indemnification of City, and prior to commencement of any services under this Agreement, Contractor shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

(a) General liability insurance. Contractor shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$2,000,000 per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(b) Automobile liability insurance. Contractor shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Contractor arising out of or in connection with Services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(c) Professional liability (errors & omissions) insurance. Contractor shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Contractor agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

(d) Workers' compensation insurance. Contractor shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

(e) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

5.2 General Insurance Requirements.

(a) Proof of insurance. Contractor shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(b) Duration of coverage. Contractor shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Contractor, its agents, representatives, employees or subcontractors.

(c) Primary/noncontributing. Coverage provided by Contractor shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(d) City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Contractor or City will withhold amounts sufficient to pay premium from Contractor payments. In the alternative, City may cancel this Agreement.

(e) Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or that is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(f) Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or

appointed officers, agents, officials, employees and volunteers or shall specifically allow Contractor or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Contractor hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subcontractors.

(g) Enforcement of contract provisions (non-estoppel). Contractor acknowledges and agrees that any actual or alleged failure on the part of the City to inform Contractor of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(h) Requirements not limiting. Requirements of specific coverage features or limits contained in this section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Contractor maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(i) Notice of cancellation. Contractor agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(j) Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(k) Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(l) Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(m) Pass through clause. Contractor agrees to ensure that its subcontractors, and any other party involved with the project who is brought onto or involved in the project by Contractor, provide the same minimum insurance coverage and endorsements required of Contractor. Contractor agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Contractor agrees that upon request, all agreements with subcontractors, and others engaged in the project will be submitted to City for review.

(n) Agency's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Contractor ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Contractor, the City and Contractor may renegotiate Contractor's compensation.

(o) Self-insured retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(p) Timely notice of claims. Contractor shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Contractor's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(q) Additional insurance. Contractor shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers,

agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

In addition, Contractor agrees to indemnify, defend and hold harmless the Indemnified Parties from, any and all claims and liabilities for any infringement of patent rights, copyrights or trademark on any person or persons in consequence of the use by the Indemnified Parties of articles to be supplied by Contractor under this Agreement, and of which the Contractor is not the patentee or assignee or has not the lawful right to sell the same.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services and work hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

5.4 Notification of Third-Party Claims.

City shall timely notify Contractor of the receipt of any third-party claim relating to the work under this Agreement. City shall be entitled to recover from Contractor its reasonable costs incurred in providing such notification.

5.5 Performance and Labor Bonds.

Concurrently with execution of this Agreement Contractor shall deliver to the City, the following:

(a) A performance bond in the amount of the Contract Sum of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement.

(b) A labor and materials bond in the amount of the Contract Sum of this Agreement, in the form provided by the City Clerk, which secures the payment of all persons furnishing labor and/or materials in connection with the work under this Agreement.

Both the performance and labors bonds required under this Section 5.5 shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement and pays all labor and materials for work and services under this Agreement.

5.6 Sufficiency of Insurer or Surety.

Insurance and bonds required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best's Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the Risk Manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond required by Section 5.5 may be changed accordingly upon receipt of written notice from the Risk Manager.

5.7 Substitution of Securities.

Pursuant to Public Contract Code Section 22300, substitution of eligible equivalent securities for any funds withheld to ensure performance under this Agreement may be permitted at the request and sole expense of the Contractor. Alternatively, the Contractor may, pursuant to an escrow agreement in a form prescribed by Public Contract Code Section 22300, request payment of retentions funds earned directly to the escrow agent at the sole expense of the Contractor.

5.8 Release of Securities.

City shall release the Performance and Labor Bonds when the following have occurred:

- (a) Contractor has made a written request for release and provided evidence of satisfaction of all other requirements under Article 5 of this Agreement;
- (b) the Work has been accepted; and
- (c) after passage of the time within which lien claims are required to be made pursuant to applicable laws; if lien claims have been timely filed, City shall hold the Labor Bond until such claims have been resolved, Contractor has provided statutory bond, or otherwise as required by applicable law.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies, certified and accurate copies of payroll records in compliance with all applicable laws, or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts

from such records. Such records shall be maintained for a period of 3 years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have an unrestricted right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

6.4 Confidentiality and Release of Information.

(a) Information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such

information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorneys' fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes.

(a) Default; Cure. In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall proceed with payment on the invoices only when the default is cured. In the alternative, the City may, in its sole discretion, elect to pay some or all of

the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

(b) Dispute Resolution. This Agreement is subject to the provisions of Article 1.5 (commencing at Section 20104) of Division 2, Part 3 of the California Public Contract Code regarding the resolution of public works claims of less than \$375,000. Article 1.5 mandates certain procedures for the filing of claims and supporting documentation by the Contractor, for the response to such claims by the City, for a mandatory meet and confer conference upon the request of the Contractor, for mandatory non-binding mediation in the event litigation is commenced, and for mandatory judicial arbitration upon the failure to resolve the dispute through mediation. This Agreement hereby incorporates the provisions of Article 1.5 as though fully set forth herein.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action under this Agreement.

7.7 Liquidated Damages.

Since the determination of actual damages for any delay in performance of this Agreement would be extremely difficult or impractical to determine in the event of a breach of this Agreement, the Contractor and its sureties shall be liable for and shall pay to the City the sum of \$500 (Five Hundred Dollars) as liquidated damages for each working day of delay in the performance of any service required hereunder, as specified in the Schedule of Performance (Exhibit "D"). The City may withhold from any monies payable on account of services performed by the Contractor any accrued liquidated damages. Pursuant to Government Code Section 4215, Contractor shall not be assessed liquidated damages for delay in completion of the project when such delay was caused by the failure of the public agency or owner of the utility to provide for removal or relocation of utility facilities.

7.8 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Contractor, except that where termination is due to the fault of the Contractor, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Contractor reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Contractor may determine. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.9 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and

prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.10 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

7.11 Unfair Business Practices Claims.

In entering into this Agreement, Contractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2, (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials related to this Agreement. This assignment shall be made and become effective at the time the City renders final payment to the Contractor without further acknowledgment of the Parties.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his financial interest or the financial interest of any corporation, partnership or association in which he is, directly or indirectly, interested, in violation of any State statute or regulation. The Contractor warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of South El Monte, 1415 Santa Anita Ave., South El Monte California 91733, and in the case of the Contractor, to the person at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section. All correspondence relating to this Agreement shall be serialized consecutively.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor's Authorized Initials



9.7 Corporate Authority.

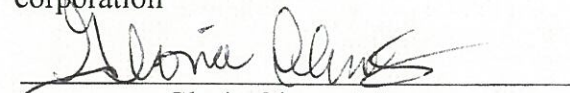
The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF SOUTH EL MONTE, a municipal corporation

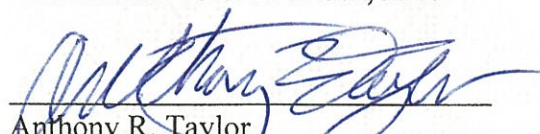

Gloria Olmos, Mayor

ATTEST:


Rose Juarez
City Clerk

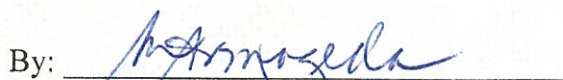
APPROVED AS TO FORM:

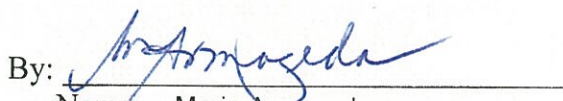
ALESHIRE & WYNDER, LLP


Anthony R. Taylor
City Attorney

CONTRACTOR:

CALPROMAX ENGINEERING, INC., a California corporation

By: 
Name: Maria Armogeda
Title: President

By: 
Name: Maria Armogeda
Title: Secretary

Address: 650 N. Rose Drive #186
Placentia, CA 92870

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF ~~LOS ANGELES~~ ^{DS} Orange

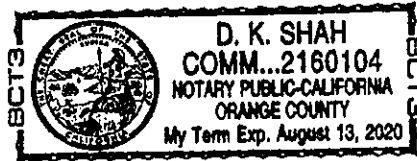
On 11/21, 2019 before me, D.K. Shah, Notary Public, personally appeared Maria Armogida, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

D.K. Shah



OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☒ CORPORATE OFFICER
President / Secretary
 TITLE(S) _____
- ☐ PARTNER(S) ☐ LIMITED
☐ ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

 TITLE OR TYPE OF DOCUMENT

 NUMBER OF PAGES

 DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

 SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"

SCOPE OF WORK

- I.** Contractor shall perform all of the work and comply with all of the specifications and requirements in the "General Provisions" and "Special Provisions" included in the bid documents for the project entitled Rush Street and Peck Road Traffic Signal and Lighting Modification Project, including the request for proposal, contract documents and specifications for the Project, Agency Project No. 67-900-9020-293 and Caltrans Project No. HSIPL-5352(017) and any documents or exhibits referenced therein. The bid documents shall include, but not limited to, those bid specifications and documents provided in Exhibit "A-1".
- II.** Brief description of the work to be performed:

The work to be accomplished under this contract consists of the modification and installation of traffic signal and lighting to include but not limited to new poles, foundations, controllers, conduit and all other work on plans, including traffic striping, and traffic control. Work also consists of, but not limited to construction of curb, ramps, sidewalk, commercial driveway, asphalt concrete, base, median curbs, and stamped P.C.C.
- III.** In addition to the requirements of Section 6.2, during performance of the work, Contractor will keep the City apprised of the status of performance by delivering status reports as may be required by the City from time to time.
- IV.** All work is subject to review and acceptance by the City, and must be revised by the Contractor without additional charge to the City until found satisfactory and accepted by City.
- V.** Contractor shall provide safe and continuous passage for pedestrian and vehicular traffic in accordance with the Work Area Traffic Control Handbook (WATCH), latest edition.

EXHIBIT "A-1"

BID SPECIFICATIONS AND DOCUMENTS

2. The undersigned has by investigation at the site of the work and otherwise satisfied himself as to the nature and location of the work and fully informed himself as to all conditions and matters which can in any way affect the work or the cost thereof.
3. The undersigned fully understands the scope of the work and has checked carefully all words and figures inserted in this bid and he further understands that the City will in no way be responsible for any errors or omissions in the preparation of this bid.
4. The undersigned will execute the agreement and furnish the required bonds and certificates of insurance within ten (10) calendar days after notice of acceptance by the City of his bid. The inability to execute the agreement within ten (10) days will be just cause for forfeiture of the proposal guaranty, to reject the bid and award to the next low bidder.
5. The undersigned hereby certifies that this proposal is genuine and not a sham or collusive or made in the interest or on behalf of any person not herein named and the undersigned has not directly or indirectly induced or solicited any other bidder to put in a sham bid or any other person, firm or corporation to refrain from bidding. The undersigned has not in any manner sought by collusion to secure for himself an advantage over any other bidder.
6. The undersigned will accept an award and enter into a contract for all work scheduled herein on which he submits a bid. The award for such work shall be entirely at the discretion of the City after evaluation of the bids. In the event the bidder to whom the work is awarded fails to enter into a contract and furnish the required bonds therefore within the time provided, the bidder will be liable for forfeiture of ten percent (10%) of the total bid amount to the City, even though such amount may be less than the face amount of the bid security, check or bond posted with the bid.

Note: All amounts and totals given in the Bid Schedule(s) will be subject to verification by the City. In case of variation between the unit price and totals shown by bidder, the unit prices will be considered to be his bid. In case of variation between unit prices written in words and unit prices given in numerals, those written in words shall be considered to be the correct prices.

Addenda

This bid is being submitted with the following issued and signed addendum(s).

Number (s) 1

Warning – If an addendum as being received or addenda have been issued by the administering agency and not noted above as being received by the bidder, or not acknowledging (certification statement) the aforementioned contract modifications with a signature, this Bid may be rejected.

CITY OF SOUTH EL MONTE
 BID SHEETS FOR
RUSH STREET AND PECK ROAD
TRAFFIC SIGNAL AND LIGHTING MODIFICATION PROJECT

Bidder's Name: CALPROMAX ENGINEERING, INC.

To the Honorable Mayor and Members of the City Council:

In compliance with the Notice Inviting Bids, the undersigned hereby agrees to execute the Contract to furnish all labor, materials, equipment and supplies for the Project in accordance with the Contract Documents to the satisfaction and under the direction of the City Engineer, at the following prices:

ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICES	EXTENDED AMOUNT
1.	Mobilization	LS	1	20,000	20,000
2.	Traffic Control Plan Preparation and Implementation	LS	1	7,000	7,000
3.	Implementation of BMP's	LS	1	2,000	2,000
4.	Construction Surveying/Staking	LS	1	5,000	5,000
5.	Clearing and Grubbing	LS	1	40,000	40,000
6.	WQMP Component	LS	1	1,700	1,700
7.	Remove & Modify Decorative Wrought Iron Fencing	LS	1	9,300	9,300
8.	Sawcut Existing PCC Curb & Gutter or Retaining Curb	LF	315	3.00	945
9.	Sawcut Existing Drive Approach or Access Ramp	LF	150	3.00	450
10.	Sawcut Existing PCC Sidewalk or PCC Slab	LF	310	3.00	930
11.	Cold Plane Existing Asphalt Concrete Pavement, 2" Depth	LF	940	6.00	5,640

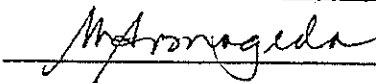
ITEM NO.	DESCRIPTION	UNIT	ESTIMATED QUANTITY	UNIT PRICES	EXTENDED AMOUNT
29.	Construct Commercial Driveway Approach, Case B	EA	1	6,000	6,000
30.	Construct Case C Plus Construct Modified Case C Curb Ramp	EA	2	500	1,000
31.	Install Thermoplastic Striping, Pavement Markings	LS	1	10,700	10,700
32.	Install Raised Pavement Markers	EA	250	6	1,500
33.	Sandblasting	SF	900	3	2,700
34.	Sign Installation & Relocation	EA	15	370	5,550
35.	Sign Removal	EA	6	40	240
36.	Traffic Signal Modification and Installation/Complete	LS	1	306,000	306,000
37.	Traffic Signal - Overhead Signs/Pole Mounted Signs	EA	5	1,100 +100 =1,200	5,500
TOTAL BASE AMOUNT				\$ 609,076.00	

BASE AMOUNT:

Note: Items may be adjusted or deleted. Any changes to the quantities for these items shall not constitute a substantial change as referenced in Section 3-2.2.1 of the Standard Specifications. Therefore, regardless of total actual volume (percentage) compared to estimated quantities, the unit prices provided above by the Bidder shall be applied to the final quantity when payment is calculated for these items. No adjustment in the unit prices will be allowed. The City reserves the right to not use any of the estimated quantities; and if this right is exercised, the Contractor will not be entitled to any additional compensation. Cost of all export of material shall be included in the above unit costs; no additional compensation will be granted for such expenses.

TOTAL BID PRICE IN DIGITS: \$ 609,076.00

TOTAL BID PRICE IN WORDS: six hundred nine thousand and seventy six dollars

Signature:  Title: PRESIDENT Date: 07/17/2019
 Signature: _____ Title: _____ Date: _____

QUESTIONNAIRE FORM

Fill out all of the following information. Attach additional sheets if necessary.

- (1) Bidder's Name: CALPROMAX ENGINEERING, INC.
- (2) If the Bidder's name is a fictitious name, who or what is the full name of the registered owner? If the Bidder's name is not a fictitious name, write "N/A" in the response to this question. If you are doing business under a fictitious name, provide a copy of the filed valid Fictitious Business Name Statement.
N/A
- (3) Business Address: 650 N. ROSE DRIVE #18/6, PLACENTIA, CA 92870
- (4) Telephone: (714) 573-4599 Facsimile: (714) 459-7088
- (5) Type of Firm – Individual, Partnership, LLC or Corporation: Corporation
- (6) Corporation organized under the laws of the State of: California
- (7) California State Contractor's License Number and Class: 995933 / A, B, C-10
Original Date Issued: 08/24/2014 Expiration Date: 08/31/2020
- (8) DIR Contractor Registration Number: 1000028249
- (9) List the name and title of the person(s) who inspected the Project site for your firm:
Jose I. Vega
- (10) List the name and title of the person(s) who attended the mandatory pre-Bid meeting for your firm, including the mandatory site visit (if applicable): N/A
- (11) Number of years experience the company has as a contractor in construction work: 5
- (12) List the names, titles, addresses and telephone numbers of all individuals, firm members, partners, joint venturers, and company or corporate officers having a principal interest in this Bid:
CALPROMAX ENGINEERING, INC.
MARIA ARMOGEDA - President / Secretary / Treasurer
- (13) List all current and prior D.B.A.'s, aliases, and fictitious business names for any principal having interest in this Bid:
NONE

- (17) Has the company or any principal having an interest in this Bid ever failed to complete a project? If yes, explain.

NO

- (18) Has the company or any principal having an interest in this Bid ever been terminated for cause, even if it was converted to a "termination of convenience"? If yes, explain.

NO

- (19) For projects that the company or any principal having an interest in this Bid has been involved with in the last five (5) years, did you have any claims or actions:

- a. By you against the owner? Circle one: Yes ☐ No ☒
- b. By the owner against you? Circle one: Yes ☐ No ☒
- c. By any outside agency or individual for labor compliance?
Circle one: Yes ☐ No ☒
- d. By Subcontractors? Circle one: Yes ☐ No ☒
- e. Are any of these claims or actions unresolved or outstanding?
Circle one: Yes ☐ No ☒

If your answer is "yes" to any part or parts of this question, explain.

- (20) List the last three (3) projects you have worked on or are currently working on for the City of South El Monte:

NONE

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On 07/16/2019 before me, D. K. Shah, Notary Public,
(Here insert name and title of the officer)

personally appeared Maria Armogeda

who proved to me on the basis of satisfactory evidence to be the person(s)/whose name(s)/is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

D. K. Shah
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

DESCRIPTION OF THE ATTACHED DOCUMENT

Questionnaire Form

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 4 Document Date 07/16/2019

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☒ Corporate Officer
President
(Title)
☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Did you or any Subcontractor, file any claims against the Agency?

Circle one: Yes ☒ No

Did the Agency file any claims against you? Circle one: Yes ☒ No

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

Project 3 Name/Number Pedestrian Countdown Head Improvements Project / No. P8-1208

Project Description Installation of pedestrian countdown heads/push buttons; striping; pedestrian ramp removal/replacement; signage and truncated domes.

Approximate Construction Dates From: 08/25/2017 To: 05/18/2018

Agency Name: City of Perris

Contact Person: Brad Bophy, P.E. **Telephone:** (951) 943-6504

Address: 101 N. D Street, Perris, CA 92570

Original Contract Amount: \$ 567,790.00 **Final Contract Amount:** \$ 582,306.00

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Change Order

Did you or any Subcontractor, file any claims against the Agency?

Circle one: Yes ☒ No

Did the Agency file any claims against you? Circle one: Yes ☒ No

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

Did you or any Subcontractor, file any claims against the Agency?

Circle one: Yes ☒ No

Did the Agency file any claims against you? Circle one: Yes ☒ No

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

Project 6 Name/Number Traffic Signal Upgrades, Signs & Other Safety Improvements / P15-07

Project Description Traffic signal upgrades

Approximate Construction Dates From: 09/07/2017 To: 09/20/2017

Agency Name: City of Temple City

Contact Person: Okan Demirci Telephone: (714) 319-6137

Address: 9701 Las Tunas Dr., Temple City, CA 91780

Original Contract Amount: \$ 143,000.00 Final Contract Amount: \$ 144,135.73

If final amount is different from original amount, please explain (change orders, extra work, etc.).

Change Order

Did you or any Subcontractor, file any claims against the Agency?

Circle one: Yes ☒ No

Did the Agency file any claims against you? Circle one: Yes ☒ No

If you answered yes to either of the above two questions, please explain and indicate outcome of claims.

Jose Vega, Superintendent

Mr. Vega has more than 15 years of experience in construction of Public works mainly in concrete, electrical, and traffic signal projects. He is fully capable of managing construction on site and coordinating different site activities to execute and deliver a successful project. Currently he serves at Calpromax engineering as the site superintendent since October 2016.

Mr. Vega has more than 15 years of experience in general engineering, electrical, grading, excavation, fencing, and traffic signals project. His previous projects are mainly electrical, traffic signal, Concrete & Asphalt work, site improvement, street improvement, street lights, interconnect, underground conduit, roadway, retaining walls,

Mr. Vega holds license A (general engineering) and C10 electrical license.

Some of Mr. Vega's Projects

Below are some of Mr. Vega's projects he directly supervised.

Client	County of Riverside
Project Description	Country Club Drive & Adam Street traffic Signal and Lighting project in the community of Bermuda Duns
Client	California Department of Transportation- CALTRANS
Project Description	Install Pedestrian Hybrid Beacon at Crosswalk on pacific coast Highway.
Client	City of Pasadena
Project Description	street lighting improvements at various development locations
Client	City of Newport Beach
Project Description	East Bluff park field improvements
Client	California Department of Transportation
Project Description	Traffic Signal.
	Beach Blvd. & Rosecrans Avenue in La Mirada, CA
	This Project includes Construction of New foundations
	and adding new conductors.

DESIGNATION OF SUBCONTRACTORS
[Public Contract Code Section 4104]

List all Subcontractors who will perform Work or labor or render service to the Contractor in or about the construction of the Work or improvement, or a Subcontractor licensed by the State of California who, under subcontract to the Contractor, specially fabricates and installs a portion of the Work or improvement according to detailed drawings contained in the Plans and Specifications, in an amount in excess of one-half percent (0.5%) of the Contractor's total Bid or, in the case of bids or offers for the construction of streets or highways, including bridges, in excess of one-half percent (0.5%) of the Contractor's total Bid or \$10,000, whichever is greater. If all Subcontractors do not fit on this page, attach another page listing all information for all other Subcontractors.

Name under which Subcontractor is Licensed and Registered	CSLB License Number(s) and Class(es)	DIR Contractor Registration Number	Address and Phone Number	Type of Work (e.g., Electrical)	Percentage of Total Bid (e.g., 10%)
Ace Fence Company	996577 A, B, C-13	1000004092	727 N. Glendora Ave. La Puente, CA 91744 (626) 333-0727	Fencing	12 %
Onyx Paving Company, Inc.	630360 A	1000004798	2890 E. La Cresta Ave Anaheim, CA 92806 (714) 632-6699	Asphalt & Cold Plane	5 %
California Professional Engineering, Inc.	793907 A, C-10, C-20	1000377609	929 Otterbein Ave. U-B La Puente, CA 91748 (626) 810-1338	Loops	5 %
Cat Tracking, Inc.	991122 A,B,C-8,C-12	1000011750	17 Commercial Ave. Riverside, CA 92507 (951) 682-1494	Striping	3.5 %

* The percentage of the total Bid shall represent the "portion of the work" for the purposes of Public Contract Code Section 4104(b).

Bond No. n/a

BID BOND

KNOW ALL PERSONS BY THESE PRESENTS that:

WHEREAS the City of South El Monte ("Public Agency"), has issued an invitation for Bids for the Work described as follows: Rush Street and Peck Road Traffic Signal and Lighting Modification Project.

WHEREAS Calpromax Engineering, Inc., 14731 Franklin Avenue, Ste. A, Tustin, CA 92780

(Name and address of Bidder)

("Principal"), desires to submit a Bid to Public Agency for the Work.

WHEREAS, Bidders are required to furnish a form of Bidder's security with their Bids.

NOW, THEREFORE, we, the undersigned Principal, and

United States Fire Insurance Company, 305 Madison Avenue, Morristown, NJ 07962

(Name and address of Surety)

("Surety"), a duly admitted surety insurer under the laws of the State of California, as Surety, are held and firmly bound unto the Public Agency in the penal sum of Ten Percent of the Bid Amount

Dollars (\$ 10% of the Bid Amount), being not less than ten percent (10%) of the total Bid price, in lawful money of the United States of America, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bounded Principal is awarded the Contract for the Work by the Public Agency and, within the time and in the manner required by the bidding specifications, enters into the written form of Contract included with the bidding specifications, furnishes the required Bonds (one to guarantee faithful performance and the other to guarantee payment for labor and materials), and furnishes the required insurance coverage, then this obligation shall become null and void; otherwise, it shall be and remain in full force and effect.

In case suit is brought upon this instrument, Surety further agrees to pay all court costs incurred by the Public Agency in the suit and reasonable attorneys' fees in an amount fixed by the court. Surety hereby waives the provisions of Civil Code Section 2845.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

Civil Code § 1189

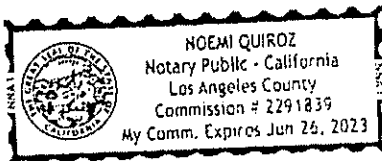
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
) ss
County of Los Angeles)

On JUL 1 2019, before me, Noemi Quiroz, Notary Public, personally appeared Lisa L. Thornton, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



(Seal)

Signature: _____

Noemi Quiroz

Noemi Quiroz, Notary Public

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On 07/16/2019 before me, D. K. Shah, Notary Public,
(Here insert name and title of the officer)

personally appeared Maria Armogeda,

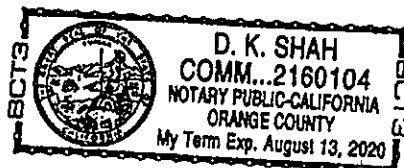
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

D. K. Shah
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

BID BOND

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date 07/15/2019

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual(s)
☒ Corporate Officer
President

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document; number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On 07/16/2019 before me, D. K. Shah, Notary Public,
(Here insert name and title of the officer)

personally appeared Maria Armogeda

who proved to me on the basis of satisfactory evidence to be the person(s)/whose name(s)/is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

D. K. Shah
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

DESCRIPTION OF THE ATTACHED DOCUMENT NONCOLLUSION DECLARATION FORM

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 1 Document Date 07/16/2019

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

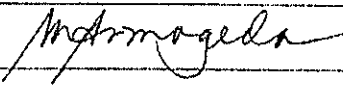
- ☐ Individual (s)
☒ Corporate Officer
President
(Title)
☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. he/she/they- is /are) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ❖ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ❖ Indicate title or type of attached document, number of pages and date.
 - ❖ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

ADDENDA ACKNOWLEDGMENT FORM

Bidder's Name: CALPROMAX ENGINEERING, INC.

The Bidder shall signify receipt of all Addenda here, if any:

Addendum Number	Date Received	Signature
1	07/13/2019	

If there are more Addenda than there is room in the chart above, attach another page acknowledging receipt of the Addenda.

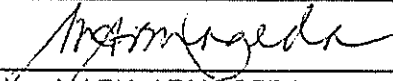
CERTIFICATION
WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS
OR
SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE
AND
THE FILING OF REQUIRED REPORTS

The bidder ✓, proposed subcontractor _____, hereby certifies that he/she has ✓, has not _____, participated in a previous contract subject to the Equal Opportunity Clause, as required by Executive Orders 10925, 11114, or 11246, and that he/she has ✓, has not _____, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Date: 07/17/2019 Project Number: 67-900-9020-293

Company: CALPROMAX ENGINEERING, INC.

Address: 650 N. ROSE DRIVE #186, PLACENTIA, CA 92870

By: 

MARIA ARMOGEDA
PRESIDENT

Title: _____

NOTE: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b)(1), and must be submitted by bidders and proposed subcontractors only in connections with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5 (Generally only contracts or subcontracts of \$10,000 or under are exempt).

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontracts subject to the Executive Orders and have not filed the required reports should note that 40 CFR 60-1.7 (b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period specified by the U.S. Department of the Interior or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

**CERTIFICATION
WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS
OR
SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE
AND
THE FILING OF REQUIRED REPORTS**

The bidder _____, proposed subcontractor ✓, hereby certifies that he/she has ✓, has not _____, participated in a previous contract subject to the Equal Opportunity Clause, as required by Executive Orders 10925, 11114, or 11246, and that he/she has ✓, has not _____, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Date: 7.17.2019Project Number: 67-900-9020-293Company: ACE FENCE COMPANYAddress: 727 N. Glendora Ave, La Puente CA 91744By: Romeo LayosTitle: Estimator

NOTE: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b)(1)), and must be submitted by bidders and proposed subcontractors only in connections with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5 (Generally only contracts or subcontracts of \$10,000 or under are exempt).

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontracts subject to the Executive Orders and have not filed the required reports should note that 40 CFR 60-1.7 (b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period specified by the U.S. Department of the Interior or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

CERTIFICATION
WITH REGARD TO THE PERFORMANCE OF PREVIOUS CONTRACTS
OR
SUBCONTRACTS SUBJECT TO THE EQUAL OPPORTUNITY CLAUSE
AND
THE FILING OF REQUIRED REPORTS

The bidder _____, proposed subcontractor ✓, hereby certifies that he/she has ✓, has not _____, participated in a previous contract subject to the Equal Opportunity Clause, as required by Executive Orders 10925, 11114, or 11246, and that he/she has ✓, has not _____, filed with the Joint Reporting Committee, the Director of the Office of Federal Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on Equal Employment Opportunity, all reports due under the applicable filing requirements.

Date: 07/17/2019

Project Number: 67-900-9020-293

Company: Onyx Paving Company, Inc.

Address: 2890 E. La Cresta Ave. Anaheim, CA 92806

By: Rod Webber

Title: Estimator

NOTE: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7 (b)(1)), and must be submitted by bidders and proposed subcontractors only in connections with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5 (Generally only contracts or subcontracts of \$10,000 or under are exempt).

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontracts subject to the Executive Orders and have not filed the required reports should note that 40 CFR 60-1.7 (b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period specified by the U.S. Department of the Interior or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

REPORT OF ADDITIONAL CLASSIFICATION AND RATE

TO:

FROM:

CALPROMAX ENGINEERING, INC.

NAME OF PROJECT: Rush Street and Peck Road Traffic Signal and Lighting Modification Project

PROJECT NUMBER: Agency Project No. 67-900-9020-293

LOCATION OF PROJECT: South El Monte, CA

DESCRIPTION OF WORK: Modification and Installation of traffic signal and lighting

IN ORDER TO COMPLETE THE PROJECT IT IS NECESSARY TO ESTABLISH WAGE RATES FOR THE FOLLOWING CLASSIFICATIONS NOT INCLUDED IN THE U.S. DEPARTMENT OF LABOR WAGE

DECISION NO.

MODIFICATION NO.

DATED

CLASSIFICATION(S)

BASIC
HOURLY
RATE

FRINGE
PAYMENTS

BENEFIT

NAME, ADDRESS, AND ZIP CODE OF LABOR ORGANIZATION

NAME, ADDRESS, AND ZIP CODE OF CONTRACTOR: Calpromax Engineering, Inc.
650 N. Rose Drive #186, Placentia, CA 92870

TITLE OF LABOR ORGANIZATION'S REPRESENTATIVE:

TITLE OF CONTRACTOR'S REPRESENTATIVE: President

- ☐ Supporting documents attached.
- ☐ The interested parties, including the employees or their authorized representative, agree on the classification and wage rate.
- ☐ The interested parties, including the employees or their authorized representatives, cannot agree on the proper classification and water rate. A determination of the question by the Secretary of Labor is therefore requested.
- ☐ Available information and recommendations are attached.

☐ APPROVED

SIGNATURE OF ISSUING OFFICE REPRESENTATIVE

07/17/2019
DATE

NOTICE OF EQUAL EMPLOYMENT OPPORTUNITY

The Bidder shall list the name and address of each subcontractor to whom the Bidder proposes to subcontract portions of the work, as required by the provisions of the Standard Specifications and of the special provisions.

LIST OF SUBCONTRACTORS

<u>Name and Address</u>	<u>Description of Portion of Work Subcontracted</u>
-------------------------	---

*(THE BIDDER'S EXECUTION ON THE SIGNATURE PORTION OF THIS PROPOSAL SHALL
ALSO CONSTITUTE AN ENDORSEMENT AND EXECUTION OF THOSE CERTIFICATIONS
WHICH ARE A PART OF THIS PROPOSAL)*

EQUAL EMPLOYMENT OPPORTUNITY CERTIFICATION

The bidder Calpromax Engineering, Inc., proposed subcontractor
_____, hereby certifies that he has ☒ has not _____, participated in
a previous contract or subcontract subject to the equal opportunity clauses, as required by Executive Orders 10925, 11114, or
11246, and that, where required, he has filed with the Joint Reporting Committee, the Director of the Office of Federal
Contract Compliance, a Federal Government contracting or administering agency, or the former President's Committee on
Equal Employment Opportunity, all reports due under the applicable filing requirements.

Note: The above certification is required by the Equal Employment Opportunity Regulations of the Secretary of Labor (41 CFR 60-1.7(b)(1)), and must be submitted by bidders and proposed subcontractors only in connection with contracts and subcontracts which are subject to the equal opportunity clause. Contracts and subcontracts which are exempt from the equal opportunity clause are set forth in 41 CFR 60-1.5. (Generally only contracts or subcontracts of \$10,000 or under are exempt.)

Currently, Standard Form 100 (EEO-1) is the only report required by the Executive Orders or their implementing regulations.

Proposed prime contractors and subcontractors who have participated in a previous contract or subcontract subject to the Executive Orders and have not filed the required reports should note that 41 CFR 60-1.7(b)(1) prevents the award of contracts and subcontracts unless such contractor submits a report covering the delinquent period or such other period specified by the Federal Highway Administration or by the Director, Office of Federal Contract Compliance, U.S. Department of Labor.

PUBLIC CONTRACT CODE 10232 STATEMENT

In conformance with Public Contract Code Section 10232, the Contractor, hereby states under penalty of perjury, that no more than one final unappealable finding of contempt of court by a federal court has been issued against the Contractor within the immediately preceding two-year period because of the Contractor's failure to comply with an order of a federal court which orders the Contractor to comply with an order of the National Labor Relations Board.

Note: The above Statement and Questionnaire are part of the Proposal. Signing this Proposal on the signature portion thereof shall also constitute signature of this Statement and Questionnaire.
Bidders are cautioned that making a false certification may subject the certifier to criminal prosecution.

NONLOBBYING CERTIFICATION FOR FEDERAL-AID CONTRACTS

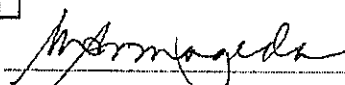
The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:

- (1) No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
- (2) If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure of Lobbying Activities," in conformance with its instructions.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The prospective participant also agrees by submitting his or her bid or proposal that he or she shall require that the language of this certification be included in all lower tier subcontracts, which exceed \$100,000 and that all such subrecipients shall certify and disclose accordingly.

DISCLOSURE OF LOBBYING ACTIVITIES
COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☐ a. bid offer/application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity ☐ Prime ☐ Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: Congressional District, if known _____	
6. Federal Department/Agency:	7. Federal Program Name/Description: CFDA Number, if applicable _____	
8. Federal Action Number, if known	9. Award Amount, if known	
10. a. Name and Address of Lobby Entity (If individual, last name, first name, MI) b. Individuals Performing Services (including address if different from No. 10a) (last name, first name, MI)		
(attach Continuation Sheet(s) if necessary)		
11. Amount of Payment (check all that apply) \$ _____ ☐ actual ☐ planned	13. Type of Payment (check all that apply) ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other, specify _____	
12. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind, specify nature _____ value _____		
14. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11: (attach Continuation Sheet(s) if necessary)		
15. Continuation Sheet(s) attached: Yes ☐ No ☐		
16. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reference was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature:  Print Name: MARIA ARMOGEDA Title: President Telephone No: (714) 573-4599 Date: 07/17/19		Authorized for Local Reproduction Standard Form - L.L.L.
Federal Use Only:		

INSTRUCTIONS FOR COMPLETION OF SF-LLL,
DISCLOSURE OF LOBBYING ACTIVITIES

This disclosure form shall be completed by the reporting entity, whether subawardee or prime Federal recipient, at the initiation or receipt of covered Federal action or a material change to previous filing pursuant to title 31 U.S.C. section 1352. The filing of a form is required for such payment or agreement to make payment to lobbying entity for influencing or attempting to influence an officer or employee of any agency, a Member of Congress an officer or employee of Congress or an employee of a Member of Congress in connection with a covered Federal action. Attach a continuation sheet for additional information if the space on the form is inadequate. Complete all items that apply for both the initial filing and material change report. Refer to the implementing guidance published by the Office of Management and Budget for additional information.

1. Identify the type of covered Federal action for which lobbying activity is and/or has been secured to influence, the outcome of a covered Federal action.
2. Identify the status of the covered Federal action.
3. Identify the appropriate classification of this report. If this is a follow-up report caused by a material change to the information previously reported, enter the year and quarter in which the change occurred. Enter the date of the last, previously submitted report by this reporting entity for this covered Federal action.
4. Enter the full name, address, city, state and zip code of the reporting entity. Include Congressional District if known. Check the appropriate classification of the reporting entity that designates if it is or expects to be a prime or subaward recipient. Identify the tier of the subawardee, e.g., the first subawardee of the prime is the first tier. Subawards include but are not limited to subcontracts, subgrants and contract awards under grants.
5. If the organization filing the report in Item 4 checks "Subawardee" then enter the full name, address, city, state and zip code of the prime Federal recipient. Include Congressional District, if known.
6. Enter the name of the Federal agency making the award or loan commitment. Include at least one organization level below agency name, if known. For example, Department of Transportation, United States Coast Guard.
7. Enter the Federal program name or description for the covered Federal action (item 1). If known, enter the full Catalog of Federal Domestic Assistance (CFDA) number for grants, cooperative agreements, loans and loan commitments.
8. Enter the most appropriate Federal identifying number available for the Federal action identification in item 1 (e.g., Request for Proposal (RFP) number, Invitation for Bid (IFB) number, grant announcement number, the contract grant, or loan award number, the application/proposal control number assigned by the Federal agency). Include prefixes, e.g., "RFP-DE-90-001."
9. For a covered Federal action where there has been an award or loan commitment by the Federal agency, enter the Federal amount of the award/loan commitments for the prime entity identified in item 4 or 5.
10. (a) Enter the full name, address, city, state and zip code of the lobbying entity engaged by the reporting entity identified in item 4 to influence the covered Federal action.
(b) Enter the full names of the individual(s) performing services and include full address if different from 10 (a). Enter Last Name, First Name and Middle Initial (MI).
11. Enter the amount of compensation paid or reasonably expected to be paid by the reporting entity (item 4) to the lobbying entity (item 10). Indicate whether the payment has been made (actual) or will be made (planned). Check all boxes that apply. If this is a material change report, enter the cumulative amount of payment made or planned to be made.
12. Check the appropriate box. Check all boxes that apply. If payment is made through an in-kind contribution, specify the nature and value of the in-kind payment.
13. Check the appropriate box. Check all boxes that apply. If other, specify nature.
14. Provide a specific and detailed description of the services that the lobbyist has performed or will be expected to perform and the date(s) of any services rendered. Include all preparatory and related activity not just time spent in actual contact with Federal officials. Identify the Federal officer(s) or employee(s) contacted or the officer(s) employee(s) or Member(s) of Congress that were contacted.
15. Check whether or not a continuation sheet(s) is attached.
16. The certifying official shall sign and date the form, print his/her name title and telephone number.

Public reporting burden for this collection of information is estimated to average 30 minutes per response, including time for reviewing instruction, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding the burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Office of Management and Budget, Paperwork Reduction Project (0348-0046), Washington, D.C. 20503.

SF-LLL-Instructions Rev 04-01-90 (END OF)

**FEDERAL MINIMUM
WAGE RATES**

See the Caltrans Homepage on the internet for the current rates at <http://www.dot.ca.gov> or contact your District Local Assistance Engineer for a hard copy.

EXHIBIT "B"

SPECIAL REQUIREMENTS

(Superseding Contract Boilerplate)

I. Section 1.10(b) is hereby amended as follows (deleted text is indicated in strikethrough):

(b) Any increase in compensation of up to ten percent (10%) of the Contract Sum ~~or \$25,000, whichever is less~~; or any increase in the time to perform of up to one hundred eighty (180) days; and does not materially affect the Work and which are not detrimental to the Work or to the interest of the City, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council.

II. Article 10, REQUIRED FEDERAL CONTRACT PROVISIONS, is hereby added as follows:

10.1 Disadvantaged Business Enterprises.

(a) 49 C.F.R. 26.13(b):

The Contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The contractor shall carry out applicable requirements of 49 C.F.R. 26 in the award and administration of DOT-assisted contracts. Failure by the Contractor to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement or such other remedy as the recipient deems appropriate. Take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the Agreement (49 C.F.R. 26). To ensure equal participation of DBEs provided in 49 C.F.R. 26.5, the Agency shows a contract goal for DBEs. Make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers. Meet the DBE goal shown elsewhere in these special provisions or demonstrate that you made adequate good faith efforts to meet this goal. It is your responsibility to verify that the DBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program, go to: http://www.dot.ca.gov/hq/bep/find_certified.htm. All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

(i) 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.

(ii) 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.

Exhibit 15-H: Proposer/Contractor Good Faith Efforts is due to the local agency within five (5) days of bid opening. Days means calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or federal holiday, the period extends to the next day that is not a Saturday, Sunday, or federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next on which the agency is open. Only good faith efforts directed towards obtaining participation and meeting or exceeding the DBE contract goal will be considered. Submittal of good faith efforts documentation within the specified time protects your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met. Good faith efforts documentation must include the following information and supporting documents, as necessary:

(i) Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.

(ii) Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.

(iii) Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.

(iv) Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.

(v) Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.

(vi) List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.

(vii) List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such

Upon work completion, complete Exhibit 17-F *Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*. Submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

(f) Performance of Disadvantaged Business Enterprises

DBEs must perform work or supply materials as listed in the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if the bidder shows any of the following justifications:

(i) Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.

(ii) You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.

(iii) Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.

(iv) Listed DBE fails or refuses to perform the work or furnish the listed materials.

(v) Listed DBE's work is unsatisfactory and not in compliance with the contract.

(vi) Listed DBE is ineligible to work on the project because of suspension or debarment.

(vii) Listed DBE becomes bankrupt or insolvent.

(viii) Listed DBE voluntarily withdraws with written notice from the Contract.

10.2 Bid Opening.

The Agency publicly opens and reads bids at the time and place shown on the *Notice to Contractors*.

10.3 Bid Rigging.

The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous.. The hotline is part of the DOT's effort to identify and

and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.

(iii) No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.

(iv) No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

(c) **Significant Changes in the Character of Work**

(i) The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.

(ii) If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.

(iii) If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.

(iv) The term "significant change" shall be construed to apply only to the following circumstances:

(1) When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or

(2) When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

10.7 Beginning of Work.

The Contractor shall begin work within 15 calendar days after the issuance of the Notice to Proceed.

nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

10.11 Form FHWA-1273 Required Contract Provisions Federal-Aid Contracts.

Hereafter are said provisions marked as pages 8 of 23 through 19 of 23.

[This Exhibit shall continue after the pages referenced above and on page B-10]

1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

Under 49CFR26.13(b):

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49CFR26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49CFR26).

To ensure equal participation of DBEs provided in 49CFR26.5, the Agency shows a contract goal for DBEs.

Make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Meet the DBE goal shown elsewhere in these special provisions or demonstrate that you made adequate good faith efforts to meet this goal.

It is your responsibility to verify that the DBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program, go to: http://www.dot.ca.gov/hq/bep/find_certified.htm.

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49CFR26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49CFR26.55(d)(1) as follows:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.
- A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

a. DBE Commitment Submittal

Submit the Exhibit 15-G *Construction Contract DBE Commitment*, included in the Bid book. If the form is not submitted with the bid, remove the form from the Bid book before submitting your bid.

If the DBE Commitment form is not submitted with the bid, all bidders must complete and submit Exhibit 15-G to the Agency. The DBE Commitment form must be received by the Agency within five (5) days of bid opening.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, please submit a copy of the joint venture agreement.

d. Subcontractor and Disadvantaged Business Enterprise Records

Use each DBE subcontractor as listed on Exhibit 12-B *Bidder's List of Subcontractors (DBE and Non-DBE)*, and Exhibit 15-G *Construction Contract DBE Commitment* form unless you receive authorization for a substitution.

The Agency requests the Contractor to:

1. Notify the Resident Engineer or Inspector of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
 - Name and business address of each 1st-tier subcontractor
 - Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
 - Date of payment and total amount paid to each business (see Exhibit 9-F: Monthly Disadvantaged Business Enterprise Payment)

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th of each month, submit a Monthly DBE Trucking Verification form.

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. On work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form. Submit the form within 30 days of contract acceptance.

Upon work completion, complete Exhibit 17-F *Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*. Submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

e. Performance of Disadvantaged Business Enterprises

DBEs must perform work or supply materials as listed in the Exhibit 15-G *Construction Contract DBE Commitment* form, included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if the bidder shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract

4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. (This provision may be omitted by the Local Agency, at their option.)

b. Suspensions of Work Ordered by the Engineer

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.
2. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
4. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

c. Significant Changes in the Character of Work

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term "significant change" shall be construed to apply only to the following circumstances:
 - When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
 - When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor shall begin work within 15 calendar days after the issuance of the Notice to Proceed.

This work shall be diligently prosecuted to completion before the expiration of _____ WORKING DAYS beginning on the fifteenth calendar day after the date shown on the Notice to Proceed.

The Contractor shall pay to the City/County _____ the sum of \$ _____ per day, for each and every calendar days' delay in finishing the work in excess of the number of working days prescribed above.

REQUIRED CONTRACT PROVISIONS
FEDERAL-AID CONSTRUCTION CONTRACTS

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2. EEO Officer: The contractor will designate and make known to the contracting officers and EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting and active EEO program and who must be assigned adequate authority and responsibility to do so.

3. Dissemination of Policy: All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action, or who are substantially involved in such action, will be made fully cognizant of, and will implement, the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

- a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer.
- b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.
- c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.
- d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.
- e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. Recruitment: When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

- a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees, and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.
- b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

- c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. Personnel Actions: Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, national origin, age or disability. The following procedures shall be followed:

- a. The contractor will conduct periodic inspections of project sites to insure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.
- b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.
- c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.
- d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. Training and Promotion:

- a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.
- b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).
- c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.
- d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

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IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. Minimum wages

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH-1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

- (i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and
 - (ii) The classification is utilized in the area by the construction industry; and
 - (iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.
- (2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, Employment Standards Administration, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.
- (4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.
- c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.
- d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

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4. Apprentices and trainees**a. Apprentices (programs of the USDOL).**

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed.

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.**d. Apprentices and Trainees (programs of the U.S. DOT).**

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. Compliance with Copeland Act requirements. The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract.**6. Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.**7. Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

2. The contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.
3. The contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.
4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract.
5. The 30% self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements.

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract.
2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).
3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 1, 1916, (39 Stat. 355), as amended and supplemented;

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

By submission of this bid/proposal or the execution of this contract, or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, or subcontractor, as appropriate, will be deemed to have stipulated as follows:

1. That any person who is or will be utilized in the performance of this contract is not prohibited from receiving an award due to a violation of Section 508 of the Clean Water Act or Section 306 of the Clean Air Act.
2. That the contractor agrees to include or cause to be included the requirements of paragraph (1) of this Section X in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements.

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2. Instructions for Certification - Lower Tier Participants:

(Applicable to all subcontracts, purchase orders and other lower tier transactions requiring prior FHWA approval or estimated to cost \$25,000 or more - 2 CFR Parts 180 and 1200)

- a. By signing and submitting this proposal, the prospective lower tier is providing the certification set out below.
- b. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the department, or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.
- c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances.
- d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.
- f. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.

h. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and normally possessed by a prudent person in the ordinary course of business dealings.

- i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency with which this transaction originated may pursue available remedies, including suspension and/or debarment.

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency.
2. Where the prospective lower tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed \$100,000 (49 CFR 20).

1. The prospective participant certifies, by signing and submitting this bid or proposal, to the best of his or her knowledge and belief, that:
 - a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
 - b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

12. FEMALE AND MINORITY GOALS

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

MINORITY UTILIZATION GOALS

Economic Area		Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA	28.9
	CA Monterey	25.6
	7360 San Francisco-Oakland	
	CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	
	7400 San Jose, CA	
	CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA	
	CA Santa Cruz	14.9
	7500 Santa Rosa	
	CA Sonoma	9.1
177	8720 Vallejo-Fairfield-Napa, CA	
	CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA	16.1
	CA Placer; CA Sacramento; CA Yolo	
178	Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	14.3
	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA	12.3
	CA Stanislaus	
	8120 Stockton, CA	24.3
	CA San Joaquin	
179	Non-SMSA Counties CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	19.8
	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA	19.1
	CA Kern	
	2840 Fresno, CA	26.1

required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the California Department of Transportation or the FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.

- (5) Sanctions for Noncompliance: In the event of CONTRACTOR's noncompliance with the nondiscrimination provisions of this agreement, the California Department of Transportation shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
- (a) withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
 - (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the California Department of Transportation or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the California Department of Transportation enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

14. USE OF UNITED STATES-FLAG VESSELS (CARGO PREFERENCE ACT)

The CONTRACTOR agrees-

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.
2. To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.
3. To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City/County of _____ reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:
 - Contribute to the cost of the training
 - Provide the instruction to the apprentice or trainee
 - Pay the apprentice's or trainee's wages during the off-site training period
3. If you comply this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training

	CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus 8120 Stockton, CA CA San Joaquin Non-SMSA Counties CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	12.3 24.3 19.8
179	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA CA Kern 2840 Fresno, CA	19.1 26.1
	CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange 4480 Los Angeles-Long Beach, CA CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA CA Ventura 6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	11.9 28.3 21.5 19.0 19.7 24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego Non-SMSA Counties CA Imperial	16.9 18.2

For the last full week July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

10.13 Title VI Assurances.

(f) During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

(i) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.

(a) The CONTRACTOR agrees:

(i) To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carries, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels.

(ii) To Furnish within 20 days following the date of loading for shipments originating within the United State or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590.

(iii) To insert the substance of the provisions of this clause in all subcontracts issued pursuant to this contract.

10.15 Federal Trainee Program.

For the Federal training program, the number of trainees or apprentices is .

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor. Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the City/County of ____ :

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the City/County's of _____ approval for this submitted information before you start work. The City/County of _____ credits you for each apprentice or trainee you employ on the

2. For off-site training if the apprentice or trainee is currently employed on a Federal aid project and you do at least one of the following:
 - Contribute to the cost of the training
 - Provide the instruction to the apprentice or trainee
 - Pay the apprentice's or trainee's wages during the off-site training period
 - If you comply this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill.
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training

EXHIBIT "C"

SCHEDULE OF COMPENSATION

- I. Contractor shall perform all work at the rates on the Bid Sheet submitted as part of Contractor's Proposal, and listed below:

ITEM NO.	DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	SUB-BUDGET
1	Mobilization	LS	1	\$20,000.00	\$20,000.00
2	Traffic Control Plan Preparation and Implementation	LS	1	\$7,000.00	\$7,000.00
3	Implementation of BMP's	LS	1	\$2,000.00	\$2,000.00
4	Construction Surveying/Staking	LS	1	\$5,000.00	\$5,000.00
5	Clearing and Grubbing	LS	1	\$40,000.00	\$40,000.00
6	WQMP Component	LS	1	\$1,700.00	\$1,700.00
7	Remove & Modify Decorative Wrought Iron Fencing	LF	1	\$9,300.00	\$9,300.00
8	Sawcut Existing PCC Curb & Gutter or Retaining Curb	LF	315	\$3.00	\$945.00
9	Sawcut Existing Drive Approach or Access Ramp	LF	150	\$3.00	\$450.00
10	Sawcut Existing PCC Sidewalk or PCC Slab	LF	310	\$3.00	\$930.00
11	Cold Plane Existing Asphalt Concrete Pavement, 2" Depth	LF	940	\$6.00	\$5,640.00
12	Sawcut Existing Asphalt Concrete Pavement and Subgrade	LF	640	\$3.00	\$1,920.00
13	Sawcut Concrete Raised Porkchop Island (Include Curbs/Ramps)	LF	160	\$3.00	\$480.00
14	Sawcut Raised Concrete Median Island (Include	LF	147	\$3.00	\$441.00

30	Construct Case C Plus Construct Modified Case C Curb Ramp	EA	2	\$3,500.00	\$7,000.00
31	Install Thermoplastic Striping, Pavement Marking	LS	1	\$10,700.00	\$10,700.00
32	Install Raised Pavement Markers	EA	250	\$6.00	\$1,500.00
33	Sandblasting	SF	900	\$3.00	\$2,700.00
34	Sign Installation & Relocation	EA	15	\$370.00	\$5,550.00
35	Sign Removal	EA	6	\$60.00	\$360.00
36	Traffic Signal Modification and Installation/Complete	LS	1	\$306,000.00	\$306,000.00
37	Traffic Signal – Overhead Sign/Pole Mounted Signs	EA	5	\$1,100.00	\$5,500.00
	TOTAL				\$609,076.00

- II.** A retention of five percent (5%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.
- III.** Within the budgeted amounts for each item on the Bid Sheet, and with the approval of the Contract Officer, funds may be shifted from one item's subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Work is approved per Section 1.10.
- IV.** The City will compensate Contractor for the Services performed upon submission of a valid invoice. Each invoice is to include:
- A.** Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
 - B.** Line items for all materials and equipment properly charged to the Services.
 - C.** Line items for all other approved reimbursable expenses claimed, with supporting documentation.
 - D.** Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

EXHIBIT "D"

SCHEDULE OF PERFORMANCE

I. Contractor shall perform all work timely in accordance with the following schedule:

The Contractor shall, at least 10 days prior to the commencement of work, prepare and submit to the City Engineer, a progress schedule for approval. The schedule shall show the order in which the Contractor proposes to carry out the work, the date on which he will start, and contemplated dates for completing the project. The schedule shall be currently maintained with each submittal. The Contractor shall submit an updated copy of his schedule with each invoice, and when required by major changes in the work.

Contractor will submit a construction schedule to the City within fifteen (15) days of receiving the Notice to Proceed. The construction schedule is subject to approval by the Contract Officer. Should the construction schedule be rejected by the Contract Officer, Contractor will have five (5) days to submit a revised construction schedule.

V. Contractor shall deliver the following tangible work products to the City by the following dates.

(a) The modification and installation of traffic signal and lighting to include but not limited to new poles, foundations, controllers, conduit and all other work on plans, including traffic striping, traffic control, curb, gutter, sidewalk and curb ramps at Rush Street and Peck Road intersection.

(b) Other tangible work product reasonably requested by the City.

VI. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.

PERFORMANCE BOND

WHEREAS, the CITY OF SOUTH EL MONTE, ("City"), has awarded to CALPROMAX ENGINEERING, INC., as Contractor ("Principal"), a Contract for the work entitled and described as follows: Rush Street and Peck Road Traffic Signal and Lighting Modification Project;

WHEREAS, the Contractor is required under the terms of said Contract to furnish a bond for the faithful performance of the Contract;

NOW, THEREFORE, we the undersigned Contractor and Surety, are held and firmly bound unto the City in the sum of Six Hundred Nine Thousand Seventy-Six and No/100 (\$ 609,076.00), this amount being not less than one hundred percent (100%) of the total Contract price, lawful money of the United States of America, for payment of which sum well and truly be made we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. In case suit is brought upon this bond, the Surety will pay a reasonable attorney's fee to the City in an amount to be fixed by the court.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if the hereby bound Contractor, or its heirs, executors, administrators, successors, or assigns, shall in all things stand and abide by, well and truly keep and perform all undertakings, terms, covenants, conditions, and agreements in the said Contract and any alteration thereof, made as therein provided, all within the time and in the manner designated and in all respects according to their true intent and meaning, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

FURTHER, the said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of such change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder.

Executed on

November 8, 2019.

Calpromax Engineering, Inc.
PRINCIPAL

(Seal if Corporation)

By Title President

(Attach Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

United States Fire Insurance Company (name and address of Surety)

305 Madison Avenue

Morristown, NJ 07962

Alliant Insurance Services, Inc.

(name and address of Surety's agent for service of process in California, if different from above)

333 S Hope Street

L.A., CA 90071

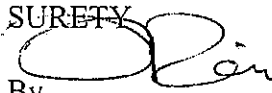
213-443-2476

(telephone number of Surety's agent in California)

(Attach Acknowledgment)

United States Fire Insurance Company

SURETY



By _____
(Attorney-in-Fact) Maria Pena, Attorney-in-Fact

APPROVED:

(Attorney for CITY)

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California

County of Orange

On 11/12/2019 before me, D. K. Shah, Notary Public,
(Here insert name and title of the officer)

personally appeared Maria Armogeda

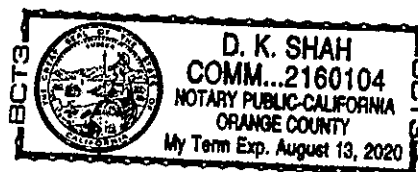
who proved to me on the basis of satisfactory evidence to be the person(s)/whose name(s)/is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature of Notary Public D. K. Shah

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT PERFORMANCE BOND

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date 11/08/2019

(Additional information)

INSTRUCTIONS FOR COMPLETING THIS FORM

Any acknowledgment completed in California must contain verbiage exactly as appears above in the notary section or a separate acknowledgment form must be properly completed and attached to that document. The only exception is if a document is to be recorded outside of California. In such instances, any alternative acknowledgment verbiage as may be printed on such a document so long as the verbiage does not require the notary to do something that is illegal for a notary in California (i.e. certifying the authorized capacity of the signer). Please check the document carefully for proper notarial wording and attach this form if required.

- State and County information must be the State and County where the document signer(s) personally appeared before the notary public for acknowledgment.
- Date of notarization must be the date that the signer(s) personally appeared which must also be the same date the acknowledgment is completed.
- The notary public must print his or her name as it appears within his or her commission followed by a comma and then your title (notary public).
- Print the name(s) of document signer(s) who personally appear at the time of notarization.
- Indicate the correct singular or plural forms by crossing off incorrect forms (i.e. ~~he~~/she/~~they~~, is /~~are~~) or circling the correct forms. Failure to correctly indicate this information may lead to rejection of document recording.
- The notary seal impression must be clear and photographically reproducible. Impression must not cover text or lines. If seal impression smudges, re-seal if a sufficient area permits, otherwise complete a different acknowledgment form.
- Signature of the notary public must match the signature on file with the office of the county clerk.
 - ☐ Additional information is not required but could help to ensure this acknowledgment is not misused or attached to a different document.
 - ☐ Indicate title or type of attached document, number of pages and date.
 - ☐ Indicate the capacity claimed by the signer. If the claimed capacity is a corporate officer, indicate the title (i.e. CEO, CFO, Secretary).
- Securely attach this document to the signed document

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☒ Corporate Officer
President

(Title)

- ☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

Civil Code § 1189

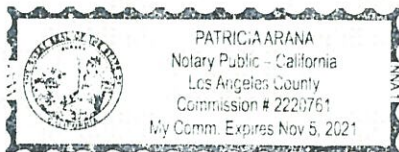
A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

State of California)
) ss
County of Los Angeles)

On NOV 8 - 2019, before me, Patricia Arana, Notary Public, personally appeared Maria Pena, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



(Seal)

Signature: _____

Patricia Arana
Patricia Arana, Notary Public

PAYMENT BOND
(Labor and Material Bond)

WHEREAS, the CITY OF SOUTH EL MONTE, ("City"), has awarded to CALPROMAX ENGINEERING, INC., as Contractor ("Principal"), a Contract for the work entitled and described as follows: Rush Street and Peck Road Traffic Signal and Lighting Modification Project;

WHEREAS, said Contractor is required to furnish a bond in conjunction with said Contract, to secure the payment of claims of laborers, mechanics, material men, and other persons as provided by law;

NOW, THEREFORE, we the undersigned Contractor and Surety, are held and firmly bound unto the City in the sum of Six Hundred Nine Thousand Seventy-Six and No/100 (\$ 609,076.00), this amount being not less than one hundred percent (100%) of the total Contract price, lawful money of the United States of America, for payment of which sum well and truly be made we bind ourselves, our heirs, executors, administrators, and successors, jointly and severally, firmly by these presents. In case suit is brought upon this bond, the Surety will pay a reasonable attorney's fee to the City in an amount to be fixed by the court.

THE CONDITION OF THIS OBLIGATION IS SUCH THAT, if said Contractor, its heirs, executors, administrators, successors, assigns, or subcontractor fails to pay: (1) for any work, materials, services, provisions, provender, or other supplies, or for the use of implements of machinery, used in, upon, for, or about the performance of the work to be done, or for any work or labor thereon of any kind; (2) for work performed by any of the persons named in Civil Code Section 9100; (3) for any amounts due under the Unemployment Insurance Code with respect to work or labor performed under the contract; and/or (4) for any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor and/or its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, then the Surety herein will pay for the same in an amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void.

This bond shall inure to the benefit of any of the persons named in Civil Code Section 9100 so as to give a right of action to such persons or their assigns in any suit brought upon the bond. Moreover, if the City or any entity or person entitled to file stop payment notices is required to engage the services of an attorney in connection with the enforcement of this bond, each shall be liable for the reasonable attorney's fees incurred, with or without suit, in addition to the above sum.

Said Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder shall in any way affect its obligations on this bond, and it does hereby waive notice of such change, extension of time, alteration, or modification of the Contract Documents or of the work to be performed thereunder.

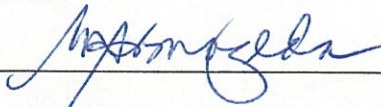
Executed on

November 8, 20 19.

Calpromax Engineering, Inc.
PRINCIPAL

(Seal if Corporation)

By



Title President

(Attach Acknowledgment of Authorized Representative of Principal)

Any claims under this bond may be addressed to:

United States Fire Insurance Company (name and address of Surety)

305 Madison Avenue

Morristown, NJ 07962

Alliant Insurance Services, Inc.

(name and address of Surety's agent for service of process in California, if different from above)

333 S Hope Street

L.A., CA 90071

213-443-2476
California)

(telephone number of Surety's agent in

(Attach Acknowledgment)

United States Fire Insurance Company
SURETY

By



(Attorney-in-Fact) Maria Pena, Attorney-in-Fact

APPROVED:

(Attorney for CITY)

NOTICE:

No substitution or revision to this bond form will be accepted. Sureties must be authorized to do business in and have an agent for service of process in California. Certified copy of Power of Attorney must be attached.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

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State of California

County of Orange

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(Here insert name and title of the officer)

personally appeared Maria Armogeda

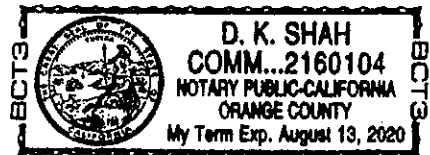
who proved to me on the basis of satisfactory evidence to be the person(s)/whose name(s)/is/~~are~~ subscribed to the within instrument and acknowledged to me that ~~he~~/she/~~they~~ executed the same in ~~his~~/her/~~their~~ authorized capacity(~~ies~~), and that by ~~his~~/her/~~their~~ signature(~~s~~) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

D. K. Shah
Signature of Notary Public

(Notary Seal)



ADDITIONAL OPTIONAL INFORMATION

DESCRIPTION OF THE ATTACHED DOCUMENT

PAYMENT BOND

(Title or description of attached document)

(Title or description of attached document continued)

Number of Pages 2 Document Date 11/08/2019

(Additional information)

CAPACITY CLAIMED BY THE SIGNER

- ☐ Individual (s)
☒ Corporate Officer
President
(Title)
☐ Partner(s)
☐ Attorney-in-Fact
☐ Trustee(s)
☐ Other _____

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- Securely attach this document to the signed document

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

Civil Code § 1189

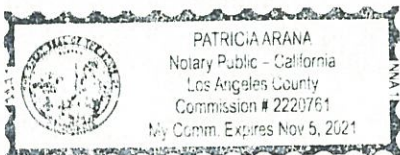
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State of California)
) ss
County of Los Angeles)

On NOV 8 - 2019, before me, Patricia Arana, Notary Public, personally appeared Maria Pena, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.



(Seal)

Signature: _____

Patricia Arana
Patricia Arana, Notary Public

**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

01687411319

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

C.K. Nakamura, Noemi Quiroz, Maria Pena, Tim Tomko, Tiffany Coronado, Jessica Rosser

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties not exceeding: **Seven Million, Five Hundred Thousand Dollars (\$7,500,000).**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney revokes all previous Powers of Attorney issued on behalf of the Attorneys-In-Fact named above and expires on January 31, 2020.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV. Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

(a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;

(b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III. Officers. Section 3.11. Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, stipulations, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 10th day of March, 2016.

UNITED STATES FIRE INSURANCE COMPANY



ARR

Anthony R. Slimowicz, Executive Vice President

State of New Jersey }
County of Morris }

On this 10th day of March 2016, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.

**SONIA SCALA
NOTARY PUBLIC OF NEW JERSEY
MY COMMISSION EXPIRES 3/25/2019**

Sonia Scala

Sonia Scala

(Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the **NOV 8 - 2019** day of 20

UNITED STATES FIRE INSURANCE COMPANY



Al Wright

Al Wright, Senior Vice President



City Council Agenda Report

**Agenda
Item No.
7.d.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: Colby Cataldi, Community Development Director

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-107,
APPROVING AMENDMENT NO. 1 TO THE
PROFESSIONAL SERVICES AGREEMENT WITH KOA
CORPORATION FOR DESIGN ENGINEERING SERVICES
FOR THE SANTA ANITA AVENUE & KLINGERMANN
STREET, SANTA ANITA AVENUE & RUSH STREET,
AND SANTA ANITA AVENUE & CENTRAL AVENUE
SIGNAL MODIFICATION PROJECT (HSIPL 5352(019))

SUMMARY: On October 23, 2018, the City Council awarded a Professional Services Agreement to KOA Corporation for Design Engineering Services for the Santa Anita Avenue & Klingerman Street, Santa Anita Avenue & Rush Street, and Santa Anita Avenue & Central Avenue Signal Modification Project (HSIPL 5352(019)). An extension of the term of the agreement is necessary for design phase completion. No additional compensation is required.

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 20-107, approving amendment no. 1 extending the term of the Professional Services Agreement between the City and KOA Corporation to October 23, 2021 to complete the project.

FISCAL IMPACT: There is no additional cost for the extension of the agreement. The established budget for design engineering services is \$48,951.82.

DISCUSSION: On October 23, 2018, the City Council awarded a Professional Services Agreement to KOA Corporation for Design Engineering Services for the Santa Anita Avenue & Klingerman Street, Santa Anita Avenue & Rush Street, and Santa Anita Avenue & Central Avenue Signal Modification Project (HSIPL 5352(019)). Preparation of the plans,

specifications, and estimates (bid package) are completed. However, due to federal funding related to the project, Caltrans approval is required to proceed with construction advertisement. The required authorization request to proceed with construction advertisement was submitted to Caltrans and is pending Caltrans approval. As such, additional time is needed for the completion of the Project, requiring an extension of the term of the agreement.

ATTACHMENTS:

[Attachment A - Resolution No. 20-107](#)

[Attachment B - Amendment No. 1](#)

[Attachment C - KOA Corporation Agreement](#)

ATTACHMENT A

RESOLUTION NO. 20-107

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL APPROVING AN AMENDMENT TO THE AGREEMENT BETWEEN THE CITY AND KOA CORPORATION FOR DESIGN ENGINEERING SERVICES FOR THE SANTA ANITA AVENUE & KLINGERMAN STREET, SANTA ANITA AVENUE & RUSH STREET, AND SANTA ANITA AVENUE & CENTRAL AVENUE SIGNAL MODIFICATION PROJECT (HSIPL 5352(019))

WHEREAS, the City Council awarded a Professional Services Agreement to KOA Corporation for Design Engineering Services for the Santa Anita Ave. & Klingerman St., Santa Anita Ave. & Rush St., and Santa Anita Ave. & Central Ave. Signal Modification Project (HSIPL 5352(019)) on October 23, 2018; and

WHEREAS, preparation of the plans, specifications, and estimates (bid package) are completed. However, due to federal funding related to the project, Caltrans approval is required to proceed with construction advertisement; and

WHEREAS, the required authorization request to proceed with construction advertisement was submitted to Caltrans and is pending Caltrans approval; and

WHEREAS, the City Council therefore wishes to amend the Agreement with KOA Corporation in order to extend the term of the agreement until October 23, 2021, to allow for Caltrans approval.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of South El Monte as follows:

SECTION 1: The City Council hereby authorizes the City Manager to execute the Amendment No. 1 to the Agreement in substantially the form attached as Attachment B to the staff report accompanying this Resolution, subject to approval as to form by the City Attorney. The Council further directs the City Manager to take all actions necessary to effectuate the Amendment No. 1 to the Agreement.

SECTION 2: The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED, AND ADOPTED this 13nd day of October, 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution being Resolution No. 20-107, was passed and approved by the City Council of the City of South El Monte at a regular meeting of said Council held on the 13th day of October, 2020 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

ATTACHMENT B

AMENDMENT NO. 1

THIS AMENDMENT TO THE AGREEMENT FOR PUBLIC WORKS SERVICES (“Amendment”) by and between the **CITY OF SOUTH EL MONTE** (“City”) and **KOA CORPORATION**, a California corporation (“Consultant”) is effective as of October 13, 2020.

RECITALS

A. On October 23, 2018, the City and Consultant entered into a professional services agreement for the Consultant to provide design engineering services for the Santa Anita Ave. & Klingerman St., Santa Anita Ave. & Rush St., and Santa Anita Ave. & Central Ave. Signal Modification Project (HSIPL 5352(019)) (“Agreement”);

B. The Parties now desire to amend the Agreement to extend the performance period until October 23, 2021.

TERMS

1. Contract Changes. The Agreement is amended as provided herein. Deleted text is indicated in ~~strike through~~ and added text in ***bold italics***.

A. Section 2, Term of Agreement, is hereby amended as follows:

“The term of this Agreement shall be from the Effective Date through ***October 23, 2021*** ~~October 23, 2020~~, unless sooner terminated as provided in Section 13 of this Agreement or extended.”

2. Continuing Effect of Agreement. Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. Affirmation of Agreement; Warranty Re Absence of Defaults. City and Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Consultant represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Consultant that, as of the date of this Amendment, Consultant is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. Adequate Consideration. The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. Authority. The persons executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment, such party is formally bound to the provisions of this Amendment, and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF SOUTH EL MONTE, a municipal corporation

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Anthony R. Taylor, City Attorney

CONSULTANT:

KOA CORPORATION, a California corporation

By: _____
Name: Stephen Bise
Title: VP / Director of California Operations

By: _____
Name: Joel Falter
Title: Principal

Address:

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2020 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER		DESCRIPTION OF ATTACHED DOCUMENT
☐ INDIVIDUAL		_____
☐ CORPORATE OFFICER		TITLE OR TYPE OF DOCUMENT
_____	TITLE(S)	
☐ PARTNER(S)	☐ LIMITED	_____
	☐ GENERAL	NUMBER OF PAGES
☐ ATTORNEY-IN-FACT		_____
☐ TRUSTEE(S)		DATE OF DOCUMENT
☐ GUARDIAN/CONSERVATOR		
☐ OTHER _____		

SIGNER IS REPRESENTING:		
(NAME OF PERSON(S) OR ENTITY(IES))		SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that document.

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2020 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER

☐

INDIVIDUAL

☐

CORPORATE OFFICER

TITLE(S)

☐

PARTNER(S)

☐

LIMITED

☐

GENERAL

☐

ATTORNEY-IN-FACT

☐

TRUSTEE(S)

☐

GUARDIAN/CONSERVATOR

☐

OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

ATTACHMENT C

PROFESSIONAL SERVICES AGREEMENT

This Professional Services Agreement ("Agreement") is dated October 23, 2018 ("Effective Date") and is between the City of South El Monte, a California municipal corporation ("City") and KOA Corporation, a California corporation ("Consultant"). City and Consultant are sometimes referred to herein as the "Parties", and individually as a "Party".

RECITALS

A. City issued Request for Proposals on March 15, 2018, seeking proposals for the design of Street Improvement Project which includes the Traffic Signals along Santa Anita Avenue at Klingerman Avenue, Rush Street, and Central Avenue Signal Modification (the "RFP"). Consultant submitted a proposal dated April 12, 2018 in response to the RFP.

B. Consultant represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees.

C. City desires to retain Consultant as an independent contractor and Consultant desires to serve City to perform these services in accordance with the terms and conditions of this Agreement.

The Parties therefore agree as follows:

1. **Consultant's Services.**

A. Scope of Services. Consultant shall perform the services described in the Scope of Services (the "Services"), attached as Exhibit A. City may request, in writing, changes in the Scope of Services to be performed. Any changes mutually agreed upon by the Parties, and any increase or decrease in compensation, shall be incorporated by written amendments to this Agreement.

B. Source of Funds. The activities, services, and work to be performed under this Agreement are funded, in whole or in part, with federal funds and Measure R funds and as such, all applicable federal, state and local laws, ordinances, codes, regulations and requirements shall apply to the City, the Consultant and its agents, and shall not be waived. Consultant shall comply with the Required Federal Provisions and Special Requirements set for the in Exhibit C.

C. Party Representatives. For the purposes of this Agreement, the City Representative shall be the City Manager, or such other person designated in writing by the City Manager (the "City Representative"). For the purposes of this Agreement, the Consultant Representative shall be Joel Falter, Principal-in-Charge (the "Consultant Representative"). The Consultant Representative shall directly manage Consultant's

Services under this Agreement. Consultant shall not change the Consultant Representative without City's prior written consent.

D. Time for Performance. Consultant shall commence the Services on the Effective Date and shall perform all Services by the deadline established by the City Representative or, if no deadline is established, with reasonable diligence.

E. Standard of Performance. Consultant shall perform all Services under this Agreement in accordance with the standard of care generally exercised by like professionals under similar circumstances and in a manner reasonably satisfactory to City.

F. Personnel. Consultant has, or will secure at its own expense, all personnel required to perform the Services required under this Agreement. All of the Services required under this Agreement shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such Services.

G. Compliance with Laws. Consultant shall comply with all applicable federal, state and local laws, ordinances, codes, regulations and requirements.

H. Permits and Licenses. Consultant shall obtain and maintain during the Agreement term all necessary licenses, permits and certificates required by law for the provision of Services under this Agreement, including a business license.

2. **Term of Agreement.** The term of this Agreement shall be from the Effective Date through October 23, 2020, unless sooner terminated as provided in Section 13 of this Agreement or extended.

3. **Compensation.**

A. Compensation. As full compensation for Services satisfactorily rendered, City shall pay Consultant at the hourly rates, as set forth in the Approved Fee Schedule attached hereto as Exhibit B. In no event shall Consultant be paid more than \$48,951.82 (the "Maximum Compensation").

B. Expenses. The amount set forth in paragraph 3.A. above shall include reimbursement for all actual and necessary expenditures reasonably incurred in the performance of this Agreement.

C. Unauthorized Services and Expenses. City will not pay for any services not specified in the Scope of Services, unless the City Council or the City Representative, if applicable, and the Consultant Representative authorize such services in writing prior to Consultant's performance of those services or incurrence of additional expenses. Any additional services or expenses authorized by the City Council or the City Representative shall be compensated at the rates set forth in **Exhibit B**, or, if not specified, at a rate mutually agreed to by the Parties. City shall

make payment for additional services and expenses in accordance with Section 4 of this Agreement.

4. Method of Payment.

A. Invoices. Consultant shall submit to City an invoice, on a monthly basis for the Services performed pursuant to this Agreement. Each invoice shall itemize the Services rendered during the billing period, hourly rates charged, if applicable, and the amount due. City shall review each invoice and notify Consultant in writing within ten Business Days of receipt of any disputed invoice amounts.

B. Payment. City shall pay all undisputed invoice amounts within 30 calendar days after receipt up to the Maximum Compensation set forth in Section 3 of this Agreement. City does not pay interest on past due amounts. City shall not withhold federal payroll, state payroll or other taxes, or other similar deductions, from payments made to Consultant.

C. Audit of Records. Consultant shall make all records, invoices, time cards, cost control sheets and other records maintained by Consultant in connection with this Agreement, available during Consultant's regular working hours to City for review and audit by City.

5. Independent contractor.

A. Consultant is an independent contractor and not an employee of the City. All services provided pursuant to this Agreement shall be performed by Consultant or under its supervision. Consultant will determine the means, methods, and details of performing the services. Any additional personnel performing services under this Agreement on behalf of Consultant shall also not be employees of City and shall at all times be under Consultant's exclusive direction and control. Consultant shall pay all wages, salaries, and other amounts due such personnel in connection with their performance of services under this Agreement and as required by law. Consultant shall be responsible for all reports and obligations respecting such additional personnel, including, but not limited to: social security taxes, income tax withholding, unemployment insurance, disability insurance, and workers' compensation insurance.

B. Consultant shall indemnify and hold harmless City and its elected officials, officers, employees, servants, designated volunteers, and agents serving as independent contractors in the role of City officials, from any and all liability, damages, claims, costs and expenses of any nature to the extent arising from Consultant's personnel practices. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this Section.

6. Information and Documents.

A. Consultant covenants that all data, reports, documents, discussion, or other information (collectively "Data") developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed or released by Consultant without prior written authorization by City. City shall grant such authorization if applicable law requires disclosure. Consultant, its officers, employees, agents, or subcontractors shall not, without written authorization from the City Manager, or unless requested in writing by the City Attorney, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement or relating to any project or property located within the City. Response to a subpoena or court order shall not be considered "voluntary," provided Consultant gives City notice of such court order or subpoena.

B. Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors, be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder, or with respect to any project or property located within the City. City may, but has no obligation to, represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, City's right to review any such response does not imply or mean the right by City to control, direct or rewrite the response.

C. All Data required to be furnished to City in connection with this Agreement shall become City's property, and City may use all or any portion of the Data submitted by Consultant as City deems appropriate. Upon completion of, or in the event of termination or suspension of this Agreement, all original documents, designs, drawings, maps, models, computer files containing data generated for the Services, surveys, notes, and other documents prepared in the course of providing the Services shall become City's sole property and may be used, reused or otherwise disposed of by City without Consultant's permission. Consultant may take and retain copies of the written products as desired, but the written products shall not be the subject of a copyright application by Consultant.

D. Consultant's covenants under this Section shall survive the expiration or termination of this Agreement.

7. **Conflicts of Interest.** Consultant and its officers, employees, associates and subcontractors, if any, shall comply with all conflict of interest statutes of the State of California applicable to Consultant's Services under this Agreement, including the Political Reform Act (Gov. Code § 81000, *et seq.*) and Government Code section 1090. During the term of this Agreement, Consultant may perform similar Services for other clients, but Consultant and its officers, employees, associates and subcontractors shall not, without the City Representative's prior written approval, perform work for another person or entity for whom Consultant is not currently performing work that would require

Consultant or one of its officers, employees, associates or subcontractors, to abstain from a decision under this Agreement pursuant to a conflict of interest statute. Consultant shall incorporate a clause substantially similar to this Section 7 into any subcontract that Consultant executes in connection with the performance of this Agreement.

8. Indemnification.

A. Indemnity for Design Professional Services. To the fullest extent permitted by law, Consultant shall, at its sole cost and expense, protect, indemnify, and hold harmless City and its elected officials, officers, attorneys, agents, employees, designated volunteers, successors, assigns and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees"), from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals, and all costs associated therewith, and reimbursement of attorneys' fees and costs of defense (collectively "Liabilities"), which arise out of, in whole or in part, the negligence, recklessness or willful misconduct of Consultant, its officers, agents, servants, employees, subcontractors, material men, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of design professional services under this Agreement by a "design professional," as the term is defined under California Civil Code section 2782.8(c)(2).

B. Other Indemnities.

1) Other than in the performance of design professional services, and to the fullest extent permitted by law, Consultant shall, at its sole cost and expense, defend, hold harmless and indemnify the Indemnitees from and against any and all damages, costs, expenses, liabilities, claims, demands, causes of action, proceedings, judgments, penalties, liens, and losses of any nature whatsoever, including fees of accountants, attorneys, or other professionals and all costs associated therewith, and the payment of all consequential damages (collectively "Claims"), in law or equity, which arise out of the acts or omissions of Consultant, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by judicial decision or by the agreement of the Parties. Consultant shall defend the Indemnitees in any action or actions filed in connection with any Claim with counsel of the Indemnitees' choice, and shall pay all costs and expenses, including all attorneys' fees and experts' costs actually incurred in connection with such defense. Consultant shall reimburse the Indemnitees for any and all legal expenses and costs incurred by the Indemnitees in connection therewith.

2) Consultant shall pay all required taxes on amounts paid to Consultant under this Agreement, and indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant shall fully comply with the workers' compensation law regarding Consultant and Consultant's employees. Consultant shall indemnify and hold City harmless from any failure of Consultant to comply with applicable workers' compensation laws. City may offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this subparagraph B.2).

3) Consultant shall obtain executed indemnity agreements with provisions identical to those in this Section 8 from each and every subcontractor or any other person or entity involved by, for, with, or on behalf of, Consultant in the performance of this Agreement. If Consultant fails to obtain such indemnities, Consultant shall be fully responsible and indemnify, hold harmless and defend the Indemnitees from, and against, any and all Claims in law or equity, whether actual, alleged or threatened, which arise out of, are claimed to arise out of, pertain to, or relate to the acts or omissions of Consultant's subcontractor, its officers, agents, servants, employees, subcontractors, materialmen, contractors or their officers, agents, servants or employees (or any entity or individual that Consultant's subcontractor shall bear the legal liability thereof) in the performance of this Agreement, including the Indemnitees' active or passive negligence, except for Claims arising from the sole negligence or willful misconduct of the Indemnitees, as determined by judicial decision or by the agreement of the Parties.

C. Workers' Compensation Acts not Limiting. Consultant's obligations under this Section, or any other provision of this Agreement, shall not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

D. Insurance Requirements not Limiting. City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. The hold harmless and indemnification provisions in this Section shall apply regardless of whether or not any insurance policies are determined to be applicable to the Liabilities, Claims, tax, assessment, penalty or interest asserted against City.

E. Survival of Terms. The indemnification in this Section 8 shall survive the expiration or termination of this Agreement

9. **Insurance.**

A. Minimum Scope and Limits of Insurance. Consultant shall procure and at all times during the term of this Agreement, carry, maintain, and keep in full force and effect, insurance as follows:

1) Commercial General Liability Insurance with a minimum limit of \$1,000,000 per occurrence for bodily injury, personal injury and property damage and a general aggregate limit of \$2,000,000 per project or location. If Consultant is a limited liability company, the commercial general liability coverage shall be amended so that Consultant and its managers, affiliates, employees, agents and other persons necessary or incidental to its operation are insureds.

2) Automobile Liability Insurance for any owned, non-owned or hired vehicle used in connection with the performance of this Agreement with a combined single limit of \$1,000,000 per accident for bodily injury and property damage. If Consultant does not use any owned, non-owned or hired vehicles in the performance of Services under this Agreement, Consultant shall obtain a non-owned auto endorsement to the Commercial General Liability policy required under subparagraph A. 1) of this Section.

3) Workers' Compensation Insurance as required by the State of California and Employer's Liability Insurance with a minimum limit of \$1,000,000 per accident for bodily injury or disease. If Consultant has no employees while performing Services under this Agreement, workers' compensation policy is not required, but Consultant shall execute a declaration that it has no employees.

4) Professional Liability/Errors and Omissions Insurance with minimum limits of \$2,000,000 per claim and in aggregate.

B. Acceptability of Insurers. The insurance policies required under this Section 9 shall be issued by an insurer admitted to write insurance in the State of California with a rating of A:VII, or better, in the latest edition of the A.M. Best Insurance Rating Guide. Self-insurance shall not be considered to comply with the insurance requirements under this Section 9.

C. Additional Insured. The commercial general and automobile liability policies shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds.

D. Primary and Non-Contributing. The insurance policies required under this Section 9 shall apply on a primary non-contributing basis in relation to any other insurance or self-insurance available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

E. Consultant's Waiver of Subrogation. The insurance policies required under this Section 9 shall not prohibit Consultant and Consultant's employees, agents or subcontractors from waiving the right of subrogation prior to a loss. Consultant hereby waives all rights of subrogation against City.

F. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At City's option, Consultant shall either reduce or eliminate the deductibles or self-insured retentions with respect to City, or Consultant shall procure a bond guaranteeing payment of losses and expenses.

G. Cancellations or Modifications to Coverage. Consultant shall not cancel, reduce or otherwise modify the insurance policies required by this Section during the term of this Agreement. The commercial general and automobile liability policies required under this Agreement shall be endorsed to state that should the issuing insurer cancel the policy before the expiration date, the issuing insurer will endeavor to mail 30 days' prior written notice to City. If any insurance policy required under this Section 9 is canceled or reduced in coverage or limits, Consultant shall, within two Business Days of notice from the insurer, phone, fax or notify City via certified mail, return receipt requested, of the cancellation of or changes to the policy.

H. City Remedy for Noncompliance. If Consultant does not maintain the policies of insurance required under this Section in full force and effect during the term of this Agreement, or in the event any of Consultant's policies do not comply with the requirements under this Section, City may either immediately terminate this Agreement or, if insurance is available at a reasonable cost, City may, but has no duty to, take out the necessary insurance and pay, at Consultant's expense, the premium thereon. Consultant shall promptly reimburse City for any premium paid by City or City may withhold amounts sufficient to pay the premiums from payments due to Consultant.

I. Evidence of Insurance. Prior to the performance of Services under this Agreement, Consultant shall furnish the City Clerk with a certificate or certificates of insurance and all original endorsements evidencing and effecting the coverages required under this Section. The endorsements are subject to City's approval. Consultant may provide complete, certified copies of all required insurance policies to City. Consultant shall maintain current endorsements on file with the City Clerk. Consultant shall provide proof to the City Clerk that insurance policies expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall furnish such proof at least two weeks prior to the expiration of the coverages.

J. Indemnity Requirements not Limiting. Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duty to indemnify City under Section 8 of this Agreement.

K. Subcontractor Insurance Requirements. Consultant shall require each of its subcontractors that perform Services under this Agreement to maintain insurance coverage that meets all of the requirements of this Section.

10. **Mutual Cooperation.**

A. City's Cooperation. City shall provide Consultant with all pertinent Data, documents and other requested information as is reasonably available for Consultant's proper performance of the Services required under this Agreement.

B. Consultant's Cooperation. In the event any claim or action is brought against City relating to Consultant's performance of Services rendered under this Agreement, Consultant shall render any reasonable assistance that City requires.

11. **Records and Inspections.** Consultant shall maintain complete and accurate records with respect to time, costs, expenses, receipts, correspondence, and other such information required by City that relate to the performance of the Services. All such records shall be maintained in accordance with generally accepted accounting principles and shall be clearly identified and readily accessible. Consultant shall provide free access to City, its designees and representatives at reasonable times, and shall allow City to examine and audit the books and records, to make transcripts therefrom as necessary, and to inspect all work, data, documents, proceedings and activities related to this Agreement. Such records, together with supporting documents, shall be maintained for a period of three years after receipt of final payment.

12. **Termination of Agreement.**

A. Right to Terminate. City may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to Consultant at least five calendar days before the termination is to be effective. Consultant may terminate this Agreement at any time, at will, for any reason or no reason, after giving written notice to City at least 60 calendar days before the termination is to be effective.

B. Obligations upon Termination. Consultant shall cease all work under this Agreement on or before the effective date of termination specified in the notice of termination. In the event of City's termination of this Agreement due to no fault or failure of performance by Consultant, City shall pay Consultant based on the percentage of work satisfactorily performed up to the effective date of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the Services required by this Agreement. Consultant shall have no other claim against City by reason of such termination, including any claim for compensation.

13. **Force Majeure.** Consultant shall not be liable for any failure to perform its obligations under this Agreement if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to acts of God, embargoes, inability to obtain labor or materials or reasonable substitutes for labor or materials, governmental restrictions, governmental regulations, governmental controls, judicial orders, enemy or hostile governmental action, civil commotion, fire or other casualty, or other causes beyond Consultant's reasonable control and not due to any act by Consultant.

14. **Default.**

A. Consultant's failure to comply with the provisions of this Agreement shall constitute a default. In the event that Consultant is in default for cause under the terms of this Agreement, City shall have no obligation or duty to continue compensating Consultant for any work performed after the date of default.

B. In addition to the right to terminate pursuant to Section 12, if the City Manager determines that Consultant is in default in the performance of any of the terms or conditions of this Agreement, City shall serve Consultant with written notice of the default. Consultant shall have ten calendar days after service upon it of the notice in which to cure the default by rendering a satisfactory performance. In the event that Consultant fails to cure its default within such period of time, City may, notwithstanding any other provision of this Agreement, terminate this Agreement without further notice and without prejudice to any other remedy to which it may be entitled at law, in equity or under this Agreement.

15. **Notices.** Any notice, consent, request, demand, bill, invoice, report or other communication required or permitted under this Agreement shall be in writing and conclusively deemed effective: (a) on personal delivery, (b) on confirmed delivery by courier service during Consultant's and City's regular business hours, or (c) three Business Days after deposit in the United States mail, by first class mail, postage prepaid, and addressed to the Party to be notified as set forth below:

If to City:
Attn: Jennifer Vasquez
City of South El Monte
1415 Santa Anita Avenue
South El Monte, California 91733
Telephone: (626) 579-6540
Email: Jvasquez@soelmonte.org

If to Consultant:
Attn: Joel Falter, Principal
KOA Corporation
1100 Corporate Center Dr.
Suite 201
Monterey Park, CA 91754
T: 323-260-4703
F: 323-260-4705

With a courtesy copy to:

Quinn M. Barrow, City Attorney
Richards, Watson & Gershon
355 South Grand Avenue, 40th Floor
Los Angeles, California 90071
Telephone: (213) 626-8484
Email: qbarrow@rwglaw.com

16. **Non-Discrimination and Equal Employment Opportunity.** In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor or applicant for employment because of race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information, sexual orientation or other basis prohibited by law. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are

treated during employment, without regard to their race, color, religious creed, sex, gender, gender identity, gender expression, marital status, national origin, ancestry, age, physical disability, mental disability, medical condition, genetic information or sexual orientation.

17. Prohibition of Assignment and Delegation. Consultant shall not assign any of its rights or delegate any of its duties under this Agreement, either in whole or in part, without City's prior written consent. City's consent to an assignment of rights under this Agreement shall not release Consultant from any of its obligations or alter any of its primary obligations to be performed under this Agreement. Any attempted assignment or delegation in violation of this Section shall be void and of no effect and shall entitle City to terminate this Agreement. As used in this Section, "assignment" and "delegation" means any sale, gift, pledge, hypothecation, encumbrance or other transfer of all or any portion of the rights, obligations, or liabilities in, or arising from, this Agreement to any person or entity, whether by operation of law or otherwise, and regardless of the legal form of the transaction in which the attempted transfer occurs.

18. No Third Party Beneficiaries Intended. This Agreement is made solely for the benefit of the Parties to this Agreement and their respective successors and assigns, and no other person or entity may have or acquire a right by virtue of this Agreement.

19. Waiver. No delay or omission to exercise any right, power or remedy accruing to City under this Agreement shall impair any right, power or remedy of City, nor shall it be construed as a waiver of, or consent to, any breach or default. No waiver of any breach, any failure of a condition, or any right or remedy under this Agreement shall be (1) effective unless it is in writing and signed by the Party making the waiver, (2) deemed to be a waiver of, or consent to, any other breach, failure of a condition, or right or remedy, or (3) deemed to constitute a continuing waiver unless the writing expressly so states.

20. Final Payment Acceptance Constitutes Release. The acceptance by Consultant of the final payment made under this Agreement shall operate as, and be a release of City from, all claims and liabilities for compensation to Consultant for anything done, furnished or relating to Consultant's work or services. Acceptance of payment shall be any negotiation of City's check or the failure to make a written extra compensation claim within ten calendar days of the receipt of that check. However, approval or payment by City shall not constitute, nor be deemed, a release of the responsibility and liability of Consultant, its employees, subcontractors and agents for the accuracy and competency of the information provided and/or work performed; nor shall such approval or payment be deemed to be an assumption of such responsibility or liability by City for any defect or error in the work prepared by Consultant, its employees, subcontractors and agents.

21. Corrections. In addition to the above indemnification obligations, Consultant shall correct, at its expense, all errors in the work which may be disclosed during City's review of Consultant's report or plans. Should Consultant fail to make such correction in a reasonably timely manner, such correction may be made by City, and the cost

thereof shall be charged to Consultant. In addition to all other available remedies, City may deduct the cost of such correction from any retention amount held by City or may withhold payment otherwise owed Consultant under this Agreement up to the amount of the cost of correction.

22. Non-Appropriation of Funds. Payments to be made to Consultant by City for services performed within the current fiscal year are within the current fiscal budget and within an available, unexhausted fund. In the event that City does not appropriate sufficient funds for payment of Consultant's services beyond the current fiscal year, this Agreement shall cover payment for Consultant's services only to the conclusion of the last fiscal year in which City appropriates sufficient funds and shall automatically terminate at the conclusion of such fiscal year.

23. Exhibits. Exhibits A, B, and C constitute a part of this Agreement and are incorporated into this Agreement by this reference. If any inconsistency exists or arises between a provision of this Agreement and a provision of any exhibit, or between a provision of this Agreement and a provision of Consultant's proposal, the provisions of this Agreement shall control.

24. Entire Agreement and Modification of Agreement. This Agreement, and all exhibits referred to in this Agreement, constitute the final, complete and exclusive statement of the terms of the agreement between the Parties pertaining to the subject matter of this Agreement and supersede all other prior or contemporaneous oral or written understandings and agreements of the Parties. No Party has been induced to enter into this Agreement by, nor is any Party relying on, any representation or warranty except those expressly set forth in this Agreement. This Agreement may not be amended, nor any provision or breach hereof waived, except in a writing signed by both Parties.

25. Headings. The headings in this Agreement are included solely for convenience of reference and shall not affect the interpretation of any provision of this Agreement or any of the rights or obligations of the Parties to this Agreement.

26. Word Usage. Unless the context clearly requires otherwise, (a) the words "shall," "will" and "agrees" are mandatory and "may" is permissive; (b) "or" is not exclusive; and (c) "includes" or "including" are not limiting.

27. Time of the Essence. Time is of the essence in respect to all provisions of this Agreement that specify a time for performance; provided, however, that the foregoing shall not be construed to limit or deprive a Party of the benefits of any grace or use period allowed in this Agreement.

28. Business Days. "Business Days" means days South El Monte City Hall is open for business.

29. Governing Law and Choice of Forum. This Agreement, and any dispute arising from the relationship between the Parties to this Agreement, shall be governed by and construed in accordance with, the laws of the State of California, except that any

rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not be applied in interpreting this Agreement. Any dispute that arises under or relates to this Agreement (whether contract, tort or both) shall be resolved in a superior with geographic jurisdiction over the City of South El Monte.

30. **Attorneys' Fees.** In any litigation or other proceeding by which a Party seeks to enforce its rights under this Agreement (whether in contract, tort or both) or seeks a declaration of any rights or obligations under this Agreement, the prevailing Party shall be entitled to recover all attorneys' fees, experts' fees, and other costs actually incurred in connection with such litigation or other proceeding, in addition to all other relief to which that Party may be entitled.

31. **Severability.** If a court of competent jurisdiction holds any provision of this Agreement to be illegal, invalid or unenforceable for any reason, the validity of and enforceability of the remaining provisions of this Agreement shall not be affected and continue in full force and effect.

32. **Counterparts.** This Agreement may be executed in multiple counterparts, all of which shall be deemed an original, and all of which will constitute one and the same instrument.

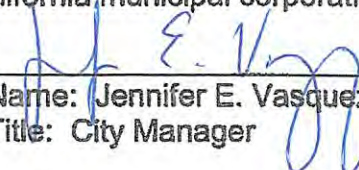
33. **Corporate Authority.** Each person executing this Agreement on behalf of his or her Party warrants that he or she is duly authorized to execute this Agreement on behalf of that Party and that by such execution, that Party is formally bound to the provisions of this Agreement.

[SIGNATURE PAGE FOLLOWS]

The Parties, through their duly authorized representatives are signing this Agreement on the date stated in the introductory clause.

City:

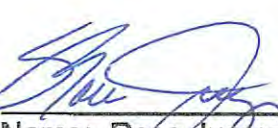
City of South El Monte,
a California municipal corporation

By: 

Name: Jennifer E. Vasquez

Title: City Manager

ATTEST:

By: 

Name: Rose Juarez

Title: City Clerk

APPROVED AS TO FORM:

By: 

Name: Quinn M. Barrow

Title: City Attorney

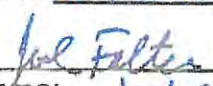
Consultant:

KOA Corporation
A California Corporation

By: 

Name: STEPHEN BISE

Title: VP / DIRECTOR OF CA OPERATIONS

By: 

Name: Joel Felter

Title: Principal

PROOF OF AUTHORITY TO BIND CONTRACTING
PARTY REQUIRED

EXHIBIT A SCOPE OF SERVICES

"The City has procured federal funding for the Santa Anita Ave at Klingerman Ave., Rush St. and Central Ave. intersections under the Highway Safety Improvement Program (HSIP) Cycle 7 program. The scope of work consists of Santa Anita Avenue and Klingerman Street (Provide protected left turn phase on Santa Anita Avenue as well as convert signals to mast arms on Klingerman Street approaches at Santa Anita Avenue and Klingerman Street intersection). Santa Anita Avenue and Rush Street (Provide protected left turn phase at Santa Anita Avenue and Rush Street intersection). Santa Anita Avenue and Central Avenue (Provide protected left turn phase along Santa Anita Avenue at Santa Anita Avenue and Central Avenue intersection) with the following deliverables:"

Item No.	Item Description
1	Mobilization
2	Traffic control
3	Remove existing signal pole
4	Remove signal heads
5	Install larger heads
6	Install new signal pole & head
7	Electrical conduit / HH
8	Wiring
9	Miscellaneous concrete
10	Remove existing signal
11	Install new signal, mast arm, head, controller
12	Install video detector / cabinet
13	Construct Access Ramps

The design consultant shall obtain authorization for preliminary engineering and meet with City staff and Caltrans staff for field review and fill out necessary documents and exhibits according to Caltrans Local Assistance Procedure Manual (LAPM). After obtaining authorization of preliminary engineering the design consultant will develop plans, specifications and estimates (PS&E) for the project according to CALTRANS' LAPM as to adhere to Chapter 11 (Design Standards) and Chapter 12 (Plans Specifications and Estimates). Once consultant has substantially completed plans, specifications and estimates for the project, the consultant will submit design work to CALTRANS for approval when requesting authorization to proceed (E-76) for the project's construction phase. Only upon obtaining an E-76 for the construction phase shall the consultant's designed services will be deemed complete.

In addition, the consultant will be responsible for drafting CALTRANS' Preliminary Environmental Study (LAPM Exhibit 6-A). Environmental documents

are not considered complete until a Caltrans District Senior Environmental Planner signs the Categorical Exclusion (CE), a Caltrans Deputy District Director signs the Finding of No Significant Impact (FONSI), or the Caltrans District Director signs the Record of Decision (ROD) (see Chapter 6, "*Environmental Procedures*," in the LAPM and the *Standard Environmental Reference* [SER]).

Due to the nature of funding, all design and construction work performed must also comply with CALTRANS / FHWA standards, provisions and procedures. In addition, *bidders are advised that, as required by federal law, the City of South El Monte is implementing Disadvantaged Business Enterprise requirements for DBE Goals*. Consultants must prepare new DBE goals and submit a DBE goal package in conformance to LAPM Chapter 10, for Caltrans' approval. Consultants must also comply with Prevailing Wage requirements which are listed by State at www.gpo.gov/davisbacon.

The following is a general outline of the scope of work to be provided by the consultant. While it is intended that the following scope of work include all elements essential to develop the project, those submitting proposals are advised to perform their own field reconnaissance and include any items which they feel have been overlooked. The consultant may also note any required items which they feel to be excessive or unnecessary. The description and cost of such items should be noted separately in the proposal. Services required to complete this project by the consultant shall include:

Task 1 – DBE Goals

1. All consultants are advised that, as required by Federal Law, the City of South El Monte is implementing new disadvantaged enterprise requirements to Disadvantage Business Enterprises (DBE). **The DBE goal is 5% for the design services.** See attached "Exhibit 10-O1, 10-O2, 10-I, and 15-H for good faith efforts.

Task 2 - Project Coordination

1. Attend a pre-design (kick-off) meeting with City representatives and Caltrans to review the project in detail, and determine the City's and Caltrans' specific requirements concerning three traffic signals modification and lighting.
2. Maintain continuous communication with the City Engineer, including meetings to review the initial concept plan and project status at 65%, 95%, and 100% completion.
3. Provide agendas of special items for discussion, and meeting minutes listing actions.
4. Provide a detailed project schedule with updates on a monthly basis.

5. Maintain continuous awareness of the status of each task as it proceeds, and make provisions to expedite and resolve any difficulties that may impede progress.
6. Proactively initiate communications efforts between the design team to address key issues timely.
7. Provide support to City staff with a City Council presentation, including Power Point presentation, concept plans and drawings, and answer questions from committees or Council members.

Deliverables:

- Meeting Schedules
- Meeting Agendas and Minutes

Task 3 - Agency and Utility Coordination

1. Coordinate with the affected utility companies within the project limits as well as adjacent Agencies as necessary.
2. Prepare an initial request for utility information such as atlas sheets, mapping, or as-built plans, and notify of the need to install planned facilities in the area of the project.
3. Coordinate with utility companies to implement upgrade of their facilities, as needed and shown on plans.
4. Review utility information to determine the impact of the project on the various utilities, including making contact with each affected utility company to determine profiles of high hazard/high pressure facilities that may interfere with proposed construction.
5. Review utilities that may be affected by or affect the direction of the project.
6. Lead efforts to identify ownership of unknown utility lines.
7. Submit 65%, 95% and 100% plans to the utility companies for review and comment, including notification of date of planned construction start.
8. Maintain a utility contact matrix documenting contacts, issues, etc., with utility companies.

Deliverables:

- Meeting Agendas and Minutes
- Utility notification letters
- Utility Matrix

Task 4 - Preliminary Engineering

1. Design Survey

- a. Perform research at Los Angeles County and the City of South El Monte for survey information.
- b. Set target survey control points. Establish horizontal and vertical coordinates on all control points.
- c. Record centerline ties for all three traffic signal intersections.

- d. Obtain topographic feature locations for a complete and accurate representation of existing conditions within the public right-of-way.
- e. Obtain complete record drawings and other documents to show location of all utilities, location and dimensions of all walks and drives, location of all trees and landscaping which may be affected by the improvements.

2. Records Research and Field Reviews

Services required include, but are not limited to, the following:

- a. Research and review base data documents including as-built improvement plans, utility information, existing pavement section information, and other available record data.
- b. Prepare a Field Condition Assessment Memo. Include the following:
 - i. Perform preliminary field reconnaissance and photo-document existing conditions.
 - ii. Identify special conditions that might create conflicts or change orders during construction. Identify how issues will be resolved.
 - iii. Evaluate and inventory roadway intersection for ADA compliance. Document existing ramps and make recommendation for improvements. Additionally, identify locations not currently complying with ADA requirements and make recommendations.
- c. Conduct a Design Review field meeting with City staff at 65% and 95% design completion to evaluate design recommendations against existing conditions.

Deliverables:

- Two (2) Design Review Field Meetings

3. Preliminary Plans

The Consultant shall coordinate with the City to prepare design level preliminary plan and participate in meetings to obtain stakeholder approval. Services required include but are not limited to the following:

a. Draft Signal Intersection Preliminary Plans

The consultant shall coordinate with the City to prepare design level preliminary plans and participate in meetings to obtain stakeholder approval. Following the conclusion of City, stakeholder, and City Engineer meetings and input, the Consultant shall prepare design plans and an Engineer Estimate.

4. Environmental Studies

The construction of the project will be funded with the HSIP funds, a federal fund. The selected Consultant will prepare environmental documents in accordance with Federal Guidelines, National Environmental Protection Agency requirements, and the LAPM. Work includes, but is not limited to, the following:

- a. Direct coordination with Caltrans Local Assistance Staff as necessary to obtain approval of the Preliminary Environmental Studies.
- b. Preparation of documents in accordance with Chapter 7 of the LAPM including, but not limited to, Field Review (LAPM Exhibit 7-B), Field Review Attendance Roster (LAPM Exhibit 7-G), Roadway Data (LAPM Exhibit 7-C), Preliminary Environmental Study (LAPM Exhibit 6-A), and accompanying technical documents, to determine the recommended level of environmental document required.
- c. If needed, prepare the Record of Public Hearing including preparation of the Notice of Public Hearing (LAPM Exhibit 8-A) or prepare the Record of Opportunity for a Public Hearing including preparation of the Notice of Opportunity for Public Hearing Proposal (LAPM Exhibit 8-B).
- d. The City will publish the Notice of Public Hearing or Notice of Opportunity for Public Hearing Proposal and hold the public hearing/community meetings according to the LAPM. Consultant to prepare meeting minutes.
- e. Prepare the Categorical Exemption/Categorical Exclusion Determination Form (LAPM Exhibit 6-F) for NEPA compliance and for State projects only, CEQA compliance,
- f. Obtain timely approvals from Caltrans.

5. Construction Storm Water Plan Compliance

If applicable, the consultant shall be responsible for the preparation of any required technical documents such as the construction BMP design, etc. It shall identify, what elements of the program apply to the project, be prepared, and make recommendations for cost-effective construction and post construction BMPs, as applicable.

Deliverables:

- Three (3) complete sets of draft and final documents referenced in this section.
- Construction/BMP Plan

Task 5 - Final Engineering

Upon approval of the Preliminary Environmental Studies by Caltrans, the final design phase shall be initiated. Plans, specifications, and estimates shall be

provided at levels of completion of approximately 65%, 95%, and 100% (Mylar). The City will provide review comments at the concept, 65% and 95% design stage. It is expected that 100% plans will be complete, and will include comments and input from all stakeholders.

Plans shall conform to the City of South El Monte standard plans and shall be prepared utilizing latest AutoCAD software. Copies of AutoCAD files shall accompany each level of plan submittal.

All work identified herein shall be approved by Professional Engineers.

Project plans shall include, but are not limited, to the following:

1. Title, typical section, and construction detail sheets.
2. Civil design plans. Plans shall include removals, existing and proposed improvements, utility base mapping, median improvements, etc. Where necessary, the plans shall define limits of repairs to pavement, curb, gutter, sidewalk, ADA Access Ramps, upgrades, etc. The plans shall be at a horizontal scale of 1"=20'.
3. Design elements required to comply with the NPDES program / Construction BMP Plan.
4. Signing and striping plans at a horizontal scale of 1"=40'. Signing and striping plans shall be prepared and meet criteria established in the MUTCD, latest edition. The signing and striping plans shall include replacement of existing traffic loops, where necessary.
5. Submit 65% and 95% completion plans for City's review and comments. Revise plans based on City comments.
6. Submit 100% plans (mylars), project specifications, and estimates, including electronic files, in City-approved format.

The Consulting Engineer agrees to consult with the City at such reasonable times and places as may be necessary to accomplish the foregoing. In performing said service, the Consulting Engineer shall use, whenever possible, the standard specifications and forms including Bid Forms, Notice to Bidders, Contract Forms and other Public Works Forms prepared and approved by the City of South El Monte for Public Works Contracts. All drawings and specifications shall be adequate and sufficient for the City of South El Monte to solicit bids for the award of the construction contract for said work.

Deliverables:

- Three (3) sets of plan submittals at 65% and 95% completion milestones
- Three (3) copies of plans & specifications and one (1) full-size Mylar of 100% drawings
- Electronic files of final plans

Task 6 - Cost Estimates

Prepare quantity calculations and final construction cost estimates in accordance with City requirements to meet established project budget.

Deliverables:

- Cost estimate at Concept, 65%, 95% and 100% completion milestones
- Electronic files of 100% cost estimates

Task 7 - Specifications

Prepare Technical Special Provisions per City of South El Monte requirements for bidding by the City. The City will provide boilerplate specifications. Special provisions shall be prepared in Greenbook 2012 format, or latest edition. Prepare all required Federal/State documents to be included in the specifications.

Deliverables:

- Special Provisions at the 95% and 100% completion milestones
- Electronic files of 100% specifications

Task 8 - Request for Authorization to Proceed With Construction (RFAPC)

Upon completion of design, the consultant shall prepare the RFAPC and submit all necessary exhibits to Caltrans to obtain approval from Caltrans. Work includes, but is not limited to, the following:

1. Prepare the Request for Authorization (LAPM Exhibit 3-D), Data Sheets (LAPM Exhibit 3-E), Preliminary Estimate of Cost (LAPM Exhibit 12-A), Finance Letter (LAPM Exhibit 15-N), PS&E Certification (LAPM Exhibit 12-C), PS&E Checklist (LAPM Exhibit 12-D), complete the Right-of-Way Certification form and obtain Caltrans' approval, Local Agency Construction Contract Administration Checklist (LAPM Exhibit 15 -A), Local Programs Agreement Checklist (LAPM Exhibit 4-A) to request the State/FHWA agreement (E-76) for federal funding and the Program Supplement Agreement.
2. Submit to City for input and address City comments.
3. Submit to Caltrans for approval. Consultant shall address comments, if issued by Caltrans, and resubmit until approvals are obtained.

Deliverables:

- One (1) copies of Draft and Final RFAPC

Task 9 - Project Advertisement Services

Consultant shall provide support during bidding. Work includes, but is not limited to, the following:

1. Respond to Requests for Information (RFIs) during the project advertisement period, and log questions and responses.
2. Prepare project addenda at the direction of the City (assume three).

Deliverables:

Tabulated Response to RFIs Addendums, as necessary (assume 3).

Task 10 - Construction Support Services

1. Attend the pre-construction meeting, job walk, and job-site meetings over the course of the construction schedule.
2. Provide response to contractor's requests for information (RFI) about the plans and specifications forwarded to the Consultant by the City. This task includes conferring with the City's Construction Manager regarding the RFI, as appropriate. Regularly scheduled construction observation is specifically excluded from this scope of work. It is assumed that ten RFI's will be responded to.
3. Review and approve shop drawings

Task 11 – Notice of Award

1. After award of contract by the City, the consultant shall prepare all necessary exhibits outlined in chapter 15 of the LAPM and submit to Caltrans for their approval of the project.

Task 12 – DBE Goals for Construction

1. Due to the nature of the funding, all design and construction work performed must also comply with Caltrans/FHWA standards, provisions and procedures. In addition, *bidders are advised that, as required by federal law, the City of South El Monte is implementing Disadvantaged Business Enterprise requirements for this project.* Consultant must prepare new DBE goals and submit DBE goals package in conformance to LAPM Chapter 10 for Caltrans approval.

Deliverables:

- Prepare DBE goals for this project for Caltrans' approval.

Task 13 - Prepare Record Drawings (As-Built)

Within 60 days following the completion and acceptance of the project, furnish City with a complete set of revised original tracings showing as-built conditions. Revisions will be solely based on as-built information provided by the City's Construction Manager and the Contractor. Consultant assumes no responsibility for the accuracy of the information provided by the City's Construction Manager and the Contractor.

Deliverables:

- Furnish a complete set of revised original record drawings.

EXHIBIT B APPROVED FEE SCHEDULE

Local Assistance Procedures Manual

EXHIBIT 10-H1
Cost Proposal

Exhibit 10-H1 Cost Proposal
Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) contracts
(Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed

☒ Prime Consultant ☐ Subconsultants
Consultant KOA CorporationProject No. HSIPL 5352(019)

Contract No. _____

Date 9/25/2018**DIRECT LABOR**

Classification/Title	Name	Hours	Actual/Avg. Hourly Rate	Total
Senior Engineer	G. Canzonieri / S. Bise	106	\$62.64	\$ 6,639.84
Assistant Engineer	J. Guerra / A. Wong	180	\$32.75	\$ 5,895.00
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -

LABOR COSTS

a) Subtotal Direct Labor Costs

\$ 12,534.84

b) Anticipated Salary Increases (see page 2 for calculation)

\$692.55

c) **TOTAL DIRECT LABOR COSTS [(a) + (b)]** \$ 13,227.39**INDIRECT COSTS**d) Fringe Benefits Rate: 31.75%

e) Total Fringe Benefits [(c) x (d)] \$ 4,199.70

f) Overhead Rate: 34.66%

g) Overhead [(c) x (f)] \$4,584.61

h) General and Administrative Rate: 69.03%

i) Gen & Admin [(c) x (h)] \$9,130.87

j) **TOTAL INDIRECT COSTS [(e) + (g) + (i)]** \$ 17,915.18**FEE (Profit)**Rate: 10.00%k) **TOTAL FIXED PROFIT [(c) + (j)] x Fee Rate %** \$ 3,114.26**CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZED (Add additional pages if necessary)**

Description	Quantity	Unit	Unit Cost	Total
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -

l) **TOTAL OTHER DIRECT COSTS** \$ -**m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

Subconsultant 1	<u>Advanced Avant Garde Corporation</u>	\$ 7,295.00
Subconsultant 2:	<u>Calvada Surveying</u>	\$ 7,400.00
Subconsultant 3:		\$ -
Subconsultant 4:		\$ -

m) **TOTAL SUBCONSULTANTS' COSTS** \$ 14,695.00n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)]** \$ 14,695.00**TOTAL COST [(c) + (j) + (k) + (n)]** \$ 48,951.82**NOTES:**

- All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates should be based on consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

Local Assistance Procedures Manual

EXHIBIT 10-H1
Cost Proposal

Exhibit 10-H1 Cost Proposal
Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) contracts
 (Calculations for Anticipated Salary Increases)

Consultant KOA Corporation Contract No. 0 Date 9/25/2018

1. Calculate average hourly rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal	Total Hours per Cost Proposal	Avg Hourly Rate	5 Year Contract Duration
\$ 12,534.84 /	286	= \$43.83	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average hourly rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation		
Year 1	\$43.83	+	5%	=	\$46.02 Year 2 Avg Hourly Rate
Year 2	\$46.02	+	5%	=	\$48.32 Year 3 Avg Hourly Rate
Year 3	\$48.32	+	5%	=	\$50.74 Year 4 Avg Hourly Rate
Year 4	\$50.74	+	5%	=	\$53.27 Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	90.00%	*	286	=	257.4	Estimated Hours Year 1
Year 2	10.00%	*	286	=	28.6	Estimated Hours Year 2
Year 3	0.00%	*	286	=	0	Estimated Hours Year 3
Year 4	0.00%	*	286	=	0	Estimated Hours Year 4
Total	100%		Total	=	286	

4. Calculate Total Costs including Escalation (multiply average hourly rate by the number of hours)

	Avg Hourly Rate (calculated above)		Estimated Hours (calculated above)		Cost Per Year	
Year 1	\$46.02	*	257.4	=	\$11,845.42	Estimated Hours Year 1
Year 2	\$48.32	*	28.6	=	\$1,381.97	Estimated Hours Year 2
Year 3	\$50.74	*	0	=	\$0.00	Estimated Hours Year 3
Year 4	\$53.27	*	0	=	\$0.00	Estimated Hours Year 4

Total Direct Labor Cost with Escalation = \$13,227.39

Direct Labor Subtotal before escalation = \$12,534.84

Estimated total of Direct Labor Salary Increase = \$692.55 Transfer to Page 1

NOTES:

- This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
- An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. \$250,000 x 2% x 5 yrs = \$25,000 is not an acceptable methodology.)
- This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted
- Calculations for anticipated salary escalation must be provided

EXHIBIT 10-H1 COST PROPOSAL**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. [Title 23 United States Code Section 112](#) - Letting of Contracts
4. [48 Code of Federal Regulations Part 31](#) - Contract Cost Principles and Procedures
5. [23 Code of Federal Regulations Part 172](#) - Procurement, Management, and Administration of Engineering and Design Related Service
6. [48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board](#) (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:Name: Giuseppe CanzonieriTitle *: VP, Senior EngineerSignature : Date of Certification (mm/dd/yyyy): 09/25/2018Email: gcanzonieri@koacorp.comPhone Number: 323-859-3155Address: 1100 Corporate Center Drive, Suite 201, Monterey Park, CA 91754

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Local Assistance Procedures Manual

EXHIBIT 10-H1
Cost Proposal

Exhibit 10-H1 Cost Proposal
Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) contracts
 (Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed

☐ Prime Consultant☒ SubconsultantsConsultant Advanced Avant Garde CorporationProject No. TBD (South El Monte HSIP Cycle 7) Contract No. TBD Date 9/25/2018**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Program Manager	Staff	3	\$110.00	\$ 275.00
Program Coordinator	Staff	48	\$85.00	\$ 4,080.00
Program Assistant	Staff	42	\$70.00	\$ 2,940.00
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -
			\$0.00	\$ -

LABOR COSTS

a) Subtotal Direct Labor Costs

\$ 7,295.00

b) Anticipated Salary Increases (see page 2 for calculation)

\$0.00

c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 7,295.00

INDIRECT COSTS

d) Fringe Benefits Rate: 0.00%

e) Total Fringe Benefits [(c) x (d)] \$ -

f) Overhead Rate: 0.00%

g) Overhead [(c) x (f)] \$0.00

h) General and Administrative Rate: 0.00%

i) Gen & Admin [(c) x (h)] \$0.00

j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$ -

FEE (Profit)

Rate: 0.00%

k) TOTAL FIXED PROFIT [(c) + (j)] x Fee Rate % \$ -

CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZED (Add additional pages if necessary)

Description	Quantity	Unit	Unit Cost	Total
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -
			\$ -	\$ -

l) TOTAL OTHER DIRECT COSTS \$ -

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1:		\$ -
Subconsultant 2:		\$ -
Subconsultant 3:		\$ -
Subconsultant 4:		\$ -

m) TOTAL SUBCONSULTANTS' COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] \$ -

TOTAL COST [(c) + (j) + (k) + (n)] \$ 7,295.00

NOTES:

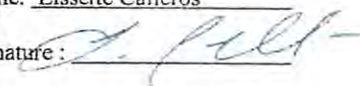
- All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates should be based on consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-111 COST PROPOSAL**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:Name: Lissette CallerosTitle *: Vice PresidentSignature: Date of Certification: 9/25/2018Email: lcalleros@agi.com.coPhone Number: (909) 979-6587Address: 3670 W Temple Ave, Suite 278, Pomona, CA 91768

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

Local Assistance Procedures Manual

EXHIBIT 10-H1
Cost Proposal

Exhibit 10-H1 Cost Proposal
Actual Cost-Plus-Fixed Fee or Lump Sum (Firm Fixed Price) contracts
 (Design, Engineering and Environmental Studies)

Note: Mark-ups are Not Allowed

☐ Prime Consultant☒ SubconsultantsConsultant Calvada Surveying, Inc.Project No. HSIPL 5352 (019) Contract No. _____ Date 9/24/2018**DIRECT LABOR**

Classification/Title	Name	Hours	Actual Hourly Rate	Total
Chief of Party (PW)	Francisco Sanchez	10	\$64.25	\$ 642.50
Chief of Party (PW)	Victor Gomez	10	\$64.44	\$ 644.40
Chainman (PW)	Raul Moreno Jr.	10	\$61.50	\$ 615.00
Chainman (PW)	Juan Rodriguez	10	\$63.49	\$ 634.90
Project Manager/PLS	Matt Bartz	2	\$51.00	\$ 102.00
Drafter	Hector Navarro	8	\$33.10	\$ 264.80
				\$ -
				\$ -
				\$ -
				\$ -

LABOR COSTS

a) Subtotal Direct Labor Costs

\$ 2,903.60

b) Anticipated Salary Increases (see page 2 for calculation)

\$0.00

c) TOTAL DIRECT LABOR COSTS [(a) + (b)] \$ 2,903.60

INDIRECT COSTS

d) Fringe Benefits

Rate: 0.00%

e) Total Fringe Benefits [(c) x (d)] \$ -

f) Overhead

Rate: 131.89%

g) Overhead [(c) x (f)] \$3,829.56

h) General and Administrative

Rate: 0.00%

i) Gen & Admin [(c) x (h)] \$0.00

j) TOTAL INDIRECT COSTS [(e) + (g) + (i)] \$ 3,829.56

FEE (Profit)

Rate: 10.00%

k) TOTAL FIXED PROFIT [(c) + (j)] x Fee Rate % \$673.32

CONSULTANT'S OTHER DIRECT COSTS (ODC) - ITEMIZED (Add additional pages if necessary)

Description	Quantity	Unit	Unit Cost	Total
				\$ -
				\$ -
				\$ -

l) TOTAL OTHER DIRECT COSTS \$ -

m) SUBCONSULTANTS' COSTS (Add additional pages if necessary)

Subconsultant 1

Subconsultant 2:

Subconsultant 3:

Subconsultant 4:

\$ -

\$ -

\$ -

m) TOTAL SUBCONSULTANTS' COSTS \$ -

n) TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS [(l) + (m)] \$ -

TOTAL COST [(c) + (j) + (k) + (n)] \$ 7,406.47

NOTES:

- All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
- The cost proposal format shall not be amended. Indirect cost rates should be based on consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
- Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL**Certification of Direct Costs:**

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement. Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: ARMANDO DUPONT Title *: PRESIDENT
 Signature: [Signature] Date of Certification (mm/dd/yyyy): 9/25/18
 Email: adupont@calwada.com Phone Number: 951-280-9960
 Address: 411 Jenks Circle Corona CA. 92380

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

EXHIBIT C

REQUIRED FEDERAL PROVISIONS AND SPECIAL REQUIREMENTS

The parties agree that the following provisions also apply to the Agreement and that these provisions supersede the Agreement where they conflict

Consultant shall assist City to ensure that City projects comply with all applicable Federal and Caltrans Requirements including, but not limited to, the following:

Source of Funds

The City has obtained the Highway Safety Improvement Program (HSIPL) Grant and will utilize Measure R Funds for the design of this project.

Patent Rights

If this Agreement results in any discovery or invention which may develop in the course of, or under, the Agreement, the City reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize other to use the work for any governmental purpose.

Copyright

If this Agreement results in any copyrighted material, the City and or/granter agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize other to use the work for any governmental purpose.

Records

Consultant shall keep, and require subcontractors to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of five (5) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

○ **FEDERAL REQUIREMENTS**

- **EQUAL EMPLOYMENT OPPORTUNITY CLAUSE.** During the Performance of this agreement, the Consultant agrees as follows:
 - The Consultant will not discriminate against any employee or applicant of reemployment because of age, race, creed, sex, color or national origin. The Consultant will take affirmative action to ensure that the applicants are employed, and that employees are treated during

employment, without regard to their age, race, creed, sex, color or national origin.

- Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; rates of pay of other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the City setting forth the provisions of this non-discrimination clause.
- The Consultant will, in all solicitation of advertisement for employees to be placed by, or on behalf of, the Consultant, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, sex, or national origin.
- The Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.
- The Consultant will comply with all provisions of the Executive Order 11246 of September 24, 1965, as amended, and of the rules, regulations, and relevant orders of Secretary of Labor.
- The Consultant will furnish all information and reports required by Executive Order 11246 of September 2, 1965, as amended, and by the rules, regulations and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the City and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.
- In the event of the Consultant's non-compliance with the equal opportunity clauses of the Agreement or with any such rules, regulations or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, as amended, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- The Consultant will include the provisions of paragraph (a) through (f) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, as amended, so that such provisions will be binding upon each

subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the City may direct as a means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such directions by the City, the Consultant may request the United States to enter into such litigation to protect the interest of the United States.

- CIVIL RIGHTS ACT OF 1964. Under Title VI the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program activity receiving federal financial assistance.
- SECTION 109 OF THE HOUSING AND COMMUNITY DEVELOPMENT ACT OF 1974. No person in the United States shall, on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.
- AGE DISCRIMINATION ACT OF 1975 AND REHABILITATION ACT OF 1973. Any prohibition against discrimination on the basis of age under the Age Discrimination of 1975, or with respect to an otherwise qualified handicapped individual, as provided in Section 504 of the Rehabilitation Act of 1973, shall also apply to any such program or activity.
- LOBBYING CERTIFICATION. The Consultant certifies that no Federal appropriated funds have been paid, or will be paid, by or on behalf of the Consultant, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or a making of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- The Consultant certifies that if any funds other than Federal appropriated funds have been paid, or will be paid, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of any agency in connection with this Federal contract, grant, loan, or cooperative agreement, the Consultant shall complete and submit Standard Form-LLL, "Disclosures Form to Report Lobbying" in accordance with its instructions.

- The Consultant shall require that the language of this certification be included in all subcontracts and that all subcontractors shall certify and disclose accordingly.
- DISCLOSURE AND COMPLIANCE. Consultant agrees that any conflict or potential conflict of interest shall be fully disclosed prior to execution of this contract and Consultant shall comply with all applicable federal, state and county laws and regulations governing conflicts of interest including, but not limited to, 2 CFR 200.112 - Conflict of Interest found in Part 200 — Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards.
- CLEAN AIR AND WATER ACTS. The Consultant agrees to comply with the following regulations insofar as they apply to the performance of this Agreement:
 1. Clean Air Act, 42 U.S.C. 1857, et seq.
 2. Clean Water Act.
 3. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended by section 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
 4. Environmental Protection Agency (EPA) regulations pursuant to 40 CFR Part 50, as amended.
 5. National Environmental Policy Act of 1969.
 6. HUD Environmental Review Procedures (24 CFR Part 58).
 7. Energy Policy and Conservation Act.
 8. Executive Order 11738.
- LABOR STANDARDS. Consultant agrees to comply with the requirements of the Secretary of Labor in accordance with Executive Order 11246 as amended, the Davis Bacon Act as amended, the provision of Section 103 and 107 of the Contract Work Hours and Safety Standards Act, the Copeland "Anti-Kickback" Act (40 U.S.C. 276, 327-333), Section 3 of the Housing and Urban Development Act of 1968, and all other applicable federal, state, and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this Agreement. Consultant shall maintain documentation which demonstrates compliance with hour and wages requirement of this part. Such documentation shall be made available to the City for review upon request.

Consultant agrees that, except with respect to the rehabilitation or construction of residential property designed for residential use for less than eight (8)

households, all Consultants engaged under contracts in excess of \$2,000 for construction, renovation or repair of any building or work financed in whole, or in part, with assistance provided under this contract, shall comply with federal requirements adopted by the City pertaining to such contracts and with the applicable requirements of the regulations of the Department of Labor, under 29 CFR, Parts 1, 3, 5 and 7, governing the payment of wages and ratio of apprentices and trainees to journeymen; provided, that if wage rates higher than those required under the regulations are imposed by state or local law, nothing hereunder is intended to relieve the Consultant of its obligation, if any, to require payment of the higher wage.



City Council Agenda Report

**Agenda
Item No.
7.e.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: Andres Gonzalez, Senior Services Supervisor

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-108,
APPROVING AMENDMENT NO. 1 TO THE AGREEMENT
WITH THE COUNTY OF LOS ANGELES FOR THE
ELDERLY NUTRITION PROGRAM SERVICES

SUMMARY: On July 1, 2020, a one-year agreement between the County of Los Angeles through its Department of Workforce Development, Aging and Community Services (WDACS) and the City of South El Monte was entered into to assist with the funding for the City's Elderly Nutrition Program Services. This Amendment will increase the allocated baseline funding from \$209,000 to \$288,000 resulting in an increase of \$79,000 for Fiscal Year (FY) 2020-21 only.

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 20-108, approving amendment No. 1 to the agreement with the County of Los Angeles and authorizing the City Manager to execute the agreement.

FISCAL IMPACT: Of the \$288,000 total funding, \$64,000 will be allocated through the California Department of Aging Cares Act ("CDA") funding with the remaining \$15,000 allocated through Chief Executive Office Coronavirus Aid, Relief, and Economic Security Act ("CEO") funding. At the request of the County, the City agreed to a 5%-unit rate reduction for the meals billed to the CDA and CEO funding only. Amendment No. 1 will bring the total cost to an amount not-to-exceed \$288,000 for FY 2020-2021, an increase from FY 2019-20 Maximum Annual Subaward Sum. This will include \$265,500 from Title III C-1, \$21,500 from Title III C-2 and \$1,000 from Title III B. The additional \$79,000 funding does not require a cash match. The fiscal impact of the City agreeing to a 5%-unit price reduction will result in the City receiving 35¢ less per unit for meals billed to the CDA and CEO funding only.

DISCUSSION: The City has provided lunch meals to seniors over the age of 60 and disabled individuals through the Congregate Meals Program and Home-Delivered Meals Program (collectively “Programs”) for more than 20 years. The Elderly Nutrition Program is administered under the guidelines of the Federal Older Americans Act, which offers meals that meet USDA dietary guidelines and are offered at the Senior Center and to home-bound individuals. Although the Programs do not require participants to pay for meals, a donation ranging between \$1.75 – \$3.00 per meal is appreciated.

The County contributes to the City’s Elderly Nutrition Program Services, which, offers lunch meals to seniors and provides an important opportunity for social contact and targets seniors most in need. The Congregate Meals Program serves meals in a group setting at the South El Monte Senior Center and meals are coordinated with other social services such as transportation, educational presentations, health screenings, recreation and wellness programs. The Home-Delivered Meals Program assists seniors who are homebound and is designed to help the frail elderly maintain independence and avoid social isolation as they continue to age in place.

ATTACHMENTS:

[Attachment A - Resolution No. 20-108](#)

[Attachment B- ENP Allocation Letter](#)

[Attachment C- WDACS Price Reduction Letter](#)

[Attachment D - Amendment No. 1](#)

ATTACHMENT A

RESOLUTION NO. 20-109

A RESOLUTION OF THE CITY OF SOUTH EL MONTE APPROVING AN AGREEMENT BETWEEN THE CITY AND THE COUNTY OF LOS ANGELES COMMUNITY AND SENIOR SERVICES FOR THE ELDERLY NUTRITION PROGRAM SERVICES

WHEREAS, on June 23, 2020, the City Council approved an elderly nutrition program agreement with the County of Los Angeles through its Department of Workforce Development, Aging and Community and Senior Services (“County”) for County Funding for the City of South El Monte’s Elderly Nutrition Program (“Agreement”). The Agreement was for a one-year term commencing July 1, 2020 through June 30, 2021; and

WHEREAS, the City and County determined that an amendment (“Amendment No. 1”) to the Agreement is necessary to allocate Coronavirus Aid, Relief, and Economic Security Act Funding in the amount of \$79,000, to increase the baseline funding from \$209,000 to \$288,000 during Fiscal Year 2020-21 only.

THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1: The above recitals, and each of them, are true and correct.

SECTION 2: The proposed Amendment No. 1, in the form attached to the agenda report accompanying this resolution, is hereby approved, authorizes the FY 20-21 Budget Adjustment in the amount of \$79,000 to compensate for the increase in meals rendered during the contract term for FY 20-21.

SECTION 3: The City Council hereby authorizes and directs the City Manager to execute Amendment No. 1 in substantially the form attached as Attachment C to the October 13, 2020 staff report accompanying this Resolution. The Council further directs the City Manager to take all actions necessary to effectuate Amendment No. 1.

SECTION 4 The City Clerk shall certify to the adoption of this Resolution

PASSED, APPROVED AND ADOPTED this 13th day of October, 2020.

Gloria Olmos, Mayor

ATTEST:

Donna Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-109 was passed and approved by the City Council of the City of South El Monte at a regular meeting of said Council held on the 13th day of October, 2020 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna Schwartz, City Clerk

ATTACHMENT B



lacounty.gov

Hilda L. Solis
Mark Ridley-Thomas
Sheila Kuehl
Janice Hahn
Kathryn Barger

COUNTY OF LOS ANGELES WORKFORCE DEVELOPMENT, AGING AND COMMUNITY SERVICES

3175 West Sixth Street ■ Los Angeles, CA 90020

Tel: 213-738-2617



wdacs.lacounty.gov

"Connecting communities and improving the lives of all generations"

Otto Solórzano
Acting Director

REVISED

August 25, 2020

City of South El Monte
Attention: Ms. Rachel Barbosa
1415 N. Santa Anita Avenue
South El Monte, CA 91733

FISCAL YEAR 2020-21 CORONAVIRUS AID, RELIEF, AND ECONOMIC SECURITY ACT FUNDING ALLOCATION FOR ELDERLY NUTRITION PROGRAM SERVICES

Dear Ms. Barbosa:

County of Los Angeles Workforce Development, Aging and Community Services (County) intends to amend City of South El Monte's (Subrecipient's) Elderly Nutrition Program (ENP) Subaward. The Subaward Amendment information is outlined below:

- Purpose: Subrecipient shall utilize Chief Executive Office (CEO) Coronavirus Aid, Relief, and Economic Security (CARES) Act funding and California Department of Aging (CDA) CARES Act funding to provide additional defined and contracted ENP Title III C-1 during Fiscal Year (FY) 2020-21.
- Subaward Number: ENP202110
- Amendment Number: One
- Subaward Term: July 1, 2020 through June 30, 2021
- Total CARES Act Funding Allocation: \$79,000
 - CEO CARES Act Funding Allocation: \$15,000
 - CDA CARES Act Funding Allocation: \$64,000
- Period Funds Available for Use (subject to execution of Subaward):
 - CEO CARES Act: July 1, 2020 through December 30, 2020
 - CDA CARES Act: July 1, 2020 through June 30, 2021
- Supervisorial District: 1
- Funding Source(s), Service Category(ies) and Unit Rate(s) are as follows:

Funding Source	Service Category	Unit Rate		Allocation Amount	Total Allocation
		7/1/2020-8/31/2020	9/1/2020-6/30/2021		
CEO CARES Act	American Meals	\$6.95	\$6.60	\$15,000	\$15,000
	Ethnic Meals				
	Hot Meals	\$6.78	\$6.44	N/A	
	Frozen Meals	\$6.95	\$6.60		
	Emergency Meals	\$8.15	\$7.74		
CDA CARES Act	American Meals	\$6.95	\$6.60	\$64,000	\$64,000
	Ethnic Meals				
	Hot Meals	\$6.78	\$6.44	N/A	
	Frozen Meals	\$6.95	\$6.60		
	Emergency Meals	\$8.15	\$7.74		
CARES Act Funding					\$79,000
Baseline Funding (Refer to FY 2020-21 Baseline Funding Allocation Letter)					\$209,000
Subaward Sum Year 1 (SSY1) (CARES Act and Baseline Funding)					\$288,000

If you have any questions, please contact Irma Panosian of my staff by phone or e-mail as follows: (323) 336-5426 or ipanosian@wdacs.lacounty.gov.

Thank you.

Carol Domingo

Carol Domingo, Program Manager
Contracts Management Division

ATTACHMENT C



lacounty.gov

Hilda L. Solis
Mark Ridley-Thomas
Sheila Kuehl
Janice Hahn
Kathryn Barger

COUNTY OF LOS ANGELES WORKFORCE DEVELOPMENT, AGING AND COMMUNITY SERVICES

3175 West Sixth Street ■ Los Angeles, CA 90020

Tel: 213-738-2617



wdacs.lacounty.gov

"Connecting communities and improving the lives of all generations"

Otto Solórzano
Acting Director

September 21, 2020

City of South El Monte
Attention: Ms. Rachel Barbosa
1415 N. Santa Anita Avenue
South El Monte, CA 91733

VOLUNTARY PRICE REDUCTION FOR FISCAL YEAR 2020-21 FOR ELDERLY NUTRITION PROGRAM SERVICES

Dear Ms. Barbosa:

On August 20, 2020, County of Los Angeles Workforce Development, Aging and Community Services (County) canvassed its roster of current service providers to identify partners willing to offer a Voluntary Price Reduction on products and/or services rendered to the County for Fiscal Year (FY) 2020-21. The City of South El Monte responded to this request by offering a five percent (5%) reduction of its Coronavirus Aid, Relief, and Economic Security (CARES) Act unit rates under FY 2020-21 Elderly Nutrition Program (ENP) Subaward Number ENP202110. County accepts this favorable price reduction.

FY 2020-21 CARES Act unit rates are identified below. The reduced CARES Act unit rates will become effective September 1, 2020 through June 30, 2021, upon execution of a Subaward amendment. The amendment will require a Mandated Program Services and Budget(s), if applicable, and the reduced unit rate(s) will be reflected in the GetCare System.

Funding Source	Service Category	Unit Rate	
		Effective 7/1/2020 - 8/31/2020	Effective 9/1/2020 - 6/30/2021
CARES Act	American Meals	\$6.95	\$6.60
	Ethnic Meals		
	Hot Meals	\$6.78	\$6.44
	Frozen Meals	\$6.95	\$6.60
	Emergency Meals	\$8.15	\$7.74

If you have any questions, please contact Irma Panosian of my staff by phone or e-mail as follows: (323) 336-5426 or ipanosian@wdacs.lacounty.gov.

County would like to thank you for your thoughtful consideration and offer for price reduction. We value our partnership and look forward to continuing to work with you to provide vital services to support the County of Los Angeles.

Best Regards,

Carol Domingo

Carol Domingo, Program Manager
Contracts Management Division

ATTACHMENT D

**ELDERLY NUTRITION PROGRAM (ENP)
SUBAWARD NUMBER ENP202110
SUBAWARD PERIOD JULY 2020 – JUNE 2021
AMENDMENT ONE**

This Amendment is made and entered into by and between

**COUNTY OF LOS ANGELES THROUGH ITS DEPARTMENT OF
WORKFORCE DEVELOPMENT, AGING AND COMMUNITY SERVICES**
("County" or "WDACS")

County's Business Address

3175 West Sixth Street
Los Angeles, CA 90020

and

CITY OF SOUTH EL MONTE
("Contractor" or "Subrecipient")

Subrecipient's Business Address

1415 N. Santa Anita Avenue
South El Monte, CA 91733

WHEREAS, reference is made to that certain document entitled "Elderly Nutrition Program (ENP) Subaward Number ENP202110 Subaward Period July 2020 – June 2021" dated July 1, 2020 ("Contract" or "Subaward"); and

WHEREAS, the parties hereto have previously entered into the above referenced Subaward for the purpose of providing Elderly Nutrition Program (ENP) Services, which include serving congregate meals and home-delivered meals as well as conducting telephone reassurance to the older adult population in Los Angeles County (excluding the City of Los Angeles); and

WHEREAS, County and Subrecipient recognize and agree that specific terms (including, but not limited to, Contract, Subaward, Contractor, Subrecipient, Subcontract, Lower Tier Subaward, Subcontractor and Lower Tier Subrecipient) are used interchangeably throughout this Amendment in order to comply with Federal, State, and County regulations; and

WHEREAS, it is the intent of the parties to amend this Subaward to allocate Chief Executive Office (CEO) Coronavirus Aid, Relief, and Economic Security (CARES) Act funding in the cumulative amount of **\$15,000**, which shall be reimbursed to Subrecipient in exchange for additional defined and contracted ENP Congregate Meal Services as specified herein to be provided by Subrecipient during Fiscal Year 2020-21; and

WHEREAS, it is the intent of the parties to amend this Subaward to allocate California Department of Aging (CDA) Coronavirus Aid, Relief, and Economic Security (CARES) Act funding in the cumulative amount of **\$64,000**, which shall be reimbursed to Subrecipient in exchange for additional defined and contracted ENP Congregate Meal Services as specified herein to be provided by Subrecipient during Fiscal Year 2020-21; and

WHEREAS, it is the intent of the parties to amend this Subaward to reduce the CARES Act unit rates for the contracted ENP Services by five percent (5%), for the period covering September 1, 2020 through June 30, 2021, in response to County's June 9, 2020, Board of Supervisors Motion for Voluntary Price Reduction from County Contactors; and

WHEREAS, it is the intent of the parties to amend this Subaward to allocate the provide for the other changes set forth herein; and

WHEREAS, the Subaward provides that changes to its terms may be made in the form of a written Amendment, which is formally approved and executed by the parties.

NOW THEREFORE, THE PARTIES HERETO AGREE AS FOLLOWS:

- I. This Amendment shall commence **upon execution by all parties.**
- II. Subparagraph 5.1.3 is deleted in its entirety and replaced as follows:

5.1.3 Subaward Sum Year 1 Funding Source(s)

5.1.3.1 The Subaward Sum Year 1 for this Subaward is comprised of monies which are identified by the funding source(s) or governing statute(s) listed below. The funding source(s) and governing statute(s) authorize County to use these monies to provide Program Services.

5.1.3.2 Older Americans Act (OAA) Title III B (Supportive Services and Senior Centers) Original Baseline Funds

5.1.3.2.1 Subaward Sum: **\$1,000**

5.1.3.2.2 Service Area: Supervisorial District 1

5.1.3.2.3 Period of Performance: July 1, 2020 – June 30, 2021

- 5.1.3.2.4 Allocation Letter: Fiscal Year 2020-21 Original Baseline Funding Allocation for Elderly Nutrition Program Services
 - 5.1.3.3 OAA Title III C-1 (Nutrition Services) Original Baseline Funds
 - 5.1.3.3.1 Subaward Sum: **\$186,500**
 - 5.1.3.3.2 Service Area: Supervisorial District 1
 - 5.1.3.3.3 Period of Performance: July 1, 2020 – June 30, 2021
 - 5.1.3.3.4 Allocation Letter: Fiscal Year 2020-21 Original Baseline Funding Allocation for Elderly Nutrition Program Services
 - 5.1.3.4 OAA Title III C-2 (Nutrition Services) Original Baseline Funds
 - 5.1.3.4.1 Subaward Sum: **\$21,500**
 - 5.1.3.4.2 Service Area: Supervisorial District 1
 - 5.1.3.4.3 Period of Performance: July 1, 2020 – June 30, 2021
 - 5.1.3.4.4 Allocation Letter: Fiscal Year 2020-21 Original Baseline Funding Allocation for Elderly Nutrition Program Services
 - 5.1.3.5 CEO CARES Act Funds for ENP Congregate Meal Services
 - 5.1.3.5.1 Subaward Sum: **\$15,000**
 - 5.1.3.5.1.1 Subrecipient shall expend these funds before OAA Title III C-1 (Nutrition Services) and FFCRA (if applicable) for ENP Congregate Meal Services funding
 - 5.1.3.5.1.2 Subrecipient shall ensure that these funds are also used to

serve waitlist Clients which are assigned to Subrecipient by County.

- 5.1.3.5.2 Service Area: Supervisorial District 1
- 5.1.3.5.3 Period of Performance: July 1, 2020 – December 30, 2020 (pursuant to CEO Board Motion)
- 5.1.3.5.4 Allocation Letter: Fiscal Year 2020-21 CARES Act Funding Allocation for Elderly Nutrition Program Services
- 5.1.3.6 CDA CARES Act Funds for ENP Congregate Meal Services
 - 5.1.3.6.1 Subaward Sum: **\$64,000** (available for use only after exhausting all CEO CARES Act for ENP Congregate Meal Services, OAA Title III C-1 (Nutrition Services), and FFCRA (if applicable) for ENP Congregate Meal Services funding)
 - 5.1.3.6.2 Service Area: Supervisorial District 1
 - 5.1.3.6.3 Period of Performance: July 1, 2020 – June 30, 2021 (consistent with CDA Program Memo No. 20-13 (Corrected) issued on July 16, 2020)
 - 5.1.3.6.4 Allocation Letter: Fiscal Year 2020-21 CARES Act Funding Allocation for Elderly Nutrition Program Services

III. Subparagraph 5.10.4 is deleted in its entirety and replaced as follows:

5.10.4 Federal Award Identification Number (FAIN)

5.10.4.1 July 1, 2020 - June 30, 2021: 2001CAOASS-00; 2001CAOACM-00; 2001CAOAHDC-00; 2001CAOANS-00; 2001CACMC2-00; 2001CAHDC2-00; and, 2001CAHDC3-00

IV. Subparagraph 5.10.7 is deleted in its entirety and replaced as follows:

5.10.7 Amount of Federal Funds Obligated by this Action:

5.10.7.1 Original Subaward: \$209,000

5.10.7.2 Amendment One: \$79,000

5.10.7.2.1 CEO CARES Act Funds: \$15,000

5.10.7.2.2 CDA CARES Act Funds: \$64,000

V. Subparagraph 5.10.8 is deleted in its entirety and replaced as follows:

5.10.8 Total Amount of Federal Funds Obligated to Subrecipient (Subaward Sum):

5.10.8.1 Subaward Sum Year 1: \$288,000

VI. Subparagraph 5.10.9 is deleted in its entirety and replaced as follows:

5.10.9 Total Amount of Federal Award (Maximum Subaward Sum): \$288,000

VII. Subparagraph 5.10.10 is deleted in its entirety and replaced as follows:

5.10.10 Federal Award Project Description

5.10.10.1 July 1, 2020 - June 30, 2021: Federal Title IIIB 3BSL; Federal Title IIIC1 3C1L and NSIP C1 NC1L; Federal Title IIIC2 3C2L and NSIP C2 NC2L; Federal Title IIIC1 CRCM and Federal Title IIIC2 CRHD; and, CARES Title IIIC2 - HDM

VIII. Exhibit W1 (Budget) Amendment 1 {FY 2020-21 CEO CARES Act Funding}" is added, is an addendum to "Exhibit W1 (Budget)", and is incorporated herein by reference.

IX. "Exhibit W1 (Budget) Amendment 1 {FY 2020-21 CDA CARES Act Funding}" is added, is an addendum to "Exhibit W1 (Budget)", and is incorporated herein by reference.

X. "Exhibit X1 (Mandated Program Services) Amendment 1 {FY 2020-21 CEO CARES Act Funding}" is added, is an addendum to "Exhibit X1 (Mandated Program Service)", and is incorporated herein by reference.

XI. "Exhibit X1 (Mandated Program Services) Amendment 1 {FY 2020-21 CDA CARES Act Funding}" is added, is an addendum to "Exhibit X1 (Mandated Program Service)", and is incorporated herein by reference.

IN WITNESS WHEREOF, the Board of Supervisors of the County of Los Angeles has caused this **Amendment One** to be subscribed on its behalf by the Acting Director of Workforce Development, Aging and Community Services, and the Subrecipient has subscribed the same through its Authorized Representative. The Authorized Representative(s) signing on behalf of Subrecipient warrants under penalty of perjury that he or she is authorized to bind Subrecipient.

COUNTY OF LOS ANGELES

By _____ Date _____
 Otto Solórzano, Acting Director
 County of Los Angeles
 Workforce Development, Aging
 and Community Services

SUBRECIPIENT

 City of South El Monte
 Subrecipient's Legal Name

 ENP202110
 Subaward Number

By _____ Date _____
 Name of Authorized
 Representative

 Title

 Signature

Approved as to Form:

OFFICE OF COUNTY COUNSEL
 Mary C. Wickham, County Counsel

By _____
 Lawrence M. Green
 Senior Deputy County Counsel

By _____ Date _____
 Name of Authorized
 Representative

 Title

 Signature



City Council Agenda Report

**Agenda
Item No.
7.f.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: Andres Gonzalez, Senior Services Supervisor

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-109,
APPROVING THE AGREEMENT WITH THE LOS
ANGELES COUNTY METROPOLITAN
TRANSPORTATION AUTHORITY ASSOCIATED WITH
THE RECEIPT OF FEDERAL TRANSPORTATION
AUTHORITY (LACMTA) SECTION 5310 GRANT FUNDING
FOR TRANSPORTATION SERVICES

SUMMARY: On July 30, 2019, the City submitted a Federal Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program grant application to enhance the transportation division's efficiency. On September 16, 2020, the Los Angeles County Metropolitan Transportation Authority (LACMTA) notified the City that \$272,089 was awarded to the City for traditional capital and operating improvements. As part of the follow-up application process, LACMTA requires a resolution, authorizing the City Manager to enter into an agreement with LACMTA for the grant funds.

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 20-109, approving the agreement and authorizing the City Manager to enter into a grant contract with LACMTA for the Federal Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program grant.

FISCAL IMPACT: Approval of this action will enable the City to obtain \$272,089 in reimbursable grant funds through LACMTA. This will include \$202,403 to procure two new vehicles and equipment for replacement, and award of \$69,686 for operating assistance to operate ADA vehicles and equipment for the City's Dial-A-Ride transportation program for three (3) years. The City's required one-time local match is \$45,719.

DISCUSSION: The South El Monte City Council formed the Transportation Division to ensure the transportation needs of all its residents were being met. The division was designed to provide specialized services for seniors 60 and over, and to disabled residents of all ages.

Today, the City continues to strive to meet the needs of its residents by providing a range of transportation options that make getting around the City easier. The City operates a comprehensive on-demand transportation service through its Dial-A-Ride program that offers curb-to-curb services for individuals who are 60 years of age or older, as well as to legally disabled residents of any age. Passengers are transported to any destination within the City limits and up a 15-mile radius outside of city limits for medical appointments.

The City also offers transportation services to youth who participate in the City sponsored after-school program. On a limited basis, bus services are provided for youth and senior excursions, and for special events that are sponsored by the City.

The City owns and operates three (3) cars, three (3) vans and two (2) buses which provide transportation services to over 280 residents annually. The existing service is funded by Prop A funds.

ATTACHMENTS:

[Attachment A - Resolution No. 20-109](#)

[Attachment B - Subrecipient Procurement Certification](#)

[Attachment C - Funding Agreement](#)

ATTACHMENT A

RESOLUTION NO. 20-109

**A RESOLUTION OF THE CITY OF SOUTH EL MONTE APPROVING
AN AGREEMENT BETWEEN THE CITY AND THE LOS ANGELES
COUNTY METROPOLITAN TRANSPORTATION AUTHORITY FOR
DIAL-A-RIDE TRANSPORTATION SERVICES**

WHEREAS, the City operates a Dial-A-Ride transportation services for seniors and disabled residents in South El Monte; and

WHEREAS, City of South El Monte desires to make use of the FTA Section 5310 grant funds as may be available to acquire two new vehicles, dispatch system and supporting equipment to enhance the efficiency and capacity of the City's Dial-A-Ride transportation program: and

WHEREAS, the City and Los Angeles County Metropolitan Transportation Authority determined that an Agreement is necessary to allocate baseline funding in the amount of \$272,089 over three years.

**THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE DOES HEREBY
RESOLVE AS FOLLOWS:**

SECTION 1: The above recitals, and each of them, are true and correct.

SECTION 2: The City Council hereby authorizes and directs the City Manager to execute the Agreement in substantially the form attached as Attachment C to the October 13, 2020 staff report accompanying this Resolution. The Council further directs the City Manager to take all actions necessary to effectuate the Agreement.

SECTION 3 The City Clerk shall certify to the adoption of this Resolution

PASSED, APPROVED AND ADOPTED this 13th day of October, 2020.

Gloria Olmos, Mayor

ATTEST:

Donna Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-XX was passed and approved by the City Council of the City of South El Monte at a regular meeting of said Council held on the 13th day of October, 2020 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna Schwartz, City Clerk

ATTACHMENT B

Subrecipient Procurement Certification

As a condition for receiving certain subrecipient federal funds from the Los Angeles County Metropolitan Transportation Authority (Metro), City of South El Monte certifies that procurement procedures will ensure an open competitive process and will conform to applicable federal law, including 49 CFR Part 18 (specifically Section 18.36) and FTA Circular 4220.1F, “Third Party Contracting Guidance”. Furthermore, solicitation documents will not be released to the public or individual procurement contracts will not be executed until a Metro representative has reviewed all applicable procurement procedures and documents.

Metro will be notified of contract or option award including the name of the successful bidder, the total dollar value of the contract or option and the contract or option award date within 3 business days of award.

Signature of Authorized Agent

Rachel Barbosa, City Manager

City of South El Monte

Date

ATTACHMENT C

GRANT NUMBER: CA-2020-167
FIS NUMBER: 7004256
SAM SEARCH: 08/06/2020

AGMT# 9200000000S1909
DUNS: 083009647
CFDA: 20.513

FUNDING AGREEMENT FOR SECTION 5310 ENHANCED MOBILITY OF SENIORS AND INDIVIDUALS WITH DISABILITIES PROGRAM

This Funding Agreement for Section 5310 Enhanced Mobility of Seniors and Individuals with Disabilities Program Funds (the "Agreement") is dated for reference purposes only August 6, 2020 and is by and between the City of South El Monte (the "Agency") and the Los Angeles County Metropolitan Transportation Authority ("LACMTA").

RECITALS

- A. On April 23, 2014 the Governor of the State of California designated the LACMTA as the Designated Recipient of funds allocated to large urbanized areas within Los Angeles County from the Federal Transit Administration (FTA) Section 5310 Program.
- B. On November 13, 2014, the LACMTA Board authorized the process to allocate available funding to state, city, and/or nonprofit agencies as subrecipients for LACMTA in its role as the Designated Recipient for Section 5310 grant funds (the "Federal Funds").
- C. On January 23, 2020 the LACMTA Board authorized the LACMTA Chief Executive Officer (CEO) or his designee to negotiate and execute Agreements with agencies as subrecipients and approved the application and award of \$202,403 to the Agency for Traditional Capital assistance to procure one (1) Class C bus, one (1) Class D minivan, and equipment for replacement, and award of \$69,686 to the Agency for Operating assistance to operate the ADA vehicles and equipment for its Dial-A-Ride transportation program for three (3) years, for a total award of \$272,089 (the "Project"). Funding of this Project is subject to final execution of the Federal Grant agreement between the FTA and the LACMTA.
- D. As the Agency is currently not able to directly apply for the Federal Funds, LACMTA prepared and submitted a grant application to the FTA on the Agency's behalf.
- E. The total cost for the Project described in the Scope of Work (the "SOW"), attached as Exhibit "A", hereto is estimated to be \$317,808 ("Estimated Cost").
- F. The Agency has agreed to provide the required local match of \$45,719 (the "Local Match"), as described in the Financial Plan that is attached as Exhibit "B", and any additional funding required to complete the Project.
- G. LACMTA assumes no responsibility for the funding of any portion of the Project. LACMTA is only acting as a pass-through conduit for the Agency.
- H. The Agency shall comply with all applicable FTA Master Agreement Transit Asset Management Plan requirements as specified in Exhibit "C."

- I. The Agency understands that the Federal Funds provided herein are subject to the federal lapsing policy and that it must have obtained the environmental clearance required by federal regulations to use the Federal Funds.
- J. The parties desire to execute this Agreement so LACMTA may pass along the Federal Funds received from the Federal Grant to the Agency.

1. PAYMENT OF FUNDS

1.1 To the extent LACMTA receives Federal Funds pursuant to the Federal Grant, LACMTA shall forward Federal Funds in an amount not to exceed \$272,089 (the "Funding Amount") to the Agency subject to the terms and conditions of the Federal Grant and this Agreement.

1.2 Payments to the Agency will be processed by LACMTA within a reasonable time period, but in no event more than sixty (60) calendar days after receipt of a Request for Reimbursement, which complies with the requirements of Section 4 below.

1.3 The Agency shall be subject to, and shall comply with, all requirements of the Federal Grant and other applicable requirements of the United States Department of Transportation (USDOT), the United States Department of Labor (USDOL), the FTA and of LACMTA as required by LACMTA to fulfill its responsibilities as the grantee under the Federal Grant and as the pass-through agency.

2. LACMTA COSTS

2.1 LACMTA will not charge the Agency for administering these Federal Funds.

3. TERM

3.1 The term of this Agreement shall commence on the date of the LACMTA's CEO or his/her designee's signature ("Effective Date") and shall terminate four years after the Effective Date of this Agreement (the "Termination Date"), unless terminated earlier as provided herein, or extended by a written approval from the LACMTA.

4. REQUEST FOR REIMBURSEMENT

4.1 The Agency shall contribute at least the statutorily or other required local contribution of matching funds (other than Federal Funds and any other USDOT funds), if any is specified within this Agreement or any attachments hereto, toward the actual costs of the Project. The Agency's Local Match under this Agreement is \$45,719.

4.2 Not more frequently than once a month, the Agency will prepare and submit to the LACMTA a Request for Reimbursement for allowable Project costs incurred and paid for by the Agency consistent with the Project's SOW. The Request for Reimbursement submitted by the Agency shall be signed by an authorized agent who can duly certify the accuracy of the included information. Advance payments by LACMTA are not allowed.

4.3 Each Request for Reimbursement shall report the total of Project expenditures, specify the percent and amount of Federal Funds to be reimbursed, and include a detailed invoice describing all invoiced work completed.

4.4 If applicable, the first Request for Reimbursement shall also be accompanied by a report describing any tasks specified in the SOW document which were accomplished prior to the Effective Date of this Agreement, which costs could be credited toward the required Local Match provided that LACMTA has provided prior written approval for such expenditures to the Agency.

4.5 LACMTA may retain ten percent (10%) of each invoice amount until LACMTA has evaluated the Agency's performance according to the criteria specified by LACMTA and the data provided by the Agency and has determined that all contract requirements under this Agreement have been satisfactorily fulfilled. The Agency shall invoice LACMTA for reimbursement of the 10% retention separately.

4.6 The Request for Reimbursement must be submitted on the Agency's letterhead and shall be accompanied by appropriate documentation supporting costs incurred.

4.7 The Agency should consult with LACMTA's Section 5310 Program Manager for questions regarding non-reimbursable expenses.

4.8 Total payments shall not exceed the Funding Amount specified in Section 1.1. No Request for Reimbursement will be processed by LACMTA for expenses incurred after the Termination Date of this Agreement.

4.9 If any amounts paid to the Agency are disallowed or not reimbursed by the FTA for any reason, the Agency shall remit to LACMTA the disallowed or non-reimbursed amount(s) within 30 days from receipt of LACMTA's notice. All payments made by LACMTA hereunder are subject to the audit provisions contained herein and within the Federal Grant.

4.10 The Agency shall comply with and ensure that work performed under this Agreement is done in compliance with all applicable provisions of federal, state and local laws, statutes, ordinances, rules, regulations and procedural requirements, including without limitation, Federal Acquisition Regulations (FAR) and the applicable requirements and regulations of LACMTA. The Agency acknowledges responsibility for obtaining copies of and complying with the terms of the most recent federal, state or local laws and regulations and LACMTA requirements, including any amendments thereto.

4.11 All requests for reimbursement must first be approved by Program Manager prior to submission for payment. Once approved, requests for reimbursement shall be transmitted to LACMTA's Accounts Payable Department using one of the following two options:

Option 1) E-mail:
AccountsPayable@Metro.net

AGMT# 9200000000S1909; (FTA GRANT CA-2020-167)

or,

Option 2) Standard Mail:

Los Angeles County Metropolitan Transportation Authority
P.O. Box 512296
Attention: Accounts Payable
Los Angeles, CA 90051-0296
AGMT# 9200000000S1909; (FTA GRANT CA-2020-167)

A copy of all Requests for Reimbursement submittals shall also be forwarded to LACMTA's Section 5310 Program Manager, either by email or by standard mail to the following address:

Los Angeles County Metropolitan Transportation Authority
Grants Management and Oversight
Attention: Section 5310 Program Manager

One Gateway Plaza
Mail Stop: 99-23-3
Los Angeles, CA 90012-2952

4.12 The Agency shall provide written notification to LACMTA's Section 5310 Program Manager regarding any changes to the Project management team. Unless otherwise specified, the following Agency address and contact person will be used by LACMTA for all correspondence and documentation relevant to this Agreement:

City of South El Monte
1415 Santa Anita Ave
South El Monte, CA 91733
Attention: Rene Salas, Public Works Director

5. START AND END DATE OF REIMBURSABLE ACTIVITIES

Unless written notification is otherwise provided by the LACMTA, the start date of reimbursable activities is the Effective Date of this Agreement. Actual reimbursement of eligible work cannot occur until LACMTA and the Agency execute this Agreement and LACMTA has entered into the Federal Grant with the FTA. The end date of reimbursable activities is the Termination Date of this Agreement.

6. FEDERAL REQUIREMENTS

6.1 The Agency shall utilize the Funding Amount and Local Match to complete the Project as described in the SOW, and in accordance with the Federal Grant requirements of the FTA and this Agreement.

6.2 All FTA requirements and guidelines, as summarized in the Federal Grant and the FTA

Master Agreement, are incorporated by reference herein as part of this Agreement. These requirements include, but are not limited to the most current versions of:

- a) 49 CFR part 26 (DBE Requirements)
- b) 49 U.S. Code Section 5333(b) (Labor Standards)
- c) Assurances of legal authority
- d) Buy America requirements
- e) Certification of a drug-free workplace
- f) Certification of non-debarment, suspension or termination (SAM.gov)
- g) FTA Circular C 4710.1 (ADA Act Guidance)
- h) CMAQ Program Guidance (Applicable only to CMAQ)
- i) FTA Circular C 4220.1 (Third-Party Contracting)
- j) FTA Circular C 4702.1 (Title VI Requirements)
- k) FTA Circular C 4704.1 (EEO Act Guidance)
- l) FTA Circular C 5010.1 (Award Management Requirement)
- m) FTA Circular C 9030.1 (Applicable only to Section 5307)
- n) FTA Circular C 9070.1 (Applicable only to Section 5310)
- o) Inter-governmental review
- p) Lobbying certifications
- q) NEPA environmental review
- r) Office of Management and Budget (OMB) circulars
- s) Public Transportation Agency Safety Requirements
- t) Title 2 CFR, Subpart E (Cost Principles)
- u) Title 2 CFR, Subpart F (Single audit requirements)
- v) Transit Asset Management Requirements

6.3 LACMTA shall not be responsible for providing any funding to substitute for the Federal Funds in the event the Federal Grant is withdrawn or is recalled or if the Federal Grant is not appropriated for any reason. In the event the Federal Grant is closed, the Agency will reimburse LACMTA any funds paid to the Agency that are no longer available under the Federal Grant.

6.4 Should the FTA or the United States Department of Labor (USDOL) require amendments, revisions, deletions of, or additions to the provisions contained within this Agreement, the Agency shall promptly execute all such amendments, revisions, deletions, or additions, as necessary, to comply with requirements of the FTA and the USDOL.

7. REPORTING AND AUDIT REQUIREMENTS

7.1 The Agency shall be subject to and shall comply with all applicable requirements of LACMTA, the FTA, and the USDOL regarding Project reporting and audit requirements. The Agency shall use the assigned Federal Grant number (CA-2020-167) and Agreement number 9200000000S1909 on all correspondence.

7.2 The Agency shall submit upon request all applicable Reports, Certifications, and other documents to LACMTA for the duration of the Project and/or the life of any assets acquired through the Project. These include, but are not limited to:

- a) Annual FTA Compliance Self-Certification
- b) Maintenance Plans for equipment or facilities funded with FTA Funds
- c) Maintenance records for all vehicles funded with the FTA Funds
- d) Quarterly Narrative and Financial Report on Project Progress

7.3 LACMTA and the FTA and/or their respective designees, in order to fulfill their respective responsibilities as the grantee/designated recipient and grantor of the Federal Grant, shall have the right to conduct audits of the Project, as needed, such as financial and compliance audits and performance audits. The Agency shall establish and maintain proper accounting procedures and cash management records and documents in accordance with Generally Accepted Accounting Principles (GAAP) as applied to governmental agencies. The Agency shall reimburse LACMTA for any expenditure not in compliance with the SOW or other terms and conditions of this Agreement, other applicable requirements of LACMTA or requirements of the Federal Grant, or other applicable requirements of the FTA. LACMTA shall use Federal Acquisition Regulation (FAR) standards in determining the reasonableness of costs incurred. LACMTA shall have the right to conduct an audit using an outside auditing firm. The findings of that LACMTA audit will be final.

7.4 The Agency shall retain all original records and documents related to the Project for a period of three years after final payment or in accordance with the Federal Grant, whichever time period is greater.

7.5 The Agency shall obtain the services of an independent auditor to conduct a single audit of the Project each year in conformance with the provisions of Title 2 of the Code of Federal Regulations Subpart F. The Agency shall submit a copy of each single audit to the LACMTA within 30 days of its completion.

8. ALLOWABLE COSTS

8.1 Allowable Project costs are described in the Federal Grant, the SOW, and in federal guidelines. Allowable Project costs, including in-kind contributions and donations to meet the statutorily or other required local assistance of matching funds (other than Federal Funds or other USDOT funds), will be accepted only if they meet the requirements of Title 2 of the Code of Federal Regulations Subpart E.

8.2 The following guidelines shall apply for indirect costs and in-kind contributions and donations:

- Indirect costs shall not be considered eligible costs for reimbursement, unless all the following requirements are met by the Agency: i) provide evidence of a federally approved Cost Allocation Plan and indirect rate, as required by federal guidelines; ii) submit a written request to LACMTA; and, iii) receive a written approval from LACMTA prior to incurring the expenditure.
- In-kind contributions and donations shall be considered eligible as local match only upon written approval by LACMTA after verification of compliance with federal guidelines.

9. INCIDENTAL USE

9.1 Incidental use means the limited authorized use of project assets acquired with FTA assistance for purposes other than those described in Exhibit A: Scope of Work. Such use must not conflict with the approved purposes of the project and must not interfere with the intended transit use or service for which the project asset was originally acquired.

9.2 The Agency shall obtain written approval from LACMTA prior to operating FTA funded project assets for incidental use.

10. MAINTENANCE AND DISPOSITION OF ASSETS

10.1 Adequate maintenance procedures must be developed and implemented to keep the FTA funded project assets in good condition. Agencies must maintain FTA funded project assets in good operating order and in compliance with any applicable federal regulations. Agencies must have a written vehicle maintenance plan and/or a facility/equipment maintenance plan. These plans should describe a system of periodic inspections and preventive maintenance to be performed at certain defined intervals.

10.2 The Agency must keep satisfactory records pertaining to the use of FTA funded project assets and submit to LACMTA upon request as may be required to assure compliance with federal requirements.

10.3 Warranties, when part of FTA funded project asset contracts, should provide for correction of defective or unacceptable materials or workmanship.

10.4 Disposition requirements apply to FTA funded project assets that have met their useful life, as well as assets that are prematurely withdrawn from service before its useful life has been ended.

10.5 The Agency shall notify LACMTA of intentions to remove FTA funded project assets from service.

10.6 The Agency shall obtain written approval from LACMTA prior to the disposition of FTA funded project assets.

11. FUNDS AVAILABILITY

This Agreement will allow the LACMTA to pass along the Federal Funds from the Federal Grant to the Agency. The Funding Amount consists of Section 5310 Federal Funds and is subject to the terms and conditions of this Agreement, the Federal Grant, and the applicable requirements of the LACMTA and the FTA. This Agreement neither implies nor obligates any funding commitment by the LACMTA for the Project. All funds are contingent upon federal appropriation and the FTA's approval of a grant application. If a Letter of No Prejudice is issued by the FTA, the Agency assumes all the risk of spending the Local Match early on the Project.

12. EXPENDITURE AND DISPOSITION OF FUNDS

12.1 The expenditure and disposition of the Funding Amount by the Agency shall be subject to and in accordance with the terms and conditions of this Agreement, the Federal Grant and the applicable requirements of LACMTA and the FTA. The Agency shall not utilize the Funding Amount in any way or on any project other than that specified in this Agreement and in the Federal Grant.

12.2 ONLY FOR NON-CONSTRUCTION PROJECTS - At the substantial completion of the Project, the Agency will submit to LACMTA a Notice of Substantial Completion when: (i) the Agency has completed all procurement or work contained within the SOW; and, (ii) the Agency has ensured that the procurement was performed in accordance with all applicable Project requirements. Within a reasonable time thereafter, the Agency and LACMTA will meet to conduct a site visit, as applicable, to: (a) verify that all vehicles/equipment have been received by the Agency; (b) validate that the vehicles/equipment have been placed in service; (c) confirm that the provider(s) have been paid; (d) verify that the Agency's Project and/or procurement files are in order; and, (e) agree on a punch list. The Agency shall ensure that all punch list items are completed and shall submit a Request for Final Acceptance. Within 30 days thereafter, LACMTA will meet with the Agency to re-inspect the procured item(s). If the procured item(s) is not accepted or approved by LACMTA, the Agency shall perform such acts as are necessary to obtain acceptance of the procured item(s). Once LACMTA accepts the procured item(s), LACMTA will release any retention and make a final payment to the Agency.

12.3 The Agency shall be responsible for any and all cost overruns and/or operating deficits for the Project. Further, the Agency shall be responsible for covering operating deficits through long term stable and reliable sources of revenue and to maintain and operate the federally funded Project.

12.4 Upon completion of the Project described in the SOW and disposition of the 10 percent retention, any unused Funding Amount shall revert back to the FTA.

12.5 The Agency shall address all correspondence to the FTA regarding this Project through LACMTA's Section 5310 Program Manager.

12.6 The programmed budget (the "Financial Plan") specifying the sources and amounts of funds to be used to pay for the Project is attached to this Agreement as Exhibit "B".

12.7 No material changes, as determined by LACMTA in its reasonable discretion and subject to the final discretion of the FTA, to the Financial Plan or the SOW shall be funded or allowed without an amendment to this Agreement approved and signed by LACMTA's CEO or his/her designee and an amendment to the Federal Grant evidencing the FTA's acceptance of such material change. The Agency shall give advance written notice to LACMTA of all proposed changes to the Financial Plan or SOW that it originally submitted to LACMTA.

13. TIMELY USE OF FUNDS

13.1 The Agency shall adhere to the Funding Amount programmed under this Agreement, and funds should be expended within the Term of this Agreement as described in Section 3.1.

13.2 In the event this Agreement is not executed and/or evidence of adherence to the Timely Use of Funds as described in Section 11.1 of this Agreement is not provided, the Project will

be reevaluated by LACMTA and the Funding Amount may be deobligated consistent with the FTA's requirements. In the event that the Funding Amount is deobligated, this Agreement shall automatically terminate.

14. DEFAULT

Default under this Agreement is defined as one or more of the following: (i) the Agency fails to comply with the terms and conditions contained in this Agreement or the Federal Grant; (ii) the Agency fails to perform satisfactorily or to make sufficient progress toward Project completion; (iii) the Agency makes a material change to the SOW or the Financial Plan without prior written consent or approval by LACMTA and the FTA; or, (iv) the Agency is in default of any other applicable requirements of LACMTA or the FTA.

15. REMEDIES

15.1 In the event of a default by the Agency (as defined in Section 12), the LACMTA shall provide written notice of such default to the Agency with a 30-day period to cure the default. In the event the Agency fails to cure the default, or commit to cure the default and commence the same within such 30-day period to the satisfaction of LACMTA, the following remedies shall be available to LACMTA:

- (a) LACMTA may terminate this Agreement;
- (b) LACMTA may make a determination to make no further disbursements of the Funding Amount to the Agency;
- (c) LACMTA may recover from the Agency any funds paid to the Agency after the default; and/or,
- (d) Any remedies the FTA may have under the Federal Grant.

15.2 Effective upon receipt of written notice of termination from LACMTA, the Agency shall not undertake any new work or obligation with respect to this Agreement unless so approved by LACMTA in writing.

15.3 Subject to LACMTA's agreement providing prior written notice with a 30-day period to cure the default, the remedies described herein are non-exclusive. LACMTA shall have the right to enforce any and all rights and remedies herein or which may be now or hereafter available at law or in equity.

16. SECTION 5333(b) REQUIREMENTS

16.1 For purposes of satisfying the requirements of Section 5333(b) of the Federal Transit Act, by signing this Agreement the Agency certifies its acceptance of the terms and conditions of all protective arrangements applicable to all capital and operating assistance projects and of any other Section 5333(b) protections certified by the USDOL as applicable to any federal funding received (including any specific terms and conditions included in USDOL's certification letter for FTA grant (CA-2020-167).

16.2 The Agency shall indemnify, defend, and hold harmless the LACMTA and its

employees, officers and agents for any claims properly brought by public transportation employees in the Agency's service area or by its subcontractors pursuant to the Special Warranty, or any other Section 5333(b) arrangements, that may be filed against LACMTA and that may arise from any or all of the Federal Grant awarded to LACMTA on behalf of the Agency for the Project.

17. TERMINATION

17.1 Notwithstanding the term of this Agreement, specified in Section 3 above, either the Agency or LACMTA may terminate its obligations hereunder at any time, without cause, prior to submittal of the grant application to the FTA by providing not less than ten (10) calendar days advanced written notice of such intent to terminate. The Agency and LACMTA may mutually terminate this Agreement with less than ten (10) days written notice if approved by both parties.

17.2 In the event of termination of this Agreement, LACMTA will immediately stop rendering services under this Agreement.

18. OTHER TERMS AND CONDITIONS

18.1 This Agreement, along with the applicable requirements of the FTA, the USDOL, LACMTA, and the Federal Grant, constitutes the entire understanding between the parties with respect to the subject matter herein. The Agreement shall not be amended, nor any provisions or breach hereof waived, except in writing and signed by the parties who executed the original Agreement or by those at the same level of authority.

18.2 In the event that there is any legal court (e.g. Superior Court of the State of California, County of Los Angeles, or the U.S. District Court for the Central District of California) proceeding between the parties to enforce or interpret this Agreement or the applicable requirements of LACMTA to protect or establish any rights or remedies hereunder, each party shall be responsible for its costs and expenses.

18.3 Neither LACMTA nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or committed to be done by the Agency under or in connection with any work performed by, and/or service provided by, the Agency, its officers, agents, employees, contractors and subcontractors under this Agreement or the guidelines. The Agency shall fully indemnify, defend and hold LACMTA, its subsidiaries and their respective officers, agents and employees harmless from and against any liability and expenses, including without limitation, defense costs, any costs or liability on account of bodily injury, death or personal injury of any person or for damage to or loss of use of property, any environmental obligation, any legal fees and any claims for damages of any nature whatsoever arising out of the Project, including, without limitation: (i) use of the Funds by the Agency, or its officers, agents, employees, contractors or subcontractors; (ii) challenges, claims or litigation filed on behalf of any affected transportation provider and/or employees' union; (iii) breach of the Agency obligations under this Agreement or the Grant; or (iv) any act or omission of the Agency, or its officers, agents, employees, contractors or subcontractors in the performance of the work or the provision of the services including, without limitation, the Scope of Work described in this Agreement.

18.4 Neither party hereto shall be considered in default in the performance of its obligations hereunder to the extent that the performance of any such obligation is prevented or delayed by unforeseen causes including acts of God, floods, earthquake, fires, acts of a public enemy, and government acts beyond the control and without fault or negligence of the affected party. Each party hereto shall give notice promptly to the other of the nature and extent of any such circumstances claimed to delay, hinder, or prevent performance of any obligations under this Agreement.

18.5 The Agency shall comply with and ensure that work performed under this Agreement is done in compliance with Generally Accepted Accounting Principles (GAAP), all applicable provisions of federal, state, and local laws, statutes, ordinances, rules, regulations, and procedural requirements and applicable requirements and regulations of the LACMTA.

18.6 The Agency shall not assign this Agreement, or any part thereof, without written consent and prior approval of the LACMTA's CEO or his/her designee, and any assignment without said consent shall be void and unenforceable.

18.7 Subject to all requirements of this Agreement, the Federal Grant, and all other applicable requirements of LACMTA and FTA, including without limitation the requirement of competitive procurement of services and assets, the Agency may contract with other entities, including its affiliates in a project management role, to implement this Agreement.

18.8 This Agreement does not include funds for Research and/or Development Activities.

18.9 This Agreement shall be governed by California law and applicable federal law. If any provision of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

18.10 The terms of this Agreement shall inure to the benefit of, and shall be binding upon, each of the parties and their respective successors and assigns.

18.11 All notices shall be given to the project managers of each agency at the addresses specified in Section 4 of this Agreement, unless otherwise notified in writing.

18.12 The Agency, in the performance of the work required by this Agreement, is not a contractor nor an agent or employee of LACMTA and attests to no organizational or personal conflicts of interest and agrees to notify LACMTA immediately in the event that a conflict, or the appearance thereof, arises. The Agency shall not represent itself as an agent or employee of LACMTA and shall have no powers to bind LACMTA in contract or otherwise.

18.13 The Agency agrees to comply with USDOT regulations, "Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments", 49 C.F.R. Part 18.

18.14 The Agency agrees that federal laws and regulations control Project award and implementation. The Agency also agrees that federal directives as defined in the FTA Master

Agreement, set forth federal terms applicable to the Project, except to the extent that FTA determines otherwise in writing. The Agency understands and agrees that unless FTA has offered express written approval of alternative procedure or course of action differing from a procedure or course of action set forth in the applicable federal directive, the Agency may incur a violation of the terms of its Agreement if it implements an alternative procedure or course of action not approved by FTA.

18.15 The Agency understands and agrees that federal laws, regulations, and directives applicable to the Project and to itself as the applicant for federal funds on the date on which the FTA authorized official awards of federal assistance for the Project may be modified from time to time. New federal laws, regulations and directives may become effective after the date on which the Agency executes the Agreement for the Project and might apply to that Agreement. The Agency agrees that the most recent of such federal laws, regulations and directives will govern the administration of the Project at any time, except to the extent FTA determines otherwise in writing.

18.16 The Agency understands that it will make reference to the Catalog of Federal Domestic Assistance (CFDA) number for the Section 5310 Program (20.513) in all its correspondence, including quarterly progress reports, invoices, and single audit reports.

Exhibits

- Exhibit A: Scope of Work
- Exhibit B: Financial Plan
- Exhibit C: Transit Asset Management (TAM) Plan Requirements

Attachment

Subrecipient Procurement Certification

FTA GRANT CA-2020-167

AGMT# 9200000000S1909

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed by their duly authorized representatives as of the dates indicated below:

LACMTA:

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY

By: _____

Date

Phillip A. Washington
Chief Executive Officer

APPROVED AS TO FORM:

MARY C. WICKHAM
County Counsel

By: _____ 7/9/2020

Deputy

Date

GRANTEE:

CITY OF SOUTH EL MONTE

By: _____

Donna Schwartz
City Clerk

Date

APPROVED AS TO FORM (OPTIONAL):

By: _____

General Counsel

Date

AGMT# 9200000000S1909

EXHIBIT A

SCOPE OF WORK

South El Monte Vehicle Replacement, Dispatch System and Operations

The City of South El Monte will:

- Purchase one (1) Class D Minivan for replacement. Seating Capacity is 5 Ambulatory, 2 Wheelchairs. Useful Life Benchmark is 4 years or 100,000 miles.
- Purchase one (1) Class C Large Bus for replacement. Seating Capacity is 16 Ambulatory, 2 Wheelchairs. Useful Life Benchmark is 5 years or 150,000 miles.
- Purchase a new Dispatch/Scheduling system and supporting equipment to enhance the efficiency and capacity of the existing dial-a-ride program.
- Operate ADA vehicles and equipment for Dial-A-Ride transportation program for three (3) years.
- Utilize 5% of their total operating project cost to fund program administration costs including administration, planning, and technical assistance.

The replacement vehicles will replace existing vehicles in the city's dial-a-ride program. The City operates its dial-a-ride with six (6) paratransit vehicles. On a typical day, four drivers pick up a paratransit vehicle in the morning, and depending on the customer needs, they will switch between larger or smaller paratransit vehicles throughout the day. The City currently serves 280 residents through its transportation assistance program, of which 215 are seniors and 5 are individuals with disabilities. The city does not currently track the income of residents who use this service as there is no income eligibility requirement. However, according to U.S. Census Bureau figures, approximately 18.7% of the City population lives in poverty. The City-wide median household income is \$44,651. Given that the City's dial-a-ride service largely serves seniors, the City estimates that the majority of these individuals are low-income and/or living on a fixed income, with limited mobility options. The service that the City provides fills a critical gap for these individuals and helps ensure that these residents, among the most vulnerable in the City, have adequate access to medical care, which benefits overall City health and quality of life. Purchasing new vehicles will improve the quality of transportation service that the City is able to provide residents by ensuring that the vehicles are comfortable and fully accessible for those with limited mobility.

The vehicles scheduled for replacement have met and/or exceeded their useful life benchmark (ULB). The vehicles will be disposed of in accordance with Federal requirements. If the sales proceed of a disposed vehicle has a fair market value (FMV) of \$5000 or more, the subrecipient will reimburse FTA's share of the FMV. The vehicles scheduled for purchase will

meet the Clean Air Act standards (CAA) and the Americans with Disabilities Act (ADA) requirements.

The dispatch/scheduling system and supporting equipment will significantly enhance the efficiency and capacity of the existing dial-a-ride program. All equipment will be used exclusively for the City's dial-a-ride service and will dramatically improve the program's efficiency. Currently, all scheduling and tracking of program users is done by hand. The Senior Services staff who oversee the program use Excel spreadsheets to track riders and program usage, and they provide program drivers with a paper copy of their route and a paper log to track their pickups and drop-offs. Drivers rely on Google Maps and similar mapping tools on their phones to get directions for the stops along their route each day, which does not always yield the most efficient routes.

The operating funding will support the operating costs for the Dial-A-Ride Modernization project by funding monthly phone and data service for the dispatch system, vehicle insurance, vehicle fuel, vehicle registration, vehicle maintenance, and CalACT membership costs for three years.

The following is a description of the vehicles slated for disposition:

Description	Last 5-digits of VIN	Vehicle Disposition
2010 Ford E-450 Goshen Coach	97231	SELL
2012 Dodge Grand Caravan	80671	SELL

Performance Measures

- (a) ≥ 225 seniors and/or persons with disabilities afforded mobility as a result of project annually.
- (b) $\geq 2,570$ actual/estimated rides (measured by one-way passenger trips) provided as a result of project implementation annually.

Timeline- Vehicles

<u>Milestone</u>	<u>Est. Completion Date</u>	<u>Description</u>
RFP/IFB Issue Date	10/01/2020	Vehicles will be procured through the CalAct/MBTA Purchasing Cooperative, or through a formal RFP. The Cooperative provides a Federal and California State compliant purchasing solution to purchase ADA compliant vehicles.

Contract Award	01/01/2021	Award contract with approved vendor from formal RFP or from CalAct/MBTA pre-approved vendor list.
First Vehicle Delivery	07/01/2021	Initial delivery of vehicles. Includes a complete inspection and a Buy America Pre and Post-delivery audit.
Last Vehicle Delivery	07/31/2021	All vehicles delivered and inspected.
Contract Close-out	10/01/2021	All work completed, and all vehicles placed into service.

Timeline- Dispatch System

<u>Milestone</u>	<u>Est. Completion Date</u>	<u>Description</u>
RFP/IFB Issue Date	10/1/2020	Three (3) updated competing quotes will be requested for the dispatching software and installation.
Contract Award	1/1/2021	Award contract with approved vendor.
Start Installation	4/1/2021	Start installation of new dispatching software.
End Installation	5/31/2021	End installation of new dispatching software.
Contract Close-out	8/31/2021	All work completed, and dispatching software utilized.

Timeline- Operations

<u>Milestone</u>	<u>Est. Completion Date</u>	<u>Description</u>
Expenditure Start	8/1/2021	Start expenditures for Dial-A-Ride transportation program.
Expenditure End	7/31/2024	End expenditures for Dial-A-Ride transportation program.

Deliverables

- a. Implement the Project consistent with the Scope of Work and the Federal Grant (including any amendments approved by the LACMTA and the FTA), and in compliance with all applicable federal regulations.
- b. Submit all required reports and certifications as detailed in this Agreement and as requested by LACMTA and FTA.

AGMT# 9200000000S1909

EXHIBIT B FINANCIAL PLAN

The total cost of the Project is \$317,808. The following is a description of the funding category and the corresponding funding amounts and funding source to implement the Project.

Category	FTA Grant	Local Match
Traditional Capital Assistance	\$202,403	\$22,490
Operating Assistance	\$69,686	\$23,229

Sources of Federal Financial Assistance

UZA ID	Funding Source	Amount
60020	FTA Section 5310	\$272,089

Local Match

The Agency shall use Non-USDOT funds to match the grant. Transportation Development Credits in lieu of a portion of the local match was used: \$43,542.

FUNDING SOURCES	TOTAL (\$)	FEDERAL (\$)	LOCAL (\$)
1. Section 5310 (2019 Award)- Traditional Capital	\$272,089	\$272,089	
2. South El Monte Prop A Local Return	\$45,719		\$45,719
Total	\$317,808	\$272,089	\$45,719

ELIGIBLE EXPENSES- TRADITIONAL CAPITAL	TOTAL (\$)	FEDERAL (\$)	LOCAL (\$)
1. South El Monte Vehicle Replacement- Class D Van (1)	\$54,000	\$48,600	\$5,400
2. South El Monte Vehicle Replacement- Class C Bus (1)	\$84,000	\$75,600	\$8,400
3. South El Monte Dispatch/Scheduling System	\$76,184	\$68,565	\$7,619
6. South El Monte Project Administration- Capital	\$10,709	\$9,638	\$1,071
Total	\$224,893	\$202,403	\$22,490
	100%	90%	10%

ELIGIBLE EXPENSES- OPERATING	TOTAL (\$)	FEDERAL (\$)	LOCAL (\$)
4. South El Monte Operating Assistance (3 years)	\$88,491	\$66,368	\$22,123
5. South El Monte Project Administration- Operating	\$4,424	\$3,318	\$1,106
Total	\$92,915	\$69,686	\$23,229
	100%	75%	25%

EXHIBIT C

**TRANSIT ASSET MANAGEMENT (TAM) PLAN
REQUIREMENTS**

TAM PLAN SUBRECIPIENT ELIGIBILITY CRITERIA

Metro subrecipients who meet the following criteria are required to conduct a TAM plan and may participate in a Group TAM plan.

- Agencies that are Tier II providers.
- Agencies that own operate or manage capital transit assets currently in service and used in the provision of public transit open door service (i.e. not restricted to specific groups) or that are within the federal interest time period.
- Agencies that are NOT direct recipients of FTA section 5307 funds.
- Agencies that are a Metro subrecipient of FTA Chapter 53 financial assistance pass through grants, open door, including section 5309, 5310, 5316, 5317 or other FTA fund sources.
- Agencies that own transit asset(s) acquired with FTA funds such as facilities (i.e. parking garage at a rail station, maintenance building, etc.), and that facility supports public transportation service.

Metro subrecipients participating in the Metro sponsored Group TAM Plan shall comply with all applicable FTA Master Agreement Transit Asset Management Requirements (49 U.S.C. Chapter 53) including these Special Grant Conditions:

- Agencies shall indicate their intent to participate in the Metro sponsored Group Plan.
- Agencies shall appoint an Accountable Executive.
- Agencies shall provide asset inventory, condition and investment data, and respond to data requests in a timely manner.
- Agencies shall collaborate on the development of the Group Plan.
- Agencies shall provide concurrence of Accountable Executive including unified group targets.
- Agencies shall implement the plan and report assets to the National Transit Database (NTD).



City Council Agenda Report

**Agenda
Item No.
7.g.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

SUBMITTED BY: Donna Schwartz, City Clerk

SUBJECT: APPROVAL OF PROPOSED DARK CITY COUNCIL
MEETING DATES

SUMMARY: Staff is requesting City Council consider "going dark" on Tuesday, November 24, 2020, due to the Thanksgiving holiday and Tuesday, December 22, 2020, due to the Christmas holiday.

RECOMMENDATION: Staff recommends City Council "goes dark" on Tuesday November 24, 2020, due to the Thanksgiving holiday and Tuesday, December 22, 2020, due to the Christmas holiday.

FISCAL IMPACT: None.

DISCUSSION: Each year City Council takes a recess and does not hold a second meeting in the months of November and December. If there is a need, a special meeting can be held during either month.

ATTACHMENTS:



City Council Agenda Report

**Agenda
Item No.
7.h.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: Rachel Barbosa, City Manager

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-110,
APPROVING THE EMPLOYMENT AGREEMENT FOR
COMMUNITY DEVELOPMENT DIRECTOR

SUMMARY: Approve the attached resolution and employment agreement for Colby Cataldi as Community Development Director.

RECOMMENDATION: Staff recommends City Council adopt Resolution No. 20-110, approving employment agreement with Colby Cataldi as Community Development Director and authorizing Mayor to execute agreement.

FISCAL IMPACT: The Community Development Director position was budgeted for fiscal year 2020-2021. Mr. Cataldi will receive a salary of \$11,576.00 on a monthly basis, which is Step D of the City's current salary schedule for the position of Community Development Director. Any increases in subsequent years will be applied through performance reviews and/or salary adjustments. At this time, funds are available to administer the terms of the employment agreement.

DISCUSSION: The Community Development Director is an essential member of the City's Executive Management Team and reports directly to the City Manager. This position will direct the operations of the Community Development and Public Works Departments, which includes Planning, Building and Safety, Housing, Code Enforcement, Public Safety and School Safety, Municipal Engineering, Field Services, Facilities, Fleet Management, Capital Improvement, Landscape, and Street Maintenance. Additionally, the Community Development Director will direct and participate in the development and implementation of citywide and departmental goals, objectives, policies, procedures, and priorities.

The key terms and provisions of the proposed agreement for Mr. Cataldi are: 1) Three-year term. 2) Annual Base Salary of \$138,912 (\$11,576 per month). 3) Car allowance in the amount of \$400 per month. 4) One (1) months' severance if terminated without cause within one (1) year and three (3) months' severance if terminated thereafter (subject to the state law requirement that severance is limited to the monthly salary multiplied by the number of months left on the unexpired term of the contract). 5) Same employment benefits as those currently provided to the City's other department heads.

For further information on the agreement between the City and Colby Cataldi, see Attachment B.

ATTACHMENTS:

[Attachment A - Resolution No. 20-110](#)

[Attachment B - Community Development Director Employment Agreement](#)

ATTACHMENT A

RESOLUTION NO. 20-110

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL APPROVING
AN EMPLOYMENT AGREEMENT BETWEEN THE CITY AND COLBY
CATALDI AS COMMUNITY DEVELOPMENT DIRECTOR

WHEREAS, at its September 29, 2020 special meeting, the City Council appointed Colby Cataldi (“Employee”) as the Community Development Director of the City of South El Monte subject to all of the terms and conditions for such employment being set forth by an employment agreement on a public agenda; and

WHEREAS, a Community Development Director Employment Agreement (the “Agreement”) has been prepared with all of said terms and conditions; and

WHEREAS, pursuant to South El Monte Municipal Code §2.64.030, City department heads hold employment “at and during the pleasure of the city manager[;]” and

WHEREAS, the City requires the services of a Community Development Director; and

WHEREAS, Employee was appointed as Community Development Director for the City on September 29, 2020; and

WHEREAS, Employee has the required level of education, experience, skills and expertise to serve as the Community Development Director of the City; and

WHEREAS, based on Employee’s executive and administrative qualifications and ability, the City Council now desires to enter into the Agreement with Employee to serve as the Community Development Director; and

WHEREAS, Employee desires to perform and assume responsibility for the provision of Community Development Director services to the City; and

WHEREAS, the parties wish to establish the terms and conditions of Employee’s provision of Community Development Director professional services to the City through the Agreement.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE HEREBY RESOLVES AS FOLLOWS:

SECTION 1. The foregoing recitals are true and correct and are incorporated herein by reference as though set forth in full.

SECTION 2. The City Council appointed Colby Cataldi as Community Development Director, effective October 5, 2020.

SECTION 3. The City Council hereby approves the Community Development Director Employment Agreement between the City and Colby Cataldi that is attached hereto as Exhibit A and is incorporated herein by this reference. The Community Development Director's annual salary shall be \$138,912 and the benefits paid to the Community Development Director are as set forth in said Agreement. These amounts can be updated by future action of the City Council made in public at a subsequent council meeting.

SECTION 4. The Mayor is hereby authorized to execute the Agreement on behalf of the City.

SECTION 5. This resolution shall be effective immediately upon its adoption.

SECTION 6. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 13th day of October, 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-110 was passed and approved by the City Council of the City of South El Monte at a regular meeting of said Council held on the 13th day of October 2020 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

ATTACHMENT B

CITY OF SOUTH EL MONTE

COMMUNITY DEVELOPMENT DIRECTOR EMPLOYMENT AGREEMENT

This Community Development Director EMPLOYMENT AGREEMENT ("Agreement") is entered into and made effective the 13th day of October 2020, by and between the CITY OF SOUTH EL MONTE, a general law city and municipal corporation ("City") and Colby Cataldi, an individual ("Employee").

R E C I T A L S

WHEREAS, it is the desire of the City Manager of the City of South El Monte (hereinafter the "City Manager") to appoint an individual to serve in the position of Community Development Director beginning on October 5, 2020; and

WHEREAS, pursuant to South El Monte Municipal Code §2.64.030, appointment of City department heads ". . . shall be made by the city manager, subject to the consent of the city council[;]" and

WHEREAS, the position of Community Development Director is the department head of the City's Community Development Department and the Public Works Department; and

WHEREAS, pursuant to South El Monte Municipal Code §2.64.030, City department heads hold employment "at and during the pleasure of the city manager[;]" and

WHEREAS, the City requires the services of a Community Development Director; and

WHEREAS, the duties of the Community Development Director are set forth in Exhibit "A" to this Agreement; and

WHEREAS, based on Employee's executive and administrative qualifications and ability, the City Manager desires to employ Employee to serve as the Community Development Director for the City; and

WHEREAS, Employee has the required level of education, experience, skills and expertise to serve as the Community Development Director of the City; and

WHEREAS, Employee desires to perform and assume responsibility for the provision of Community Development Director services to the City; and

WHEREAS, the parties wish to establish the terms and conditions of Employee's provision of Community Development Director professional services to the City through this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants contained herein, the City and Employee hereby agree as follows:

AGREEMENT

1.0 EMPLOYMENT & DUTIES

1.1 Duties. City hereby employs Employee as Community Development Director for the City to perform the functions and duties of the Community Development Director position as described in Exhibit “A,” and to perform such other legally permissible and proper duties and functions as the City Manager shall, from time-to-time, direct or assign. The City reserves the right to adopt and/or amend the job description and functions and duties for the position of Community Development Director, as it deems necessary and appropriate, without requiring Employee’s acquiescence or an amendment of this Agreement. Employee agrees to perform all such functions and duties to the best of Employee’s ability and in an efficient, competent, and ethical manner.

1.2 Work Schedule. It is recognized that Employee is expected to engage in the hours of work that are necessary to fulfill the obligations of the position, must be available at all times, and must devote a great deal of time outside the normal office hours to the business of the City. Employee acknowledges that proper performance of the duties of Community Development Director will require Employee to generally observe normal business hours, as set by the City and may be duly revised from time-to-time (currently 7:00 a.m. to 5:30 p.m., Monday through Thursday), and will also often require the performance of necessary services outside of normal business hours. Notwithstanding the foregoing, the City will permit Employee such reasonable “time off” as is customary for exempt employees of the City, so long as the time off does not interfere with normal business. Employee’s compensation (whether salary or benefits or other allowances) is not based on hours worked, and Employee shall not be entitled to any compensation for overtime.

1.3 Other Activities. Employee shall focus his professional time, ability, and attention to City business during the term of this Agreement. Employee shall not engage, without the express prior written consent of the City Manager, in any other business duties or pursuits whatsoever, or directly or indirectly render any services of a business, commercial, or professional nature to any other person or organization, whether for compensation or otherwise, that is or may be competitive with the City, that might cause a conflict-of-interest with the City, or that otherwise might interfere with the business or operation of the City or the satisfactory performance of the functions and duties of Community Development Director.

1.4 Employment Status. Upon appointment to the Community Development Director position, Employee shall serve at the will and pleasure of the City Manager and understands that he shall be an “at-will” employee without recourse to bumping or other demotion rights and shall be subject to summary dismissal without any right of notice or hearing except as expressly provided in this Agreement, including any so-called due process pre-disciplinary “Skelly” hearing. The City may terminate Employee at any time in accordance with Section 3.4 below.

1.5 City Documents. All data, studies, reports and other documents prepared by Employee while performing his duties during the term of this Agreement shall be furnished to

and become the property of the City, without restriction or limitation on their use. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other materials either created by or provided to Employee in connection with the performance of this Agreement shall be held confidential by Employee to the extent permitted by applicable law, except as may be required by any governmental agency or court of competent jurisdiction. Such materials shall not be used by Employee, without the prior written consent of the City Manager, for any purposes other than the performance of his duties. Additionally, no such materials may be disclosed to any person or entity not connected with the performance of services under this Agreement, except as required by (a) law, (b) any governmental agency, (c) subpoena, or (d) an order issued by a court of competent jurisdiction.

1.6 Exclusion from Classified Service. Employee understands, acknowledges and agrees that he is not included within the classified service of the City pursuant to South El Monte Municipal Code §2.64.010(H)(7).

1.7 FLSA Exempt Status. Employee acknowledges and agrees that his position is that of an exempt employee for the purposes of the Fair Labor Standards Act.

2.0 COMPENSATION

2.1 Compensation. For the services rendered pursuant to this Agreement, Employee's base compensation shall be Twelve Thousand Five Hundred and Fifty Dollars (\$11,576.00) monthly ("Salary"), which shall be paid on a pro-rated basis bi-weekly at the same time as other employees of the City are paid. Such Salary shall be adjusted for payroll taxes, workers' compensation, and other payroll-related liability costs.

2.2 Annual Salary Review. The City Manager and Employee agree to conduct an annual salary review concurrently with any annual performance evaluation conducted pursuant to Section 5.2. Following the annual performance review, the City Manager may increase Employee's salary within the Council-approved salary range for the position of Community Development Director. The City Manager and/or the Employee reserve the right to defer or refuse any or all part of any base salary adjustment if either party determines that the fiscal state of the City warrants such action.

3.0 TERM

3.1 Commencement & Effective Date. Employee shall commence his services hereunder at 12:01 a.m. Pacific daylight savings time on October 5, 2020 or such earlier date upon which the City Manager and Employee may mutually agree, and in either event such date will also be deemed the effective date of this Agreement ("Effective Date").

3.2 Term. The term of this Agreement will be for three (3) years following the Effective Date ("Term") (i.e. until 11:59 p.m. on October 4, 2023) and, thereafter, the term of this Agreement may be extended for additional one (1) year term(s) as Employee and City Manager mutually agree, as evidenced by a writing signed by both parties.

3.3 Termination by Employee. Employee may terminate this Agreement at any time, provided Employee provides the City Manager with at least thirty (30) days' advance written notice. In the event Employee terminates this Agreement, Employee expressly agrees that he shall not be entitled to any severance pay.

3.4 Termination by City. The City Manager may terminate this Agreement at any time with or without cause, by providing written notice of the reason(s). The City Manager's right to terminate Employee pursuant to this Section 3.4 shall not be subject to or in any way limited by the City's Personnel Rules or past City practices related to the employment, discipline or termination of the City's employees. Employee expressly waives any rights provided for the Community Development Director under the City's Personnel Rules, Municipal Code, or under other state or federal law to any other form of pre- or post-termination hearing, appeal, or other administrative process pertaining to termination. Nothing herein, however, shall be construed to create a property interest, where one does not exist by rule of law, in the position of Community Development Director. Upon appointment to the Community Development Director position, Employee shall be an at-will employee serving at the pleasure of the City Manager.

(a) Termination by City for Cause. The City may terminate this Agreement for cause at any time by providing Employee with five (5) business days' written notice of the termination for cause and the facts and grounds constituting such cause. The term "cause" shall be defined to include any misconduct materially related to performance of official duties, including but not be limited to any of the following: 1) Breach of this Agreement, 2) Willful or persistent material breach of duties, 3) Résumé fraud or other acts of material dishonesty, 4) Unauthorized absence or leave, 5) Conviction of a misdemeanor involving moral turpitude (i.e., offenses contrary to justice, honesty, or morality) or conviction of a felony under California law, 6) Violation of the City's anti-harassment policies and/or a finding that legally prohibited personal acts of harassment against a City official or employee or legally prohibited personal acts of discrimination against a City official or employee has occurred, 7) Violation of the City's Municipal Code, Ordinances, Rules, and Regulations, including but not limited to the City's Personnel Rules, 8) Use or possession of illegal drugs, 9) Engaging in conduct tending to bring embarrassment or disrepute to the City, 10) Any illegal or unethical act involving personal gain, 11) A pattern of repeated, willful and intentional failure to carry out materially significant and legally constituted direction or policy decisions of the City Manager, 12) Gross misfeasance or gross malfeasance, and 13) "abuse of office or position" as defined in Government Code §53243.4 (i.e., waste, fraud, and violation of the law under color of authority and crimes against public justice, including crimes involving bribery and corruption). For any of the foregoing, the City may, in its discretion, place Employee on paid or unpaid administrative leave until resolution. If the City terminates for cause this Agreement and the services of Employee hereunder, the City shall have no obligation to pay severance.

(b) Termination by City Manager Without Cause. The City Manager may terminate Employee at any time without cause but rather based upon management reasons such as implementing the City's goals or policies, including but not limited to: (i) change of administration, or (ii) incompatibility of management styles. In the event Employee is terminated without cause, Employee expressly agrees that he shall not be entitled to any severance pay as the result of the termination of this Agreement except as provided in Section 4.1 below.

4.0 SEVERANCE

4.1 **Severance Pay.** In the event Employee is terminated without cause within one (1) year of the Effective Date and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then City shall pay to Employee 6 severance in an amount equal to her monthly base Salary (as defined in Section 2 above, calculated on a per diem basis) then in effect multiplied by one (1), less applicable deductions and excluding deferred compensation or the value of any other benefits. If Employee is terminated without cause at any time later than one (1) year after the Effective Date and does not challenge such termination, including but not limited to by means of appeal or civil or administrative claim, then City shall pay to Employee severance in an amount equal to the monthly base salary of Employee then in effect multiplied by three (3) excluding the value of any benefits.

Notwithstanding the foregoing, Government Code Section 53260 provides that all contracts of employment with a city must include a provision limiting the maximum cash settlement for the termination of the contract to the monthly salary (excluding benefits) multiplied by the number of months left on the unexpired term, but not more than 18 months if the unexpired term exceeds 18 months. Accordingly, should such proposed severance payment exceed the amount authorized to be paid under Government Code Section 53260, then the amount paid to Employee shall be reduced in the amount necessary to comply with such statute. (For example, if termination occurs with two (2) months left in the term, severance would be equal to the monthly base salary multiplied by two (2) rather than the three (3) months provided in this Section.)

4.2 **No Severance Pay if Termination for Cause or Initiated by Employee.** As provided in Section 3.4(a), should Employee be terminated for cause, the City shall have no obligation to pay the severance provided for in Section 4.1 above. As provided in Section 3.3, should Employee initiate termination of this Agreement, the City shall have no obligation to pay the severance provided for in Section 4.1 above. Furthermore, in the event this Agreement expires by its own term as provided in Section 3.2 above, then the City shall have no obligation to pay the severance provided for in Section 4.1 above.

4.3 **Sole Rights.** The severance rights provided in this Section 4.0 shall constitute the sole and only entitlement of Employee with respect to severance pay in the event of the termination, other than for cause. Employee expressly waives any and all other rights with respect to severance pay except as provided herein. Any and all severance rights are conditioned upon and in consideration for execution of the standard “Agreement of Separation, Severance, and General Release” attached hereto in form only as Exhibit “B.”

5.0 PERFORMANCE EVALUATIONS

5.1 **Purpose.** The performance review and evaluation process set forth herein is intended to provide review and feedback to Employee so as to facilitate a more effective management of the Community Development Department and Public Works Department of the City. Nothing herein shall be deemed to alter or change the employment status of Employee (as set forth in Section 1.4 above), nor shall this Section 5.0 be construed as requiring “cause” to terminate this Agreement, or the services of Employee hereunder.

5.2 Annual Evaluation. The City Manager may, at his/her sole discretion, review and evaluate the performance of Employee annually within thirty (30) days after each anniversary of the Effective Date. In addition, Employee shall submit for the City Manager's consideration, no later than December 1 of each year of the term of this Agreement, Employee's proposed annual performance goals and objectives and incorporate the City Manager's suggestions. Such review and evaluation, if any, will be conducted concurrently with an annual salary review, and in accordance with the purpose noted in Section 5.1 above.

5.3 Written Summary. The City Manager may, at his/her sole discretion, elect to provide a written summary of each performance evaluation to Employee within two (2) weeks following the conclusion of the review and evaluation process.

6.0 BENEFITS

6.1 Holiday. The City shall provide Employee with the following holidays with pay:

1. New Year's Day
2. Martin Luther King Day
3. Presidents' Day
4. Cesar Chavez Day
5. Memorial Day
6. Independence Day
7. Labor Day
8. Indigenous Peoples' Day
9. Veterans' Day
10. Thanksgiving Day
11. Christmas Day
12. Employee's Birthday

Cesar Chavez Day and Employee's Birthday are not observed holidays. Employee shall earn one floating holiday for Cesar Chavez Day and one floating holiday for Employee's Birthday. Employee may use the floating holidays on any scheduled workday with prior City Manager approval. Employee shall not accrue more than two (2) floating holidays. Upon Employee's separation from City service for any reason, the City shall compensate Employee for any accrued floating holidays. The value of accrued floating holidays shall be calculated using Employee's prevailing pay rate on the date of Employee's separation from City service.

6.2 Administrative Leave. Employee will be granted 40 hours of administrative leave per fiscal year. Employee shall not accrue more than 40 hours of administrative leave. Employee shall not use less than one (1) hour of administrative leave at any one time. Administrative leave must be used and deducted from accruals on an hour by hour basis for time missed from normal work hours which for purposes of this section are deemed to be normal City operating hours. Upon Employee's separation from City service for any reason, the City shall compensate Employee for any accrued administrative leave. The value of accrued

administrative leave shall be calculated using Employee's prevailing pay rate on the date of Employee's separation from City service.

6.3 Bereavement Leave. Employee shall be entitled to bereavement leave for a period not exceeding three (3) workdays for deaths within the Employee's immediate family. Immediate family is defined as any relative by blood or marriage who is a member of the Employee's household (under the same roof), and the Employee's spouse, registered domestic partner, parents or step-parents; spouse's parents or step-parents; brothers, step-brothers or half-brothers; sisters, step-sisters or half-sisters; Employee's grandparents; spouse's grandparents; grandchildren; aunts and uncles, in-laws, regardless of the residence of the deceased.

6.4 Time Off For Jury Duty. The City shall grant up to 22 business days off to Employee if he is required to serve on jury duty, with compensation at Employee's existing pay rate. The Employee shall remit to the City any money paid to him by the court for jury service.

6.5 Health Benefits. The City, only while it participates in the California Public Employees' Retirement System Medical and Hospital Care Plan ("PERS Plan"), shall make the following contributions towards the cost of medical insurance for Employee: the City will contribute directly to PERS an amount to be applied to the applicable PERS Plan monthly premium. The City will contribute an amount equal to the actual monthly premium for the plan and applicable number of dependents (employee only, employee & 1 dependent or employee & 2 or more dependents), not to exceed the monthly premium rate established by Kaiser Permanente for its Family Health Plan. Employee will pay any premium amount above the maximum City contribution by payroll deduction. If Employee does not enroll in any medical insurance plan offered by the City, then in lieu of the City contribution to health benefits provided pursuant to this section 6.5 Employee shall instead receive a deferred compensation payment of \$600 per month. To be eligible for the \$600 deferred compensation payment, Employee must submit to the City written proof of duplicate medical insurance coverage. The City reserves the right to enhance, reduce, terminate, and amend or to otherwise change its health and other benefit programs at any time.

6.6 Vision and Dental Insurance. The City shall pay the monthly vision and dental insurance premiums for Employee and his eligible dependents.

6.7 Life Insurance, Accidental Death Insurance and Long-Term Disability Insurance: The City shall pay 100% of the cost of term life insurance equal to Employee's annual salary, accidental death and dismemberment insurance equal to Employee's annual salary, and long-term disability insurance equal to two-thirds of Employee's monthly salary. The long-term disability insurance plan shall provide a 30-day benefit exclusion and benefit payments until the age of 70 years.

6.8 California Public Employees' Retirement System ("CalPERS"). Employee is a "Classic" local miscellaneous member, and accordingly is covered by the 2% @ 60 CalPERS retirement formula. Employee will pay the mandatory CalPERS contribution rate for "Classic" members as determined by CalPERS, which amount is currently 7.0%.

6.9 Retiree Health Benefits. Should Employee retire from the City as a CalPERS eligible retiree, the City will contribute an amount toward the CalPERS medical premium that is equal to the amount required under the City's resolution electing coverage under the Public Employees Medical and Hospital Care Act ("PEMHCA"), which is the minimum amount required by the PEMHCA. The City shall have no obligation to make such contribution in the event it no longer participates in the CalPERS medical and hospital care program. Provided that Employee has reached the minimum age of 50 years of age and retired from the City as a CalPERS eligible retiree, he shall continue to be eligible to participate in the City's group medical, dental and vision care plans until age 65, contingent upon the health provider's acceptance. The full cost of any insurance selected by the retiree shall be borne by the retiree. As long as the retiree is enrolled in an insurance plan his eligible dependents may also enroll in the insurance plans as provided above. The retiree and/or dependent shall pay any cost of dependent insurance benefits.

6.10 Purchase of Home Office Equipment. The City will advance up to a total of \$3,000 to Employee for the purpose of acquiring a personal computer and appurtenant types of office equipment which the Employee will utilize at his home to facilitate work production outside normal business hours. More than one such advance may be made, but at no time may the combined total of all outstanding advances exceed \$3,000. Funds will be advanced only after the need for the equipment is verified and approved by the City Manager and a reimbursement agreement, approved by the City Attorney, is executed.

6.11 Reimbursement For Damage To Employee Vehicles. The City agrees to reimburse Employee in an amount not to exceed \$200 per fiscal year for damages due to or caused by vandalism to Employee's vehicle while on City property during Employee's working hours. In order to be eligible for reimbursement, Employee must submit an incident report and a Sheriff's report to the City Manager and Risk Manager regarding the incident causing the damage to the vehicle.

6.12 Education Reimbursement. The City will reimburse Employee for the cost of all books and tuition incurred by Employee while attending an accredited educational institution for those courses directly related to the Employee's scope of employment or which are contained within an approved curriculum of study that is directly related to the Employee's scope of employment. Tuition shall be reimbursed at rates up to the tuition rates of the California State University system. The City will reimburse the Employee for all classes the Employee completes with a grade of "C" or better provided Employee: i) provides a list of classes to the City Manager prior to each quarter or semester; ii) provides to the City Manager verification of the cost for tuition and books; and iii) provides to the City Manager certification of completion upon completion of the course(s).

6.13 Vacation Leave.

(a) Employee may accrue up to a maximum of 320 hours of unused vacation leave. Upon reaching 320 hours, Employee shall earn no additional vacation accrual until his balance of accrued but unused vacation leave is reduced below 320 hours. Upon a written administrative determination by the City Manager that work demands prevent

Employee from using vacation time on a timely basis, the City Manager may permit Employee to exceed the maximum accrual cap by a specified amount and for a specified time, not to exceed 40 hours of vacation time and not to exceed a duration of 6 months. The City Manager may also require a plan designed to bring Employee back into compliance with vacation accrual limitations. It is the responsibility of Employee to arrange for timely use or, to the extent available, cash conversion of vacation time well in advance of reaching the maximum accrual limit.

(b) Employee shall not use less than one (1) hour of vacation leave at any one time. Vacation leave must be used and deducted from accruals on an hour by hour basis for time missed from normal work hours which for purposes of this section are deemed to be normal City operating hours.

(c) If Employee has accrued in excess of 250 hours, he may be paid for the excess vacation on a dollar-for-dollar basis twice per year at the end of the fiscal year or end of the calendar year subject to the following:

1. Employee must have taken minimum hours of vacation in the fiscal year so that at the end of the fiscal year the vacation accrual does not exceed 320 hours.

2. The payout must otherwise comply with any City rules and procedures pertaining to vacation leave cash out.

(d) Employee shall begin employment with vacation leave at ten (10) hours per month (accrued at the rate of five (5) hours bi-weekly for 24 of the 26 pay periods annually):

1. Ten hours per month (accrued at the rate of five hours bi-weekly for 24 of the 26 pay periods annually) immediately upon commencing employment.

2. Twelve hours per month (accrued at the rate of six hours bi-weekly for 24 of the 26 pay periods annually) during the 11th through 15th years of service; and

3. Thirteen hours per month (accrued at the rate of six and one-half hours bi-weekly for 24 of the 26 pay periods annually) during the 16th and following years of service.

6.14 SickLeave.

(a) Employee may accrue an unlimited number of sick leave hours. Employee shall not use less than one (1) hour of sick leave at any one time. Sick leave must be used and deducted from accruals on an hour by hour basis for time missed from normal work hours

which for purposes of this section are deemed to be normal City operating hours.

(b) If Employee accrues in excess of 330 hours, Employee may opt to be paid for up to 80 hours on a dollar for-dollar basis one-time per fiscal year during the payroll that includes March 31st.

(c) Upon separation, Employee shall be eligible to receive monetary compensation for any unused sick leave based on the table below. Years of service shall be calculated based on the Employee's anniversary date.

Years of Service	Value of Sick Leave
0-4 years	0%
5 – 10 years	10%
11 – 15 years	15%
16 years and above	20%

6.15 Deferred Compensation. City shall contribute \$300.00 per month into a qualified 457 plan.

6.16 Cellular Phone. At no cost to Employee, City shall provide Employee with the use of a City-owned cellular phone. Employee shall reimburse City for all cell phone charges incurred for personal use not related to the performance of his job.

6.17 Automobile Allowance.

(a) City shall provide to Employee a monthly automobile allowance of \$400. Such amount is intended to reimburse Employee for all costs associated with the use of Employee's automobile for City business, including but not limited to all applicable costs of automobile liability insurance, maintenance, operating expenses, depreciation and interest.

(b) Employee shall maintain all records required by applicable California and federal law concerning use of such automobile, including without limitation records to substantiate personal and City-related use of such automobile.

(c) Employee shall maintain automobile liability insurance policy with \$100,000/300,000/50,000 maximum coverage, combined single limit coverage against any injury, death, loss or damage as a result of wrongful or negligent acts arising out of the operation of the automobile. Unless otherwise required by the City, Employee will maintain a policy with such coverage and limits throughout the term of this Agreement. If City requires Employee to secure and maintain an insurance policy with greater coverage than said coverage set forth in the insurance policy currently insuring Employee, and as a result of such requirement Employee's premium cost for such policy containing greater coverage is higher than the premium cost of his insurance policy, City shall pay the difference. Employee shall name City, and its Council members, officials and employees as additional insured on his policy; and deliver to

City copies of such insurance endorsements and certificate of insurance. Such insurance policy shall provide that the insurance coverage shall not be canceled, reduced or otherwise modified by Employee or by Employee's insurance carrier without at least 30 days prior written notice, served on City personally by said insurance company.

6.18 Changes in Compensation and Benefits. Employee acknowledges that the City Council may in the future adopt a resolution establishing compensation and benefits for the City's executive employees, including Employee and department heads, which may reduce the level of compensation (exclusive of Employee's base salary) or benefits provided. In the event the level of compensation or benefits provided to Employee changes (whether by increase or decrease), the Parties agree that such changes shall not be deemed material or a breach of this Agreement.

7 EXPENSE REIMBURSEMENT

The City recognizes that Employee may incur certain expenses of a non-personal and job-related nature in performance of the duties of the position of Community Development Director. The City agrees to reimburse the actual cost of such expenses, which are authorized for reimbursement and incurred and submitted according to the City's normal expense approval and reimbursement procedures. To be eligible for reimbursement, all expenses must be supported by an appropriate receipt therefore and submitted within time limits established by the City, in accordance with AB 1234 and any applicable City ordinances, resolutions, rules, policies or procedures.

8 BONDS AND INDEMNIFICATION

8.1 Indemnification. To the extent mandated by the California Government Code, the City shall defend, hold harmless, and indemnify Employee against any tort, professional liability, claim or demand, or other legal action arising out of an alleged act or omission occurring in the performance of Employee's services under this Agreement. This section shall not apply to any intentional tort or crime committed by Employee, to any action outside the course and scope of the services provided by Employee under this Agreement, or any other intentional or malicious conduct or gross negligence of Employee.

8.2 Bonds. City shall bear the full cost of any fidelity or other bonds, which may be required in the performance of Employee's services under this Agreement.

9 GENERAL PROVISIONS

9.1 Entire Agreement. This Agreement represents the entire agreement between the parties and supersedes any and all other agreements, either oral or in writing, between the parties with respect to Employee's employment by the City and contains all of the covenants and agreements between the parties with respect to such employment. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by either party, or anyone acting on behalf of either party, which are not embodied herein, and that no other agreement, statement or promises not contained in this Agreement shall be valid or binding upon either party.

9.2 Amendment. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing, which amendment shall require City Council approval, except where City Manager approval is expressly authorized herein.

9.3 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be personally served or shall be sufficiently given when served upon the other party as sent by United States Postal Service, postage prepaid and addressed as follows:

To City:

City Manager
City of South El Monte
1415 Santa Anita Ave.
South El Monte, California 91733

To Employee:

Colby Cataldi
[On file with Human Resources Dept.]

Notices shall be deemed given as of the date of personal service or upon the date of deposit in the course of transmission with the United States Postal Service.

9.4 Conflicts Prohibited. During the term of this Agreement, Employee shall not engage in any business or transaction or maintain a financial interest which conflicts, or reasonably might be expected to conflict, with the proper discharge of Employee's duties under this Agreement. Employee shall comply with all requirements of law, including but not limited to, Sections 87100 *et seq.*, Section 1090 and Section 1125 of the Government Code, and all other similar statutory and administrative rules.

9.5 Effect of Waiver. The failure of either party to insist on strict compliance with any of the terms, covenants, or conditions of this Agreement by the other party shall not be deemed a waiver of that term, covenant, or condition, nor shall any waiver or relinquishment of any right or power at any one time or times be deemed a waiver or relinquishment of that right or power for all or any other times.

9.6 Partial Invalidity. If any provision in this Agreement is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions shall nevertheless continue in full force without being impaired or invalidated in any way.

9.7 Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, which are in full force and effect as of the date of execution and delivery by each party hereto.

9.8 AB 1344. Assembly Bill 1344, which was subsequently enacted as Government Code §§ 53243 - 53243.4, sought to provide greater transparency in local government and institute certain limitations on compensation paid to local government executives. These statutes also require that contracts between local agencies and its employees include provisions requiring an employee who is convicted of a crime involving an abuse of her/his office or position to provide reimbursement to the local agency for the following forms of payment: (i) paid leave salary; (ii) criminal defense costs; (iii) cash settlement payments; and (iv) any non-contractual

settlement payments. Accordingly, the Parties agree that it is their mutual intent to fully comply with these Government Code sections and all other applicable law as it exists as of the date of execution of this Agreement and as such laws may be amended from time to time thereafter. Specifically, the following Government Code sections are called out and hereby incorporated by this Agreement:

§53243. Reimbursement of paid leave salary required upon conviction of crime involving office or position.

§53243.1. Reimbursement of legal criminal defense upon conviction of crime involving office or position.

§53243.2. Reimbursement of cash settlement upon conviction of crime involving office or position.

§53243.3. Reimbursement of noncontractual payments upon conviction or crime involving office or position.

§53243.4. "Abuse of office or position" defined.

Employee represents that Employee has reviewed, is familiar with, and agrees to comply fully with each of these provisions if any of these provisions are applicable to Employee, including that Employee agrees that any cash settlement or severance related to a termination that Employee may receive from the City shall be fully reimbursed to the local agency if Employee is convicted of a crime involving an abuse of Employee's office or position. The Government Code provisions referenced in this section are attached hereto in Exhibit "C".

9.9 Independent Legal Advice. The City and Employee represent and warrant to each other that each has received legal advice from independent and separate legal counsel with respect to the legal effect of this Agreement, or has had the opportunity to do so, and the City and Employee further represent and warrant that each has carefully reviewed this entire Agreement and that each and every term thereof is understood and that the terms of this Agreement are contractual and not a mere recital. This Agreement shall not be construed against the party or its representatives who drafted it or who drafted any portion thereof.

IN WITNESS WHEREOF, the City of South El Monte has caused this Agreement to be signed and executed on its behalf by its Mayor, and duly attested by its officers thereunto duly authorized, and Employee has signed and executed this Agreement, all in triplicate.

CITY OF SOUTH EL MONTE

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

Anthony R. Taylor, City Attorney

EMPLOYEE

Colby Cataldi

EXHIBIT “A”

The Community Development Director is an at-will position reporting to the City Manager. Under the direction of the City Manager, the Community Development Director oversees the Community Development and Public Works Departments, which includes Planning, Building and Safety, Housing, Code Enforcement, Public Safety and School Safety, Municipal Engineering, Field Services, Facilities, Fleet Management, Capital Improvement, Landscape, and Street Maintenance.

EXAMPLE OF DUTIES

Duties may include, but are not limited to, the following:

- A. Assume full management responsibility for all Community Development and Public Works Services;
- B. Develop, plan and implement department goals and objectives; recommend and administer policies and procedures;
- C. Enhance and maintain successful programs and projects to help shape the growth and development of the City’s infrastructure;
- D. Obtain and manage state and federal grant monies for these and other projects;
- E. Direct, oversee and participate in the development of the Departments’ work plan, assign work activities, projects and programs, monitor workflow, review and evaluate work products, methods and procedures;
- F. Oversee and review the engineering services activities including engineering design, development review, CIP planning, and construction management;
- G. Collaborate on implementation of short and long-term plans, goals, and objectives focused on achieving the City’s economic development and redevelopment needs, in alignment with the City’s advanced and current planning philosophy and with conformity to applicable building codes;
- H. Participate in the development and administration of the departments’ budgets, direct the forecast of funds needed for staffing, equipment, materials and supplies, monitor and approve expenditures and implement mid-year adjustments;
- I. Develop specifications and bid documents for a variety of public works and public utilities-related designs construction and maintenance projects, recommend contract awards, negotiate contract provisions and coordinate, review, inspect, monitor, and approve contractor’s performance;
- J. Manage the application process for acquiring and administering County, State, and Federal Grants;
- K. Participate in the selection of, training, motivation, supervision and evaluation of assigned personnel;

- L. Represent the Community Development and Public Works Departments to other departments, elected officials, and outside agencies and organizations;
- M. Participate in interdepartmental collaboration on projects as assigned;
- N. Respond to and resolve difficult situations and sensitive citizen inquiries and complaints;
- O. Develop and review ordinances, resolutions, and staff reports related to various divisions, present reports to the Planning Commission, City Council, and other Commissions and/or Committees;
- P. Plan, organize, and evaluate the work of the department's staff and contract personnel;
- Q. Keep abreast of federal, state, regional, special district, and county activities and policies affecting municipal developments, alert officials to changes or new programs, and assist in evaluating proper City actions, responses, and policies;
- R. Perform a variety of public relations and outreach work related to economic development, redevelopment and planning activities;
- S. Assure effective communication of issues, coordinate with citizens' groups, advisory boards and commissions, develop cooperative professional relationships with local developments, realtors, and contractors;
- T. Oversee the City's home improvement program, neighborhood preservation program, and residential property improvement program;
- U. Oversee business license zoning requirements;
- V. Oversee the City's building inspection design standards and enforcement of building codes and regulations, may serve as the City's Building Official;
- W. Oversee code enforcement, public safety and school safety activities and ensure compliance with appropriate laws, ordinances, and regulations;
- X. Attend evening and weekend events and/or meetings; and
- Y. Perform other duties as requested by the City Manager.

EMPLOYMENT STANDARDS

Knowledge and Abilities:

- Principles and practices of public administration, organization and management;
- Principles, methods, and procedures of City planning; municipal public works, designing, maintenance, construction; streets and utilities maintenance programs;
- State and local laws, codes, and ordinances related to environmental studies, urban planning, and zoning;
- Principles of personnel management, supervision, training, and evaluation;

- Budget techniques;
- Marketing and public relations principles and techniques;
- Recycling/conservation and maintenance management principles and trends;
- Computers and office software applications;
- Functions, policies and procedures of relevant departments and/or operations;
- Relevant mathematical principles and functions;
- English usage, spelling, grammar, and punctuation – professional writing techniques;
- Plan, organize, prioritize, and perform duties as assigned with minimal supervision;
- Operate standard office equipment, a personal computer, and relevant software;
- Analyze problems, identify alternative solutions, and implement recommendations in support of goals;
- Evaluate effectiveness of services and assist in setting goals and priorities for program delivery, revision or elimination;
- Make decisions at the department head level;
- Be a team player and understand the benefits of supporting other City departments;
- Be flexible, creative and results-orientated;
- Comprehend major policy, operational, and personnel problems and draw valid conclusions;
- Interact effectively with the City Council, City Manager, management team, City employees and a wide variety of citizen constituents;
- Supervise, evaluate, and direct assigned staff;
- Initiate, negotiate, and/or review complex development proposals;
- Establish and maintain cooperative working relationship with representatives of other agencies, the public, and all levels of staff and management;
- Interpret and apply department policies and procedures;
- Communicate clearly and concisely both orally and in writing;
- Research and compile information and maintain records;
- Adapt in a high-volume, fast-paced working atmosphere with multiple priorities;
- Develop comprehensive plans to meet future City needs/services;
- Deal constructively with conflict and develop effective resolutions; and
- Oversee and coordinate consulting engineers effectively.

EXHIBIT “B”

AGREEMENT OF SEPARATION, SEVERANCE, AND GENERAL RELEASE

1. PARTIES

This Agreement of Separation, Severance, and General Release (hereinafter referred to as the “AGREEMENT”) is entered into by and between the City of South El Monte, a general law city and municipal corporation (hereinafter referred to as “THE CITY”), and Colby Cataldi, an individual (hereinafter referred to as “EMPLOYEE”).

2. RECITALS

2.1. EMPLOYEE was hired by THE CITY as an at-will Community Development Director effective October 5, 2020, serving at the pleasure of the City Manager of THE CITY pursuant to a written contract, a copy of which is attached hereto as Exhibit “A” (“THE CONTRACT”).

2.2. THE CITY and EMPLOYEE desire that EMPLOYEE resign and enter into a severance agreement whereby EMPLOYEE receives severance compensation in exchange for executing a general release and waiver of any and all claims that EMPLOYEE may have against THE CITY, including but not limited to its elected and non-elected officials, employees, attorneys, and agents. Accordingly, the parties hereto intend by this AGREEMENT to mutually conclude any and all employment relationships between THE CITY and EMPLOYEE by means of EMPLOYEE’s voluntary separation as of _____, _____. This AGREEMENT sets forth the full and complete terms and conditions concluding EMPLOYEE’s employment relationship with the CITY and any obligations related thereto, including any provided under THE CONTRACT.

2.3 In accordance with this AGREEMENT and with applicable state and federal laws, EMPLOYEE acknowledges that EMPLOYEE has been advised of EMPLOYEE’s post-employment rights, including but not limited to, EMPLOYEE’s rights under the Consolidated Omnibus Budget Reconciliation Act of 1985 (“COBRA”), the Employee Retirement Income Security Act of 1974 (“ERISA”), and the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”).

3. CONSIDERATION

3.1 EMPLOYEE shall receive payment to him at the time of his voluntary separation all earned salary, accrued fringe benefits as detailed in THE CONTRACT, and/or all other wage compensation/benefits owed to EMPLOYEE upon separation of employment, as required by law or THE CONTRACT or any other agreement with THE CITY.

3.2. In exchange for the waivers and releases set forth herein, THE CITY shall also cause to be paid to EMPLOYEE an additional compensatory payment by means of severance, settlement and release in the form of a lump sum amount of _____ and _____ cents (\$_____.00), as set forth in THE CONTRACT in the form of a check made payable to EMPLOYEE to be mailed to EMPLOYEE at EMPLOYEE’s home address via certified mail return receipt requested within _____ (____) business days after the EFFECTIVE DATE (as defined below) of this AGREEMENT.

3.3 In exchange for the severance payment provided for herein, EMPLOYEE, and on behalf of EMPLOYEE's spouse, heirs, representatives, successors, and assigns, hereby releases, acquits, and forever discharges THE CITY, and each of its predecessors, successors, assigns, officials, employees, representatives, agents, insurers, attorneys, and all persons and entities acting by, through, under, or in concert with any of them, and each of them (hereinafter referred to as "THE CITY PARTIES"), from any and all claims, charges, complaints, contracts, understandings, liabilities, obligations, promises, benefits, agreements, controversies, costs, losses, debts, expenses, damages, actions, causes of action, suits, rights, and demands of any nature whatsoever, known or unknown, suspected or unsuspected, which EMPLOYEE now has or may acquire in the future, or which EMPLOYEE ever had, relating to or arising out of any act, omission, occurrence, condition, event, transaction, or thing which was done, omitted to be done, occurred or was in effect at any time from the beginning of time up to and including _____, _____ (hereinafter referred to collectively as "CLAIMS"), without regard to whether such CLAIMS arise under the federal, state, or local constitutions, statutes, rules or regulations, or the common law. EMPLOYEE expressly acknowledges that the CLAIMS forever barred by this AGREEMENT specifically include, but are not limited to, claims based upon any alleged breach of THE CONTRACT or any other agreement of employment, any demand for wages, overtime or benefits, any claims of violation of the provisions of ERISA, COBRA or HIPAA, any alleged breach of any duty arising out of contract or tort, any alleged wrongful termination in violation of public policy, any alleged breach of any express or implied contract for continued employment, any alleged employment discrimination or unlawful discriminatory act, or any claim or cause of action including, but not limited to, any and all claims whether arising under any federal, state or local law prohibiting breach of employment contract, wrongful termination, or employment discrimination based upon age, race, color, sex, religion, handicap or disability, national origin or any other protected category or characteristic, and any and all rights or claims arising under the California Labor Code or Industrial Welfare Commission Wage Orders, the Federal Fair Labor Standards Act, the California Fair Employment and Housing Act, California Government Code §§12900 *et seq.*, the Americans With Disabilities Act, Title VII of the Civil Rights Act of 1964, the Public Safety Officers Procedural Bill of Right Act, and any other federal, state, or local human rights, civil rights, or employment discrimination or employee rights statute, rule, or regulation.

4. SPECIFIC ACKNOWLEDGMENT OF WAIVER OF CLAIMS UNDER ADEA AND OWBPA

The Age Discrimination in Employment Act of 1967 (hereinafter referred to as the "ADEA") makes it illegal for an employer to discharge any individual or otherwise discriminate with respect to the nature and privileges of an individual's employment on the basis that the individual is age forty (40) or older. The Older Workers Benefit Protection Act (hereinafter referred to as the "OWBPA," 29 U.S.C. § 626 *et seq.*, Pub L 101-433, 104 Stat. 978 (1990)) further augments the ADEA and prohibits the waiver of any right or claim under the ADEA, **unless the waiver is knowing and voluntary**. By entering into this AGREEMENT, EMPLOYEE acknowledges that he knowingly and voluntarily, for just compensation in addition to anything of value to which EMPLOYEE was already entitled, waives and releases any rights he may have under the ADEA and/or OWBPA. EMPLOYEE further acknowledges that he has been advised and understands, pursuant to the provisions of the ADEA and OWBPA, that:

- (a) This waiver/release is written in a manner understood by EMPLOYEE;
- (b) EMPLOYEE is aware of, and/or has been advised of, her/his rights under the ADEA and OWBPA, and of the legal significance of her/his waiver of any possible claims he currently may have under the ADEA, OWBPA and/or similar age discrimination laws;
- (c) EMPLOYEE is entitled to a reasonable time of at least twenty-one (21) days within which to review and consider this AGREEMENT and the waiver and release of any rights he may have under the ADEA, the OWBPA and similar age discrimination laws; but may, in the exercise of his own discretion, sign or reject this AGREEMENT at any time before the expiration of the twenty-one (21) days;
- (d) The waivers and releases set forth in this AGREEMENT shall not apply to any rights or claims that may arise under the ADEA and/or OWBPA **after** the EFFECTIVE DATE of this AGREEMENT;
- (e) EMPLOYEE has been advised by this writing that he should consult with an attorney prior to executing this AGREEMENT;
- (f) EMPLOYEE has discussed this waiver and release with, and been advised with respect thereto by, his counsel of choice, and that he does not need any additional time within which to review and consider this AGREEMENT;
- (g) EMPLOYEE has **seven (7) days following his execution** of this AGREEMENT to revoke the AGREEMENT;
- (h) Notice of revocation within the seven (7) day revocation period must be provided, in writing, to THE CITY pursuant to Paragraph 8.9 herein, and must state, "I hereby revoke my acceptance of our Agreement of Severance and General Release;" and
- (i) This AGREEMENT shall not be effective until all parties have signed the AGREEMENT and ten (10) days have passed since EMPLOYEE's execution ("EFFECTIVE DATE").

5. UNKNOWN CLAIMS

In relation to the release provisions of Paragraphs 3 and 4 above, EMPLOYEE understands that California Civil Code section 1542 reads as follows:

"General Release--Claims Extinguished"

"A general release does not extend to claims that the creditor or releasing party does not know or suspect to exist in his or her favor at the time of executing the release and that, if known by him or her, would have materially affected his or her settlement with the debtor or released party."

EMPLOYEE hereby waives the protection of California Civil Code section 1542.

6. WAIVER OF ADDITIONAL CLAIMS

EMPLOYEE hereby waives any provisions of state or federal law that might require a more detailed specification of the claims being released pursuant to the provisions of Paragraphs 3, 4, and 5 above.

7. REPRESENTATIONS AND WARRANTIES

Each of the parties to this AGREEMENT represents and warrants to, and agrees with, each other party as follows:

7.1. Advice of Counsel: The parties hereto have received independent legal advice from their respective attorneys concerning the advisability of entering into and executing this AGREEMENT or have been given the opportunity to obtain such advice. The parties acknowledge that they have been represented by counsel of their own choice in the negotiation of this AGREEMENT, that they have read this AGREEMENT; that they have had this AGREEMENT fully explained to them by such counsel, or have had such opportunity to do so and that they are fully aware of the contents of this AGREEMENT and of its legal effect.

7.2. No Fraud in Inducement: No party (nor any officer, agent, employee, representative, or attorney of or for any party) has made any statement or representation or failed to make any statement or representation to any other party regarding any fact relied upon in entering into this AGREEMENT, and neither party relies upon any statement, representation, omission or promise of any other party in executing this AGREEMENT, or in making the settlement provided for herein, except as expressly stated in this AGREEMENT.

7.3. Independent Investigation: Each party to this AGREEMENT has made such investigation of the facts pertaining to this settlement and this AGREEMENT and all the matters pertaining thereto, as it deems necessary.

7.4. Mistake Waived: In entering into this AGREEMENT, each party assumes the risk of any misrepresentation, concealment or mistake. If any party should subsequently discover that any fact relied upon by it in entering into this AGREEMENT was untrue, or that any fact was concealed from it, or that its understanding of the facts or of the law was incorrect, such party shall not be entitled to any relief in connection therewith, including without limitation on the generality of the foregoing any alleged right or claim to set aside or rescind this AGREEMENT. This AGREEMENT is intended to be, and is, final and binding between the parties, regardless of any claims of misrepresentation, promise made without the intent to perform, concealment of fact, mistake of fact or law, or any other circumstance whatsoever.

7.5. Later Discovery: The parties are aware that they may hereafter discover claims or facts in addition to or different from those they now know or believe to be true with respect to the matters related herein. Nevertheless, it is the intention of the parties that EMPLOYEE fully, finally and forever settle and release all such matters, and all claims relative thereto, which do now exist, may exist or have previously existed against THE CITY or THE CITY PARTIES. In furtherance of such intention, the releases given here shall be, and remain, in effect as full and complete releases of all such matters, notwithstanding the discovery or existence of any additional or different claims or facts relative thereto.

7.6. Indemnification: EMPLOYEE agrees to indemnify and hold harmless THE CITY or THE CITY PARTIES from, and against, any and all claims, damages, or liabilities sustained by them as a direct result of the violation or breach of the covenants, warranties, and representations undertaken pursuant to the provisions of this AGREEMENT. EMPLOYEE understands and agrees that he shall be exclusively liable for the payment of all taxes for which he is responsible, if any, as a result of her/his receipt of the consideration referred to in Paragraph 3 of this AGREEMENT. In addition, EMPLOYEE agrees fully to indemnify and hold the CITY PARTIES harmless for payment of tax obligations as may be required by any federal, state or local taxing authority, at any time, as a result of the payment of the consideration set forth in Paragraph 3 of this AGREEMENT.

7.7. Future Cooperation & Consultation fees: EMPLOYEE shall execute all such further and additional documents as shall be reasonable, convenient, necessary or desirable to carry out the provisions of this AGREEMENT. EMPLOYEE shall provide THE CITY with consultation services (including deposition or trial testimony) in any litigation involving THE CITY which is reasonably related to acts or occurrences transpiring during her/his employment. Said services shall be provided as needed by THE CITY at a rate of \$100.00 per hour.

7.8. Return of Confidential Information and Property: Prior to the separation date, EMPLOYEE shall submit a written inventory of, and return to the Human Resources Division, all City keys, equipment, computer identification cards or codes, and other equipment or materials or confidential documents provided to or obtained by EMPLOYEE during the course of her/his employment with THE CITY.

7.9. No Pending Claims and/or Actions: EMPLOYEE represents that he has not filed any complaints or charges against THE CITY or THE CITY PARTIES with any local, state or federal agency or court; that he will not do so at any time hereafter for any claim arising up to and including the EFFECTIVE DATE of this AGREEMENT; and that if any such agency or court assumes jurisdiction of any such complaint or charge against THE CITY or THE CITY PARTIES on behalf of EMPLOYEE, whenever or where ever filed, he will request such agency or court to withdraw from the matter forthwith.

7.10. Ownership of Claims: EMPLOYEE represents and warrants as a material term of this AGREEMENT that EMPLOYEE has not heretofore assigned, transferred, released or granted, or purported to assign, transfer, release or grant, any of the CLAIMS disposed of by this AGREEMENT. In executing this AGREEMENT, EMPLOYEE further warrants and represents that none of the CLAIMS released by EMPLOYEE thereunder will in the future be assigned, conveyed, or transferred in any fashion to any other person and/or entity.

7.11. Enforcement Fees and Costs: Should any legal action be required to enforce the terms of this AGREEMENT, the prevailing party shall be entitled to reasonable attorneys' fees and costs in addition to any other relief to which that party may be entitled.

7.12. Authority: Each party represents to the other that it has the right to enter into this AGREEMENT, and that it is not violating the terms or conditions of any other AGREEMENT to which they are a party or by which they are bound by entering into this AGREEMENT. The parties represent that they will obtain all necessary approvals to execute this AGREEMENT. It is further represented and agreed that the individuals signing this AGREEMENT on behalf of the respective

parties have actual authority to execute this AGREEMENT and, by doing so, bind the party on whose behalf this AGREEMENT has been signed.

8. MISCELLANEOUS

8.1. No Admission: Nothing contained herein shall be construed as an admission by THE CITY of any liability of any kind. THE CITY denies any liability in connection with any claim and intends hereby solely to avoid potential claims and/or litigation and buy its peace.

8.2. Governing Law: This AGREEMENT has been executed and delivered within the State of California, and the rights and obligations of the parties shall be construed and enforced in accordance with, and governed by, the laws of the State of California.

8.3. Full Integration: This AGREEMENT is the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior and contemporaneous oral and written agreements and discussions. This AGREEMENT may be amended only by a further agreement in writing, signed by the parties hereto.

8.4. Continuing Benefit: This AGREEMENT is binding upon and shall inure to the benefit of the parties hereto, their respective agents, spouses, employees, representatives, officials, attorneys, assigns, heirs, and successors in interest.

8.5. Joint Drafting: Each party agrees that it has cooperated in the drafting and preparation of this AGREEMENT. Hence, in any construction to be made of this AGREEMENT, the parties agree that same shall not be construed against any party.

8.6. Severability: In the event that any term, covenant, condition, provision or agreement contained in this AGREEMENT is held to be invalid or void by any court of competent jurisdiction, the invalidity of any such term, covenant, condition, provision or agreement shall in no way affect any other term, covenant, condition, provision or agreement and the remainder of this AGREEMENT shall still be in full force and effect.

8.7. Titles: The titles included in this AGREEMENT are for reference only and are not part of its terms, nor do they in any way modify the terms of this AGREEMENT.

8.8. Counterparts: This AGREEMENT may be executed in counterparts, and when each party has signed and delivered at least one such counterpart, each counterpart shall be deemed an original, and, when taken together with other signed counterparts, shall constitute one AGREEMENT, which shall be binding upon and effective as to all parties.

8.9. Notice: Any and all notices given to any party under this AGREEMENT shall be given as provided in this paragraph. All notices given to either party shall be made by certified or registered United States mail, or personal delivery, at the noticing party's discretion, and addressed to the parties as set forth below. Notices shall be deemed, for all purposes, to have been given on the date of personal service or three (3) consecutive calendar days following deposit of the same in the United States mail.

As to EMPLOYEE:

At EMPLOYEE's home address on file with THE CITY.

As to THE CITY:

City Manager
City of South El Monte
1415 Santa Anita Ave.
South El Monte, California 91733

IN WITNESS WHEREOF, THE CITY has caused this AGREEMENT to be signed and executed on its behalf by its Mayor and duly attested by its City Clerk, EMPLOYEE has signed and executed this Agreement, and the attorneys for THE CITY and EMPLOYEE, if any, have approved as to form as of the dates written below.

DATED: _____

EMPLOYEE

By: _____
Colby Cataldi

THE CITY

DATED: _____

By: _____
City Manager

ATTEST:

City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

By: _____
Anthony R. Taylor, City Attorney

[EMPLOYEE's LAW FIRM]

By: _____
[Counsel]

EXHIBIT "C"

GOVERNMENT CODE SECTION 53243-53243.4

53243. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides paid leave salary offered by the local agency to the officer or employee pending an investigation shall require that any salary provided for that purpose be fully reimbursed if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.1. On or after January 1, 2012, any contract executed or renewed between a local agency and an officer or employee of a local agency that provides funds for the legal criminal defense of an officer or employee shall require that any funds provided for that purpose be fully reimbursed to the local agency if the officer or employee is convicted of a crime involving an abuse of his or her office or position.

53243.2. On or after January 1, 2012, any contract of employment between an employee and a local agency employer shall include a provision which provides that, regardless of the term of the contract, if the contract is terminated, any cash settlement related to the termination that an employee may receive from the local agency shall be fully reimbursed to the local agency if the employee is convicted of a crime involving an abuse of his or her office or position.

53243.3. On or after January 1, 2012, if a local agency provides, in the absence of a contractual obligation, for any of the payments described in this article, then the employee or officer receiving any payments provided for those purposes shall fully reimburse the local agency that provided those payments in the event that the employee or officer is convicted of a crime involving the abuse of his or her office or position.

53243.4. For purposes of this article, "abuse of office or position" means either of the following:

(a) An abuse of public authority, including, but not limited to, waste, fraud, and violation of the law under color of authority.

(b) A crime against public justice, including, but not limited to, a crime described in Title 5 (commencing with Section 67) or Title 7 (commencing with Section 92) of Part 1 of the Penal Code.



City Council Agenda Report

**Agenda
Item No.
7.i.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: Rene Salas, Deputy City Manager

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-111,
RE-ADVERTISING BIDS FOR ENVIRONMENTAL
SERVICES INCLUDING NATIONAL POLLUTANT
DISCHARGE ELIMINATION SYSTEM (NPDES)
REPORTING REQUIREMENTS, AND APPROVING THE
EXTENSION OF AGREEMENT WITH JOHN HUNTER
AGREEMENT UNTIL JANUARY 30, 2021

SUMMARY: Staff only received one bid during the RFP process. Staff recommends the City re-advertise for environmental services to receive at least two bids for price comparisons and to extend the current agreement for environmental services with John L. Hunter to January 30, 2021.

RECOMMENDATION: Staff recommends the City Council reject the bid for solicited environmental services including annual NPDES reporting requirements, rebid for environmental services, and adopt Resolution No. 20-111, approving an amendment to the agreement with John L. Hunter to extend the term until January 30, 2021.

FISCAL IMPACT: The fiscal impact would be related to the cost of re-advertising for extending environmental services with John L. Hunter in an amount not to exceed \$300.

DISCUSSION: The City operates under Municipal Separate Storm System National Pollutant Discharge Elimination System (MS4 NPDES) Permit No. CA004001 (Permit), issued by the Los Angeles Regional Water Quality Control Board. The Permit authorizes stormwater and non-stormwater discharges from the City's MS4 drains and into receiving waters. Compliance with the Permit includes implementing projects and programs as described in both the Permit and in the City's Watershed Management Programs (WMPs)

for the Upper LA River and Upper San Gabriel River. The purpose of this request for proposals is to seek continued assistance with the administration and implementation of the City's MS4 NPDES Programs. This includes assistance administering and implementing the Safe, Clean Water Programs (SCWP), which was established in part to fund projects identified in the VMP's.

On July 14, 2020, the City Council authorized advertisement for environmental services. The bid documents were uploaded to the City Website and advertised in the local newspaper.

Only one bid was received by the City on the bid due date of July 30th, 2020 at 2pm. Staff is recommending that the City re-advertise for environmental services, in order to be able to receive more than one bid to perform a service comparison and select the most competitive bid.

Staff will coordinate bid re-advertisement, and advertise the notice inviting bids on the local newspaper and city website. However, the re-advertisement will take additional time, and an extension of the City's existing agreement with John L. Hunter is necessary to cover that time period.

ATTACHMENTS:

[Attachment A - Resolution No. 20-111](#)

[Attachment B - Amendment No. 2](#)

[Attachment C - RFP](#)

ATTACHMENT A

RESOLUTION NO. 20-111

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL AUTHORIZING AMENDMENT NO. 2 TO THE AGREEMENT WITH JOHN L. HUNTER AND ASSOCIATES, INC. (JLHA) FOR ENVIRONMENTAL SERVICES AND THE MANAGEMENT OF THE MUNICIPAL SEPARATE STORM SEWER SYSTEM (MS4) NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM (NPDES) REGULATORY PERMIT TO EXTEND THE CONTRACT FOR AN ADDITIONAL FOUR (4) MONTHS AND AUTHORIZING THE RE-ADVERTISEMENT OF BIDS FOR THE SAME SERVICES

WHEREAS, on July 9, 2019, the City has entered into an agreement, with JLHA for environmental services and management of the MS 4 NPDES regulatory permit in an amount not to exceed \$150,000; and

WHEREAS, on June 23, 2020, the City Council approved Amendment No. 1 extended the contract to September 30, 2020 and increased the maximum compensation to \$190,000; and

WHEREAS, on July 14, 2020, the City Council authorized advertisement for environmental services. The bid documents were uploaded to the City Website and advertised in the local newspaper; and

WHEREAS, upon closing of the bid period, the City only received one bid; and

WHEREAS, the City Council now wishes authorize the re-advertisement of the bid for environmental services; and

WHEREAS, in order to address the additional time needed to re-advertise the bid, the City Council wishes to approve an amendment to the existing agreement for environmental services to extend the term for an additional four (4) months so that the bid can be re-advertised.

NOW, THEREFORE, THE SOUTH EL MONTE CITY COUNCIL HEREBY RESOLVES, AS FOLLOWS:

SECTION 1. The City Council hereby authorizes the City Manager to execute Amendment No. 2 to the agreement with JHLA for environmental services, in order to extend the term for four (4) additional months ending January 2021.

SECTION 2. The City Council hereby directs City staff to re-advertise the request for proposals for environmental services.

SECTION 3. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED, APPROVED AND ADOPTED this 13 day of October 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-111 was passed and approved by the City Council of the City of South El Monte, at a regular meeting of said Council held on the 13 day of October, 2020 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

ATTACHMENT B

AMENDMENT NO. 2

TO AGREEMENT FOR CONTRACTUAL SERVICES

THIS AMENDMENT TO THE AGREEMENT FOR CONTRACTUAL SERVICES (“Amendment”) by and between the **CITY OF SOUTH EL MONTE**, a California municipal corporation (“City”) and **JOHN L. HUNTER AND ASSOCIATES, INC.**, a California corporation (“Sub-Consultant”) is effective as of the 13th day of October, 2020.

RECITALS

A. City and Sub-Consultant entered into that certain Agreement for Contractual Services dated July 9, 2019 (“Agreement”) whereby Consultant agreed to provide environmental services and management of the MS4 NPDES regulatory permit.

B. On June 23, 2020, City and Sub-Consultant entered into an amendment to the Agreement in order to extend the term of the Agreement until September 30, 2020 and increase the Contract Sum from \$150,000 to \$190,000.

B. City and Consultant now desire to amend the Agreement to extend the Term of the Agreement for four (4) additional months, until January 30, 2021, with no increase in Contract Sum.

TERMS

1. **Contract Changes.** The Agreement is amended as provided herein. Deleted text is indicated in ~~strikethrough~~ and added text in ***bold italics***.

a. **Section 2, Term of Agreement, is hereby amended to read:**

“The term of this Agreement shall be from June 2018 through ~~September 30, 2020~~ ***January 30, 2021***, unless earlier termination as provided in Section 12 of this Agreement or extended.”

2. **Continuing Effect of Agreement.** Except as amended by this Amendment, all provisions of the Agreement shall remain unchanged and in full force and effect. From and after the date of this Amendment, whenever the term “Agreement” appears in the Agreement, it shall mean the Agreement, as amended by this Amendment to the Agreement.

3. **Affirmation of Agreement; Warranty Re Absence of Defaults.** City and Sub-Consultant each ratify and reaffirm each and every one of the respective rights and obligations arising under the Agreement. Each party represents and warrants to the other that there have been no written or oral modifications to the Agreement other than as provided herein. Each party represents and warrants to the other that the Agreement is currently an effective, valid, and binding obligation.

Sub-Consultant represents and warrants to City that, as of the date of this Amendment, City is not in default of any material term of the Agreement and that there have been no events that,

with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

City represents and warrants to Sub-Consultant that, as of the date of this Amendment, Sub-Consultant is not in default of any material term of the Agreement and that there have been no events that, with the passing of time or the giving of notice, or both, would constitute a material default under the Agreement.

4. **Adequate Consideration.** The parties hereto irrevocably stipulate and agree that they have each received adequate and independent consideration for the performance of the obligations they have undertaken pursuant to this Amendment.

5. **Authority.** The persons executing this Amendment on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Amendment on behalf of said party, (iii) by so executing this Amendment , such party is formally bound to the provisions of this Amendment , and (iv) the entering into this Amendment does not violate any provision of any other agreement to which said party is bound.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF SOUTH EL MONTE, a municipal corporation

Rachel Barbosa, City Manager

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

ALESHIRE & WYNDER, LLP

Anthony R. Taylor, City Attorney

SUB-CONSULTANT:

JOHN HUNTER & ASSOCIATES, INC.,
a California Company

By: _____
Name:
Title:

By: _____
Name:
Title:

Address:

Two corporate officer signatures required when Sub-Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. SUB-CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO SUB-CONSULTANT'S BUSINESS ENTITY.

ATTACHMENT C

City of South El Monte

Request For Proposals

for

**Environmental Services to Manage the City's
MS4 NPDES Permit and Compliance Program**



RFP Release Date: October 14, 2020

RFP Response Due: 2:00 p.m. November 17, 2020

Submit To:

City of South El Monte

Attn: City Clerk

1415 Santa Anita Ave

South El Monte, CA 91733

626-579-6540

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- I. Community Profile
- II. Purpose & Services Description
- III. Scope of Services
- IV. Information to be Included in the Qualifications Submittal (Proposal)
- V. Questions
- VI. Corrections
- VII. General Information
- VIII. Insurance Requirements
- IX. Proposal Review
- X. Consultant Agreement

Attachments

- A. Affidavit of Non-Collusion
- B. Claims History
- C. Sample Professional Services Agreement

I. Community Profile

Incorporated in 1958, the City of South El Monte is an industrial community of approximately 21,000 residents, encompassing 2.3 square miles. The City is located approximately 13 miles east of downtown Los Angeles and is adjacent to two major freeways and a major State Route in the San Gabriel Valley.

South El Monte offers a good blend of older and younger residents working in the same dedication and community spirit that the city was founded upon. Both residents and the City's business community are working together to make the City a better place to live and work.

After almost six decades, the City of South El Monte has matured into a viable commercial and industrial base, with over 2,400 businesses within its 2.3 square miles. The City is currently focusing on improving the environment of the community and making it a better place to live and work.

II. PURPOSE & SERVICES DESCRIPTION

The purpose of this Request for Proposals (RFP) is to select the most-qualified consultant to provide Environmental Services and Management of the Municipal Separate Storm Sewer System National Pollutant Discharge Elimination Systems (MS4 NPDES) Permit and Compliance Program. The City wishes to obtain the described services via a Professional Services Agreement for a 3-year term, with two one-year renewal options.

The City operates under Municipal Separate Storm Sewer System National Pollutant Discharge Elimination System (MS4 NPDES) Permit No. CAS004001, issued by the Los Angeles Regional Water Quality Control Board. The MS4 NPDES Permit authorizes stormwater and non-stormwater discharges from the City's MS4 and into receiving waters.

Compliance with the Permit includes implementing projects and programs as described in both the Permit and in the City's Watershed Management Programs (WMPs) for the Upper LA River and the Upper San Gabriel River.

The purpose of this RFP is to seek continued assistance with the administration and implementation of the City's MS4 NPDES Program. This includes assistance administering and implementing the Safe, Clean Water Program, which was established in part to fund projects identified in the WMPs.

The Consultant shall prepare final Environmental Services bid documents (e.g., descriptions of services, fee and rate schedule, bid proposal) and provide Environmental Services for the City based on the scope of services as outlined below.

III. SCOPE OF SERVICES

The selected consultant shall cover all labor, tools, equipment, materials, and any supervision necessary to provide environmental services and management of the MS4 NPDES regulatory permit.

The selected consultant's scope of required services shall include, but is not be limited to, the following tasks:

Task 1 – Program Assistance

- a. Provide Program status updates and hold update meetings.
- b. Represent the City at interagency meetings and in concerns with stakeholders.
- c. Share information and expertise and provide skills training to staff.
- d. Prepare and submit the City's Annual Report. Participate in the completion of the Watershed Annual Report.
- e. Maintain online databases of Program records.
- f. As needed: Assist with NPDES tasks not itemized in this scope of work.

Task 2 – Program Funding Assistance

- a. Provide status updates and advise on SCWP and grant opportunities.
- b. Represent the City at SCWP meetings and in concerns with stakeholders.
- c. Assist in preparing and submitting SCWP and NPDES grant applications, and in managing approved SCWP and grant projects.
- d. Assist in selecting, budgeting, planning, reporting on, and implementing eligible expenditures under the SCWP and other funding programs.
- e. Assist in developing and administering fees, budgets, and cost share agreements.

Task 3 – Compliance Planning

- a. Assist in the continued development of the City's NPDES program.
- b. Assess the compliance and effectiveness of the City's Program. Recommend compliance actions and improvements and assist in their implementation.
- c. Participate in adaptively managing the City's WMPs and CIMP.
- d. Assist with planning, implementing, and reporting for TMDLs and for statewide pollutant provisions.
- e. Conduct a Trash TMDL Daily Generation Rate Study. This includes monitoring litter generated within representative study areas over a 30 day period in the summer, extrapolating the results, and using a mass balance calculation to determine how much trash is discharged during storm events.
- f. Provide training for City staff.

Task 4 – Implementation Activities

- a. Infrastructure Program
 - i. Assist with selecting, planning, and implementing infrastructure projects.
 - ii. Maintain an inventory of candidate infrastructure projects.
 - iii. Assist in implementing the City’s Green Streets Policy.
 - iv. As-needed: Assist with NPDES permitting for infrastructure projects.
 - v. As-needed: Conduct NPDES maintenance inspections for completed infrastructure projects.
- b. Planning and Land Development
 - i. Review LID Plan and Green Streets Policy projects.
 - ii. Track post-construction BMPs with relevant water quality data.
 - iii. As needed: Assist with LID BMP verification and maintenance inspections.
- c. Construction. For sites that disturb one acre or more of land
 - i. Review SWPPPs for BMP implementation.
 - ii. Track permitted sites with relevant water quality data.
 - iii. Inspect projects monthly for BMP implementation.
- d. Industrial/commercial Facilities
 - i. Track facilities with relevant water quality data.
 - ii. Assist with the implementation of SB-205.
 - iii. Inspect biennially industrial/commercial facilities for BMP implementation. This includes follow-up activities, correspondence, and documentation. It also includes distributing educational materials and providing technical assistance as needed.
 - iv. Assist in preparing enforcement actions for noncompliance.
- e. Public Agency Activities Program
 - i. Track city-owned or operated facilities with relevant water quality data.
 - ii. Assist in selecting BMPs for activities at facilities that generate pollution.
 - iii. Assist in overseeing BMP implementation for City contractors. Review contract language to verify that proper BMPs are mandatory.
 - iv. Prepare NPDES Integrated Pest Management procedures.
- f. Illicit Discharge Investigations
 - i. As needed: Investigate illicit discharge complaints. This includes follow-up activities, correspondence, and documentation.
 - ii. As needed: Assist in preparing enforcement actions.
- g. Public Information and Participation
 - i. Provide pollution prevention educational materials for distribution.
 - ii. Assist with City community events to promote pollution prevention.
 - iii. Prepare educational content for the City’s internet based platforms.
 - iv. Distribute educational materials to commercial points of purchase.
 - v. Assist with the distribution of educational materials to schools.
 - vi. As needed: Update educational materials.

IV. INFORMATION TO BE INCLUDED IN THE QUALIFICATIONS SUBMITTAL (PROPOSAL)

1. The submittal must include the following general information about the Consultant:
 - Consultant's profile, including the types of services offered; the year founded; form of organization (corporate, partnership, sole proprietorship); number, size and location of offices; and number of employees.
 - List of similar projects that the Consultant has completed within the last five years including previous projects in which the Consultant and Subconsultants have worked together. Information on the completed projects should include project name and description; agency and client name along with the person to contact and telephone number; year completed; contract fee; and the final project cost. Clearly identify previous projects and include a summary of the roles and responsibilities of each party.
 - Legal name of Consulting firm or individual, including name, corporate address and telephone number.
 - Name, title, address, telephone number and email address of the individual(s) who has the authority to negotiate with the City; execute any agreement that may result from such negotiations; and will be Consultant's contact person during the Proposal evaluation period.
 - Federal Tax ID or Social Security No. for firm or individual.
 - A statement to the effect that the Proposal shall remain valid for a period of not less than 90 calendar days from the date of submittal.
 - Identification of all proposed sub-Consultants or Subcontractors, including legal name of the company, address and contact person.
 - Acknowledgement that Consultant is obligated by all addenda to this RFP.
 - Signature of a person authorized to bind Consulting firm to the terms of the Proposal.
 - Signed statement attesting that all information submitted with the Proposal is true and correct.
2. A description of the project team, including resumes, day rates, and responsibilities of all assigned staff. Additionally, provide an organization chart of your company, identifying all sub-contractors.
3. The Consultant's detailed approach for completing the tasks specified in the Scope of Services. The work approach shall be sufficiently detailed to demonstrate Consultant's ability to accomplish project tasks.
4. Provide a minimum of three most-recent similar clients including name, address, contact person, phone number, and e-mail address. The City is most interested in government and California clients and may randomly select agencies to contact from your list as part of the evaluation process.

5. A description of any potential work not included in the Consultant's scope of services or which has not been identified in this RFP, which the Consultant feels is essential to the successful completion of the project. This would include additional services by the Consultant or any other necessary tasks to be provided by the City. This potential work must be clearly identified, along with a suggested basis for payment, should those services be necessary or elected by the City.
6. The City must receive proposals by the designated due date and time. Proposals received after designated time and date will not be considered.
7. Consultant's understanding of the project, scope of work, the methodology/concept to be applied and the approaches to be taken in accomplishing each requirement.
8. Fee proposal: The fee proposal shall include all tasks required to perform the work with a maximum not-to-exceed fee for each task and a grand total not-to-exceed fee. Costs shall be all inclusive, including all overhead, materials, equipment, hourly labor rate, and all other miscellaneous direct and indirect costs. The scope of work provided in this RFP will be used as a guideline. It will be the selected Consultant's responsibility to identify all necessary tasks and costs associated with the services and to ensure that all Environmental Services are completed in full compliance as required with Federal and State labor standards and regulations. The fee will be required to identify costs associated with, but not limited to, providing Environmental Services. The Consultant shall provide its services for the duration of the agreement for the approved scope of work and fee.
9. Three copies of the Proposal which must not exceed 25 pages (double-sided pages count as 2 pages) shall be submitted to the City Clerk (Attn: Donna Schwartz, City of South El Monte, 1415 Santa Anita Avenue, South El Monte, CA 91733) by no later than 2:00pm on November 4, 2020.
10. Litigation History - information on any litigation, claims, and/or matters that could have led to litigation or a claim arising out of work related to their projects or their sub-contractor's projects for the last five years. Please refer to **Attachment B** for a more detailed list of circumstances ("Claims History").
11. Three copies of a fee Proposal for completing the proposed work, which may be placed in the same envelope as the Proposal. The proposer's fee for Environmental Services shall be a fixed not-to-exceed lump sum amount.
12. **Attachment A** ("Affidavit of Non-Collusion") to be signed and submitted with proposal.
13. The proposal may be withdrawn upon request by the bidder without prejudice to himself prior to, but not after, the time fixed for opening of bids, provided that the request is in writing, has been executed by the bidder or his duly authorized representative, and is filed with the City Clerk. No proposal may be withdrawn during the period of ninety (90) calendar days after the opening of proposals.
14. The successful bidder's proposal guarantee, if required, shall be held until the contract is executed and evidence of insurance, the necessary bonds, sufficiency of surety documents and other documents as specified in the contract documents are submitted. Bid security

shall be returned to unsuccessful bidders within twenty (20) days after the successful bidder has signed the contract, submitted evidence of insurance, necessary bonds, sufficiency of surety documents and other documents as specified in the contract documents.

V. QUESTIONS

Questions with regard to this RFP should be submitted by e-mail to Rene Salas, Public Works Director, at rsalas@soelmonte.org and Daniel Arad, Public Works Analyst, at darad@soelmonte.org by 4:00 P.M. PDT on November 4, 2020. All firms sending questions will receive responses to all questions and any other addenda that may be released via e-mail and will be posted on the City's Bid Posting webpage.

VI. CORRECTIONS

Corrections or revisions to the RFP and documents prepared by the Consultant are anticipated and shall be considered part of the normal preparation process. No extension of time or fees shall be allowed for corrections as described herein.

VII. GENERAL INFORMATION

1. The Consultant is expected to establish and maintain a close working relationship with City Staff throughout the duration of the agreement.
2. The City shall not pay any cost incurred in the preparation of a response to this Request for Proposal.

VIII. INSURANCE REQUIREMENTS

Refer to Section 13 ("Insurance") of the Sample Professional Services Agreement included in this RFP as **Attachment C** for insurance requirements.

IX. PROPOSAL REVIEW

All proposals will be reviewed by a selection committee comprised of City staff. The various significant criteria that will be considered in the evaluation of proposals are summarized below. The City's final selection will not be dictated on any single factor or criteria including price. The relative importance of those factors involves judgment on the part of the Selection Committee and will include both objective and subjective analysis. A consultant may be eliminated from consideration for failure to comply with any of the following requirements, depending upon the critical nature of such requirements as determined by the City:

1. Meaningful experience providing Environmental Services
2. Cost
3. Compliance with Scope of Services (Section III)
4. Responsiveness and thoroughness of proposal

5. Personnel proposed work on the project and the qualifications of those individuals, reference checks, verification of certification, if applicable, and ability to satisfy insurance requirements
6. Any other factors determined by the City to be relevant to the performance of these services

The contract will be awarded, if at all, to the responsive and responsible bidder that submits the most advantageous proposal to the City. If alternate bids are called for, the lowest responsible bidder will be determined based on the base bid only. The contract shall be awarded to the lowest responsible bidder based on the base bid amount, and at the City's discretion, the addition, deletion, or modification of any alternate or combination of alternatives. No agreement for the work will be executed with a contractor who is not licensed in accordance with the laws of the State of California under applicable provisions of the Business and Professions Code. The licensing requirements for consultant shall apply also to sub-contractors. The City reserves the right to waive minor irregularities and omissions in any submission. The City reserves the right to reject any or all submitted qualifications, and no representation is made that any contract will be awarded pursuant to this Request for Proposals. The City shall not pay any costs associated with the preparation of proposals, including but not limited to the qualifications submittal, additional information, and/or in any other aspect of a qualifications submittal prior to the award of a written contract. The City will provide only the staff assistance and documentation specifically referred to herein, and shall not be responsible for any other cost or obligation that may be incurred by the respondent. All items submitted to the City shall become the property of the City. The Consultant selected will be required to sign the City's Professional Services Agreement prior to City Council approval, a copy of which will be provided upon request. The City Council has final authority in the selection of the Consultant.

RFP Schedule

The City reserves the right to make changes to the below schedule, but the current schedule for the implementation of this bid process is as follows:

Request for Proposal Posting/Mailing	October 14, 2020
Question Submittal Deadline	November 4, 2020
City Response to Questions	November 10, 2020
Submittal Deadline (Date proposals must be received by City)	November 17, 2020 by 2:00 p.m.
Tentative Interview (if necessary)	Week of November 23, 2020
Tentative City Council Award	December 8, 2020

X. CONSULTANT AGREEMENT

A sample of the City's Professional Services Agreement is provided in this RFP as **Attachment C**. Your proposal shall contain a statement of the firm's willingness to execute the contract with an indication of any contractual requirements for which the Consultant takes exception. The bidder to whom award is made shall execute a written contract with the City in the form included in these contract documents and shall submit evidence of insurance, bonds, sufficiency of insurer documents, and other documents as herein provided within fifteen (15) days from the date of

mailing of the written Notice of Award. Failure or refusal to enter into the agreement or to conform to any of the stipulated requirements shall be just cause for the annulment of the award and forfeiture of the bidder's security. In the event the bidder to whom an award is made fails or refuses to execute the agreement within said time, submit evidence of insurance, necessary bonds, sufficiency of surety documents, or other documents as specified in the contract documents, the City may declare the bidder's security forfeited, and it may award the work to the next lowest bidder or may call for new bids.

If the successful bidder refuses or fails to execute the contract, furnish evidence of insurance, necessary bonds, sufficiency of surety documents, or other documents as specified in the contract documents, the City may award the contract to the second lowest responsible bidder. If the second lowest responsible bidder refuses to execute the contract, furnish evidence of insurance, necessary bonds, sufficiency of surety documents, or other documents as specified in the contract documents, the City may award the contract to the third lowest responsible bidder to execute the contract; such bidder's securities shall be likewise forfeited to the City.

END OF RFP

ATTACHMENTS TO FOLLOW

Attachment A	Affidavit of Non-Collusion
Attachment B	Claims History
Attachment C	Sample Professional Services Agreement

ATTACHMENT A

AFFIDAVIT OF NON-COLLUSION

I state that I am _____ (title) of _____
(name of firm) and that I am authorized to make this affidavit on behalf of my firm, and its owners, directors, and officers. I am the person responsible in my firm for the price(s) and the amount of this Offer.

I state that:

- (1) The price(s) and amount of this Offer have been arrived at independently and without consultation, communication or agreement with any other Proposer or potential Proposer.
- (2) That neither the price(s) nor the amount of this Offer, and neither the approximate price(s) nor approximate amount of this Offer, have been disclosed to any other firm or person who is a Proposer or potential Proposer, and they will not be disclosed before Solicitation opening.
- (3) No attempt has been made or will be made to induce any firm or person to refrain from bidding on this contract, or to submit an Offer higher than this Offer, or to submit any intentionally high or noncompetitive Offer or other form of complementary Offer.
- (4) The Offer of my firm is made in good faith and not pursuant to any agreement or discussion with, or inducement from, any firm or person to submit a complementary or other noncompetitive Offer.
- (5) _____ (name of firm), its affiliates, subsidiaries, officers, directors and employees are not currently under investigation by any governmental agency and have not in the last four years been convicted of or found liable for any act prohibited by State or Federal law in any jurisdiction, involving conspiracy or collusion with respect to bidding on any public contract, except as described in the attached appendix.

I state that _____ (name of firm) understands and acknowledges that the above representations are material and important, and will be relied on by the City of South El Monte in awarding the contract(s) for which this Offer is submitted. I understand and my firm understands that any misstatement in this affidavit is and shall be treated as fraudulent concealment from the City of South El Monte of the true facts relating to the submission of Offers for this contract.

(Authorized Signature)

(Name of Company/Position)

Sworn to and subscribed before me this _____ day of _____, 20____.

Notary Public for California

My Commission Expires: _____

ATTACHMENT B

CLAIMS HISTORY

Each Consultant shall submit a summary of whether or not any of the following events have occurred within the past five (5) years and, if so, a brief description of the circumstances involved (including, without limitation, the names of parties involved, current status and final disposition of the matter of dispute):

Failure to disclose any circumstances requested in the following paragraphs is grounds for disqualification.

- Failure by Consultant or any sub-Consultant to enter into a contract to which it has received an award by a public entity.
- Forfeiture of a bid or proposal bond by proposer or any sub-Consultant.
- Termination for default under a contract awarded by a public entity to Consultant or any sub-Consultant.
- Debarment of Consultant or any sub-Consultant by any municipal, county, state, federal, or local agency (note: debarment is grounds for automatic disqualification).
- The filing of a lawsuit or arbitration in which the Consultant or a sub-Consultant was a defendant or cross-defendant at any time within the past five (5) years that involved the performance of project, program, or construction management services and that involved an amount in controversy sought to be recovered from Consultant or the sub-Consultant of more than \$100,000.00.
- Conviction of Consultant, a sub-Consultant, or any of their principals or officers for violation of a state or federal antitrust law involving bid rigging, collusion, or restriction on competition between bidders, or conviction of violating any other federal or state law relating to bidding or contract performance (note: such conviction is grounds for automatic disqualification).
- Any publications involving firm or principals alleging or claiming corruption (such claims are grounds for automatic disqualification).
- Any suspension, revocation, or other disciplinary proceeding relating to a contracting or professional license issued to proposer or a sub-Consultant.

ATTACHMENT C
SAMPLE PROFESSIONAL SERVICES AGREEMENT
CONTRACT SERVICES AGREEMENT

By and Between

CITY OF SOUTH EL MONTE

and

**AGREEMENT FOR CONTRACT SERVICES
BETWEEN THE CITY OF SOUTH EL MONTE AND**

THIS AGREEMENT FOR CONTRACT SERVICES (herein “Agreement”) is made and entered into this ____ day of _____, 2020 by and between the City of South El Monte, a California, a municipal corporation (“City”) and _____, _____ (“Consultant”). City and Consultant may be referred to, individually or collectively, as “Party” or “Parties.”

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of South El Monte Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by this reference, which may be referred to herein as the “services” or “work” hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase “highest

professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant’s Proposal.

The Scope of Services shall include the Consultant’s scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant’s risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City’s own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other Consultants. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed _____ Dollars (\$ _____) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.9.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall contain all information specified in Exhibit "C", and shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding _____ years from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D"). [The City may, in its sole discretion, extend the Term for additional one-year terms.]

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant ("Principals") are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

(Name)

(Title)

(Name)

(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be [_____or] such person as may be designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any

time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant. Consultant represents and warrants that the personnel used to provide services to the City pursuant to this Agreement are classified by Consultant as employees and that Consultant issues or will issue a W-2 to such personnel.

In the event that Consultant or any employee, agent, subcontractor, or independent contractor of Consultant providing services under this Agreement claims or is determined by a federal or state agency, a court of competent jurisdiction, or the California Public Employees' Retirement System ("CalPERS") to be classified as other than an independent contractor for the City, then Consultant shall indemnify, defend, and hold harmless the City for the payment of any and all assessed fines, penalties, judgments, employee and/or employer contributions, and any other damages and costs assessed to the City as a consequence of, or in any way attributable to, the assertion that Consultant or any of Consultant's personnel used to provide the Services under this Agreement are other than independent contractors of the City.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

Without limiting Consultant's indemnification of City, and prior to commencement of any services under this Agreement, Consultant shall obtain, provide and maintain at its own expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

(a) General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$2,000,000 per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO "insured contract" language will not be accepted.

(b) Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Services to be performed under this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(c) Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

(d) Workers' compensation insurance. Consultant shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least \$1,000,000).

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

5.2 General Insurance Requirements.

(a) Proof of insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. Insurance certificates and endorsements must be approved by City's Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(b) Duration of coverage. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, its agents, representatives, employees or subconsultants.

(c) Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(d) City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(e) Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or that is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(f) Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(g) Enforcement of contract provisions (non-estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(h) Requirements not limiting. Requirements of specific coverage features or limits contained in this section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(i) Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(j) Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(k) Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(l) Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(m) Pass through clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

(n) Agency's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

(o) Self-insured retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(p) Timely notice of claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(q) Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

5.3 Indemnification.

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable ("indemnitors"), or arising from Consultant's or indemnitors'

reckless or willful misconduct, or arising from Consultant's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys' fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys' fees.

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years

following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant's business, custody of the books and records may be given to City, and access shall be provided by Consultant's successor in interest. Notwithstanding the above, the Consultant shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials") prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City's sole risk and without liability to Consultant, and Consultant's guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom. Moreover, Consultant with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes: Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give

notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which

may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager

and to the attention of the Contract Officer (with her/his name and City title), City of South El Monte, 6330 Pine Avenue, South El Monte, California 90201 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be

“remote” or “noninterests” pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant’s Authorized Initials _____

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF SOUTH EL MONTE, a municipal corporation

Gloria Olmos, Mayor

ATTEST:

Donna Schwartz, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Anthony R. Taylor, City Attorney

CONSULTANT:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Address: _____

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2020 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
☐ INDIVIDUAL	_____
☐ CORPORATE OFFICER	TITLE OR TYPE OF DOCUMENT

TITLE(S)	
☐ PARTNER(S) ☐ LIMITED	_____
☐ GENERAL	NUMBER OF PAGES
☐ ATTORNEY-IN-FACT	
☐ TRUSTEE(S)	_____
☐ GUARDIAN/CONSERVATOR	DATE OF DOCUMENT
☐ OTHER _____	

SIGNER IS REPRESENTING:	_____
(NAME OF PERSON(S) OR ENTITY(IES))	SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy or validity of that

STATE OF CALIFORNIA

COUNTY OF LOS ANGELES

On _____, 2020 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form.

CAPACITY CLAIMED BY SIGNER	DESCRIPTION OF ATTACHED DOCUMENT
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☐ ATTORNEY-IN-FACT	
☐ TRUSTEE(S)	_____
☐ GUARDIAN/CONSERVATOR	DATE OF DOCUMENT
☐ OTHER _____	

SIGNER IS REPRESENTING:	_____
(NAME OF PERSON(S) OR ENTITY(IES))	SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT “A”

SCOPE OF SERVICES

- I.** Consultant will perform the following Services:
 - A.
- II.** As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:
- III.** In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City appraised of the status of performance by delivering the following status reports:
- IV.** All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.
- V.** Consultant will utilize the following personnel to accomplish the Services:

EXHIBIT “B”

SPECIAL REQUIREMENTS

(Superseding Contract Boilerplate)

EXHIBIT "C"

SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks at the following rates:

		RATE	TIME	SUB-BUDGET
A.	_____	_____	_____	_____
B.	_____	_____	_____	_____
C.	_____	_____	_____	_____
D.	_____	_____	_____	_____

II. A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.

III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task subbudget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.9.

IV. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:

- A.** Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
- B.** Line items for all materials and equipment properly charged to the Services.
- C.** Line items for all other approved reimbursable expenses claimed, with supporting documentation.
- D.** Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.

V. The total compensation for the Services shall not exceed the Contract Sum as provided in Section 2.1 of this Agreement.

VI. The Consultant's billing rates for all personnel are attached as Exhibit C-1.

EXHIBIT “D”

SCHEDULE OF PERFORMANCE

- I. Consultant shall perform all services timely in accordance with the following schedule:**

		<u>Days to Perform</u>	<u>Deadline Date</u>
A.	Task A	_____	_____
B.	Task B	_____	_____
C.	Task C	_____	_____

- II. Consultant shall deliver the following tangible work products to the City by the following dates.**

- A.
- B.
- C.

- III. The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.**



City Council Agenda Report

**Agenda
Item No.
9.a.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

SUBMITTED BY: Rachel Barbosa, City Manager

SUBJECT: CONSIDERATION OF URGENCY ORDINANCE 1249-U
AMENDING URGENCY ORDINANCE 1244-U,
COMMERCIAL EVICTION PROTECTIONS AND
RESIDENTIAL RENT DEFERRALS RELATING TO THE
COVID-19 PANDEMIC

SUMMARY: On April 7, 2020, the City Council of the City of South El Monte adopted Urgency Ordinance 1244-U, which established protections against evictions of businesses from commercial property and residential rent deferrals during the current declared state of emergency related to the COVID-19 pandemic. Amendments are necessary to Urgency Ordinance 1244-U in order to ensure that it continues to effectively protect the health, safety, and welfare of the citizens of South El Monte and to address changes in State law.

RECOMMENDATION: Staff recommends City Council adopt Urgency Ordinance No. 1249-U, amending Urgency Ordinance 1244-U to make technical changes relating to commercial eviction protections and residential rent deferrals related to the COVID-19 Pandemic.

FISCAL IMPACT: The amendments to Urgency Ordinance 1244-U would not create any additional fiscal impact. Urgency Ordinance 1244-U prohibits landlords in the City from evicting commercial tenants from any property based on failure to pay rent, if the failure to pay rent is due to the COVID-19 pandemic and is documented, at least until March 31, 2021.

DISCUSSION: A novel coronavirus (COVID-19) was detected in Wuhan City, Hubei Province, in China in December 2019. The United States, the State of California, and the City of South El Monte have all declared states of emergency arising from the COVID-19 pandemic.

In response to the COVID-19 pandemic, the City Council adopted Urgency Ordinance 1244-U, which established protections against evictions of businesses from commercial property and provided residential rent deferrals during the current declared state of emergency related to the COVID-19 pandemic. Urgency Ordinance 1244-U relied upon Governor's Executive Order N-28-20 ("Order N-28-20") to enact such protections and is attached to this report for the City Council's reference.

Since the adoption of Urgency Ordinance 1244-U, several changes in State law have occurred. Accordingly, the purpose of the attached Urgency Ordinance 1249-U is to make technical changes to Urgency Ordinance 1244-U to conform to state law as follows:

1. Amendments to Section 9. Order N-28-20 permitted cities to enact commercial eviction protections and is currently set to expire on March 31, 2021 unless further extended by the Governor. Urgency Ordinance 1249-U would amend Urgency Ordinance 1244-U so that commercial eviction protections would expire at the same time as Order N-28-20's commercial eviction protections.
2. Amendments to Section 6. Urgency Ordinance 1244-U further provided that it does not limit a landlord's ability to utilize the emergency eviction procedures established by the Judicial Council on April 6, 2020, through Emergency Rule 1; however, this Emergency Rule 1 is no longer in effect. Additionally, the Governor recently signed into law Assembly Bill 3088, which provides a comprehensive protection for residential tenants and procedures for landlords. Urgency Ordinance 1249-U makes revisions stating that it would not prohibit the use of procedures provided under Judicial Council Rules or Assembly Bill 3088.
3. Amendments to Section 3(C). The proposed Urgency Ordinance 1249-U would also make technical and conforming changes to Section 3(C) of Urgency Ordinance 1244-U that are needed in response to the above two changes.

The proposed Urgency Ordinance would take effect immediately upon adoption by a four-fifths (4/5) vote pursuant to Government Code section 36937(b), which applies to ordinances "[f]or the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency."

ATTACHMENTS:

[Attachment A - Urgency Ordinance 1249-U](#)

URGENCY ORDINANCE NO. 1249-U

AN URGENCY ORDINANCE OF THE CITY OF SOUTH EL MONTE, CALIFORNIA, AMENDING URGENCY ORDINANCE 1244U RELATING TO COMMERCIAL EVICTION PROTECTIONS AND RESIDENTIAL RENT DEFERRALS DUE TO THE COVID-19 PANDEMIC

WHEREAS, pursuant to Government Code Section 36937(b), any ordinance for the immediate preservation of the public peace, health or safety, containing a declaration of the facts constituting the urgency, and is passed by a four-fifths vote of the City Council, shall take effect immediately upon its adoption; and

WHEREAS, in December 2019, an outbreak of respiratory illness due to a novel coronavirus (COVID-19) was first identified in Wuhan City, Hubei Province, China; and

WHEREAS, the Center for Disease Control and Prevention (CDC) considers COVID-19 to be a very serious public health threat with outcomes ranging from very mild (including some with no reported symptoms) to severe, including illness resulting in death; and

WHEREAS, on January 30, 2020, the World Health Organization declared a Public Health Emergency of International Concern over the global spread of COVID-19; and

WHEREAS, on January 31, 2020, Health and Human Services declared a Public Health Emergency for the United States to aid the nation's healthcare community in responding to COVID-19; and

WHEREAS, the California Department of Public Health (CDPH) has activated its Medical and Health Coordination Center, and the Office of Emergency Services recently activated the State Operations Center to provide support and guide actions to preserve public health; and

WHEREAS, on March 4, 2020, Governor Gavin Newsom declared a State of Emergency for the State of California; and

WHEREAS, on March 11, 2020, the World Health Organization characterized COVID-19 as a "pandemic"; and

WHEREAS, on March 12, 2020, Governor Newsom issued Executive Order N-25-20 regarding COVID-19 further enhancing State and local government's ability to respond to the COVID-19 pandemic; and

WHEREAS, on March 12, 2020, the Mayor of the City of South El Monte, pursuant to Section 2.60.060 of the South El Monte Municipal Code, signed a proclamation which proclaimed the existence of a local emergency based on COVID-19 ("Proclamation"); and

WHEREAS, on March 13, 2020, President Trump declared a National State of Emergency in response to increased spread of COVID-19; and

WHEREAS, on March 16, 2020, Governor Newsom issued Executive Order N-28-20, in response to the COVID-19 pandemic, which permits, but does not require, cities and counties to adopt measures against evictions; and

WHEREAS, on March 17, 2020, the City Council of the City of South El Monte ratified the Proclamation; and

WHEREAS, the commercial protections and authorizations under Executive Order N-28-20 has been extended to March 31, 2021 pursuant to paragraph 2 of Executive Order N-80-20; and

WHEREAS, on April 7, 2020, the City Council of the City of South El Monte adopted Urgency Ordinance 144U, which residential renters qualifying for the protections under Governor's Executive Order N-37-20 have a 180 day period in which they may pay lawfully charged rent to their landlords (as more particularly specified therein), provided eviction protections for businesses renting commercial property (including a 180 day payback period), and provided eviction protections for individuals currently part of a long-term stay at a hotel, motel or similar; and

WHEREAS, Urgency Ordinance 1244U did not limit a landlord's ability to utilize the eviction procedures approved by the Judicial Council on April 6, 2020, as provided in Emergency Rule 1; and

WHEREAS, on August 31, 2020, Governor Newsom signed the "Tenant, Homeowner, and Small Landlord Relief and Stabilization Act of 2020" ("AB 3088"); and

WHEREAS, in summary, AB 3088 states that no tenant can be evicted before February 1, 2021 as a result of rent owed due to a COVID-19 related hardship accrued between March 4 – August 31, 2020, if the tenant provides a declaration of hardship according to the legislation's timelines. For a COVID-19 related hardship that accrues between September 1, 2020 – January 31, 2021, tenants must also pay at least 25 percent of the rent due to avoid eviction; and

WHEREAS, the eviction procedures approved by the Judicial Council on April 6, 2020, as provided in Emergency Rule 1, are no longer in place; and

WHEREAS, based on the foregoing, the City Council seeks and intends to protect health, safety, and welfare of the residents and businesses of the City of South El Monte by making technical revisions to Urgency Ordinance 1244-U in light of the above.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE, CALIFORNIA DOES ORDAIN AS FOLLOWS:

SECTION 1. **Recitals.** The foregoing recitals are true and correct and are incorporated herein by reference as findings of fact.

SECTION 2. **Urgency and Emergency Findings.** The City Council finds that there is a current and immediate threat to public health, safety, and welfare posed by

COVID-19, and there is an immediate need for the preservation of public peace, health or safety of the residents and community, including the businesses, of the City.

Businesses in the City have experienced a sudden reduction in business income due to decreased operational hours and customer demand relating to the impacts of COVID-19 and governmental responses to COVID-19. This sudden decrease in business income jeopardizes the City's businesses' ability to pay rent to their landlords and, consequently, will negatively impact such businesses' ability to provide critical services and income to the City's community such that it jeopardizes public health, safety, and welfare. This is of particular concern during the COVID-19 pandemic as the City's businesses provide critical services and supplies to the City's residents.

This Urgency Ordinance would further the intent and purpose of Urgency Ordinance 1244U to address the above-mentioned threats to public peace, health, and safety by making technical changes to Urgency Ordinance 1244U.

SECTION 3. **Amendments to Section 3(C)(1) of Urgency Ordinance 1244U.**
Section 3(C)(1) of Urgency Ordinance 1244U is hereby amended in its entirety as follows:

“A commercial tenant afforded eviction protection under Sections 3(A) and 3(B) (prior to the expiration thereof pursuant to Section 9), or any executive order of the Governor, shall have up to one hundred eighty (180) days after the expiration of Sections 3(A) and 3(B) (as provided in Section 9), or, if the Governor issues an executive order providing commercial tenants eviction protection, the expiration of such executive order, to pay its landlord unpaid rent. The terms of the repayment plan are to be agreed upon between the landlord and commercial tenant, provided that, if no agreement is reached between the landlord and commercial tenant, the back/past rent due shall be repaid in six (6) equal installments to be paid in monthly intervals beginning thirty (30) days after the date the rent becomes due pursuant to the terms of this Ordinance. No late fees, interests, costs or other penalties shall be assessed or due from the commercial tenant based on the delay in paying rent as provided for in this Ordinance or any applicable executive order of the Governor. During this 180-day period, the protections against eviction set forth in this Ordinance or any applicable executive order of the Governor shall apply to such commercial tenants.”

SECTION 4. **Amendments to Section 6 of Urgency Ordinance 1244U.**
Section 6 (Judicial Council's April 6, 2020, Order) of Urgency Ordinance 1244U is hereby amended in its entirety as follows:

“Section 6. Judicial Council Rules and Assembly Bill No. 3088. Nothing herein shall modify a landlord's ability to use the eviction procedures pursuant to Judicial Council Rules or as provided by Assembly Bill No. 3088 (2020).”

SECTION 5. **Exhibit “A” Deleted.** Exhibit “A” is hereby deleted and removed from Urgency Ordinance 1244U.

SECTION 6. **Expiration Date Modification.** Section 9 (Expiration Date) of Urgency Ordinance 1244U is hereby amended in its entirety as follows:

“Section 9. Expiration Date.

A. Sections 3(A) and 3(B) of this Ordinance shall automatically expire when the commercial eviction protections under Governor’s Executive Order N-28-20 expires on March 31, 2021, pursuant to Paragraph 2 of Governor’s Executive Order N-80-20, or, if the Governor further extends the expiration date of such order, then upon that date.

B. Except as provided in Section 9(A) above, this Ordinance shall automatically expire upon the termination of the City’s local emergency proclaimed by the Mayor on March 12, 2020, and ratified by the City Council on March 17, 2020, pursuant to Chapter 2.60 of the South El Monte Municipal Code.”

SECTION 7. **Adoption and Effective Date.** Pursuant Government Code Section 36937, this ordinance shall take effective immediately upon approval of the same by a four-fifths (4/5) affirmative vote of the City Council. The City Council finds and determines that the same is necessary to the preservation of the public peace, health or safety, in that adoption of the same will help prevent commercial evictions and control residential rent issues that may arise during declared states of emergency.

SECTION 8. **Severability.** If any section, subsection, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person or circumstances, is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the application of any other section, subsection, sentence, clause, phrase, or portion of this Ordinance, and to this end the invalid or unconstitutional section, subsection, sentence, clause, phrase of this ordinance are declared to be severable. The South El Monte City Council hereby declares that it would have adopted this ordinance and each section, subsection, sentence, clause, phrase, part or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, parts or portions thereof be declared invalid or unconstitutional.

SECTION 9. **Certification.** The City Clerk shall certify to the adoption of this Ordinance and shall cause the same to be posted and codified in the manner required by law.

PASSED, APPROVED and ADOPTED by a four-fifths (4/5) vote at a regular meeting of the South El Monte City Council on this 13th day of October, 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:

Anthony R. Taylor, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk for the City of South El Monte, do hereby certify that the foregoing Ordinance, being Ordinance No. 1249-U, was duly passed and adopted by the City Council of the City of South El Monte at a regular meeting of said Council held on the 13th day of October 2020, and that said Ordinance was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk



City Council Agenda Report

**Agenda
Item No.
9.b.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: William Fox, Interim Finance Director

SUBJECT: CONSIDERATION OF RESOLUTION NO. 20-112
AUTHORIZING A PROFESSIONAL SERVICES
AGREEMENT WITH NBS GOVERNMENT FINANCE
GROUP FOR A COST ALLOCATION, USER FEE STUDY,
AND BUSINESS LICENSE FEE UPDATE STUDY; AND
REQUESTING AN ADDITIONAL ALLOCATION OF
FUNDS

SUMMARY: On July 30, 2020, the City issued a Request for Proposals (RFP) for a cost allocation analysis, user fee study, and business license fee update study. There were five firms that submitted proposals by the deadline of August 31, 2020 by 4 p.m. Staff reviewed the proposals, conducted interviews, and determined that, of the five companies, NBS Government Finance Group (NBS) is the consulting firm that best meets the needs of the City and provided the lowest bid.

RECOMMENDATION: Staff recommends that the City Council adopt Resolution No. 20-112, authorizing a Professional Services Agreement with NBS. NBS was judged to be the best firm to fulfill the City's needs and was also the lowest responsible bidder. Staff is also requesting approval of an allocation of \$17,920, which is the amount in excess of what was previously budgeted in the Fiscal Year 2020-21 budget to perform this study.

FISCAL IMPACT: The fees proposed for the study are \$42,920. In the Fiscal Year 2020-21 budget, the City Council approved \$25,000 for such a study. The extra cost of \$17,920 is based upon the addition of the inclusion of the business license fees program in the scope of services, and higher professional fees than had been anticipated. The addition of the business license fees to scope of the work was done after it was recognized that this area has not been evaluated and adjusted since 1995. Had this been

known at the time of the Fiscal Year 2020-21 budget approval, the budget request would have been higher to take into consideration the extra scope of work.

DISCUSSION: At the July 28, 2020 City Council Meeting, Staff requested that the City Council authorize the issuance of an RFP for a full cost allocation analysis, user fee study, and business license fee update. This request was approved and on July 30, 2020 the RFP was issued. The RFP had a closing date of 4 PM on August 31, 2020. In order to get maximum coverage, eleven (11) consulting firms that specialize in cost allocation analysis and fee studies were solicited via email and provided a copy of the RFP. In addition, the RFP was posted on the City's website. Following the opening of the bids, the City determined that all five bids received were responsive to the RFP. After review of the proposals, it was determined that all five firms should be invited to participate in an interview with the Interim Finance Director, Accounting Manager, and Assistant Planner. The proposal costs of the five firms were as follows: MGT Consulting Group \$56,065, Revenue & Cost Specialists \$53,460; Matrix Group \$49,500, Capital Accounting Partners \$47,720; Matrix Group \$49,500; and NBS Government Finance Group \$42,920. The interviews were held on September 21st and September 22nd. Each interview was 45 minutes in length and consisted of a presentation by each firm providing an overview of their experience and qualifications relative to cost allocation analyses and fee studies for municipalities. This was followed by a series of seven questions and answers. Finally, each firm was provided time to make a closing statement on why they should be selected to perform these professional services for the City. After the interviews, the interview panel conferred among one another and determined that NBS was the best fit for the City and was also the lowest bidder.

NBS is a consulting firm founded in 1996 and has worked for over 400 public agencies to date. NBS employs 48 professional staff at its headquarters in Temecula, California and satellite offices in Northern California as well as other states. NBS is a California based S-Corporation, which is 100% employee-owned. The client references provided by NBS stressed outstanding customer service with competitive pricing. Included with the RFP was the City's standard form contract for professional services. There were no exceptions taken by NBS with the City's standard contract. Field work is expected to begin in late October 2020.

ATTACHMENTS:

[Attachment A - Resolution 20-112](#)

[Attachment B - Contractual Agreement](#)

ATTACHMENT A

RESOLUTION NO. 20-112

A RESOLUTION OF THE SOUTH EL MONTE CITY COUNCIL
AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT BETWEEN
THE CITY AND NBS GOVERNMENT FINANCE GROUP FOR
CONSULTING SERVICES

WHEREAS, the City of South El Monte issued a Request for Proposals for consulting services for a Cost Allocation Analysis, User Fee Study, and Business License Fee Update on July 30, 2020; and

WHEREAS, five proposals were received by the August 31, 2020 deadline; and

WHEREAS, all five of the proposals received were responsive and were invited to interview with City staff; and

WHEREAS, following the interviews, staff determined that NBS Government Finance Group was the best fit to provide professional consulting services for the City. NBS Government Finance Group was also the lowest responsible bidder; and

WHEREAS, the NBS Government Finance Group bid for \$42,920 is lower than the other four bids received by the City;

WHEREAS, in the Fiscal Year 2020-21 Budget an amount of \$25,000 was appropriated for this study;

WHEREAS, Additional funding in the amount of \$17,920 must be included in the first budget amendment to the Fiscal Year 2020-21 Budget to cover the contract sum of the proposed agreement; and

WHEREAS, the City Council now wishes to enter in an agreement with NBS Government Finance Group for professional consulting services.

THE CITY COUNCIL OF THE CITY OF SOUTH EL MONTE DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council hereby finds that NBS Government Finance Group is the lowest responsive bidder to the request for proposals.

SECTION 2. The City Council hereby authorizes the City Manager to execute a professional services agreement ("Agreement") with NBS Government Finance Group to provide consulting services for the City, including all tasks requested in the RFP

SECTION 3. The City Council hereby approves the budget appropriation request of \$17,920 to be included with the first budget amendment of the Fiscal Year 2020-21 Budget.

SECTION 4. The City Clerk shall certify to the passage and adoption of this Resolution.

PASSED, APPROVED AND ADOPTED this 13th day of October 2020.

Gloria Olmos, Mayor

ATTEST:

Donna G. Schwartz, City Clerk

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF SOUTH EL MONTE)

I, Donna G. Schwartz, City Clerk of the City of South El Monte, do hereby certify that the foregoing Resolution, being Resolution No. 20-112, was passed and approved by the City Council of the City of South El Monte at a regular meeting of said Council held on the 13th day of October 2020 and that said Resolution was adopted by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Donna G. Schwartz, City Clerk

Attachment B

CONTRACT SERVICES AGREEMENT

By and Between

CITY OF SOUTH EL MONTE

And

NBS GOVERNMENT FINANCE GROUP

AGREEMENT FOR CONTRACT SERVICES BETWEEN THE CITY OF SOUTH EL MONTE AND NBS GOVERNMENT FINANCE GROUP

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 13th day of October 2020 by and between the City of South El Monte, a California, a municipal corporation ("City") and NBS Government Finance Group, a California corporation ("Consultant"). City and Consultant may be referred to, individually or collectively, as "Party" or "Parties."

RECITALS

A. City has sought, by issuance of a Request for Proposals or Invitation for Bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Consultant, following submission of a proposal or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of South El Monte Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONSULTANT

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Consultant represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Consultant covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest professional standards" shall mean those standards of practice

recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Consultant's Proposal.

The Scope of Services shall include the Consultant's scope of work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Consultant shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Consultant shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Consultant shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Consultant's performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Consultant warrants that Consultant (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Consultant discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Consultant shall immediately inform the City of such fact and shall not proceed except at Consultant's risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Consultant shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City's own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Consultant, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Consultant that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Consultant hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other Consultants. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Consultant the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Forty Two Thousand Nine Hundred Twenty Dollars (\$42,920.00) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.9.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Consultant's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Consultant at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Consultant is required to attend additional meetings to facilitate such coordination, Consultant shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Consultant shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Consultant is certifying compliance with all provisions of the Agreement. The invoice shall contain all information specified in Exhibit "C", and shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Consultant shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Consultant to determine whether the work performed, and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Consultant which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Consultant to be paid within forty-five (45) days of receipt of Consultant's correct and undisputed invoice; however, Consultant acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Consultant for correction and resubmission. Review and payment by City for any invoice provided by the Consultant shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Consultant for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Consultant.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Consultant, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Consultant shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Consultant be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding One year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D"). The City may, in its sole discretion, extend the Term for one additional one-year term.

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Consultant.

The following principals of Consultant ("Principals") are hereby designated as being the principals and representatives of Consultant authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

Nicole Kissam
(Name)

Director/Project Manager
(Title)

Michael
(Name)

Client Services Director
(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing principals shall be responsible during the term of this Agreement for directing all activities of Consultant and devoting sufficient time to personally supervise the services hereunder. All personnel of Consultant, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Consultant without the express written approval of City. Additionally, Consultant shall utilize only competent personnel to perform services pursuant to this Agreement. Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Consultant.

Consultant shall have no authority to bind City in any manner, or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be the William Fox, Interim Finance Director, as designated by the City Manager. It shall be the Consultant's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Consultant shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Consultant.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Consultant, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Consultant's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Consultant shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venture or a member of any joint enterprise with Consultant. Consultant represents and warrants that the personnel used to provide services to the City pursuant to this Agreement are classified by Consultant as employees and that Consultant issues or will issue a W-2 to such personnel.

In the event that Consultant or any employee, agent, subcontractor, or independent contractor of Consultant providing services under this Agreement claims or is determined by a federal or state agency, a court of competent jurisdiction, or the California Public Employees' Retirement System ("CalPERS") to be classified as other than an independent contractor for the City, then Consultant shall indemnify, defend, and hold harmless the City for the payment of any and all assessed fines, penalties, judgments, employee and/or employer contributions, and any other damages and costs assessed to the City as a consequence of, or in any way attributable to, the assertion that Consultant or any of Consultant's personnel used to provide the Services under this Agreement are other than independent contractors of the City.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Consultant, its principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Consultant shall not contract with any other entity to perform in whole or in part the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Consultant or any surety of Consultant of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

Without limiting Consultant's indemnification of City, and prior to commencement of any services under this Agreement, Consultant shall obtain, provide and maintain at its own

expense during the term of this Agreement, policies of insurance of the type and amounts described below and in a form satisfactory to City.

(a) General liability insurance. Consultant shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than \$2,000,000 per occurrence, \$4,000,000 general aggregate, for bodily injury, personal injury, and property damage. The policy must include contractual liability that has not been amended. Any endorsement restricting standard ISO “insured contract” language will not be accepted.

(b) Automobile liability insurance. Consultant shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Consultant arising out of or in connection with Services to be performed under this Agreement, including coverage for any owned, hired, non- owned or rented vehicles, in an amount not less than \$1,000,000 combined single limit for each accident.

(c) Professional liability (errors & omissions) insurance. Consultant shall maintain professional liability insurance that covers the Services to be performed in connection with this Agreement, in the minimum amount of \$1,000,000 per claim and in the aggregate. Any policy inception date, continuity date, or retroactive date must be before the effective date of this Agreement and Consultant agrees to maintain continuous coverage through a period no less than three (3) years after completion of the services required by this Agreement.

(d) Workers’ compensation insurance. Consultant shall maintain Workers’ Compensation Insurance (Statutory Limits) and Employer’s Liability Insurance (with limits of at least \$1,000,000).

(e) Subcontractors. Consultant shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit “B”.

5.2 General Insurance Requirements.

(a) Proof of insurance. Consultant shall provide certificates of insurance to City as evidence of the insurance coverage required herein, along with a waiver of subrogation endorsement for workers’ compensation. Insurance certificates and endorsements must be approved by City’s Risk Manager prior to commencement of performance. Current certification of insurance shall be kept on file with City at all times during the term of this Agreement. City reserves the right to require complete, certified copies of all required insurance policies, at any time.

(b) Duration of coverage. Consultant shall procure and maintain for the duration of this Agreement insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the Services hereunder by Consultant, its agents, representatives, employees or subconsultants.

(c) Primary/noncontributing. Coverage provided by Consultant shall be primary and any insurance or self-insurance procured or maintained by City shall not be required to contribute with it. The limits of insurance required herein may be satisfied by a combination of primary and umbrella or excess insurance. Any umbrella or excess insurance shall contain or be endorsed to contain a provision that such coverage shall also apply on a primary and non-contributory basis for the benefit of City before the City's own insurance or self-insurance shall be called upon to protect it as a named insured.

(d) City's rights of enforcement. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, City has the right but not the duty to obtain the insurance it deems necessary and any premium paid by City will be promptly reimbursed by Consultant or City will withhold amounts sufficient to pay premium from Consultant payments. In the alternative, City may cancel this Agreement.

(e) Acceptable insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance or that is on the List of Approved Surplus Line Insurers in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VI (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the City's Risk Manager.

(f) Waiver of subrogation. All insurance coverage maintained or procured pursuant to this agreement shall be endorsed to waive subrogation against City, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Consultant or others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Consultant hereby waives its own right of recovery against City, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

(g) Enforcement of contract provisions (non-estoppel). Consultant acknowledges and agrees that any actual or alleged failure on the part of the City to inform Consultant of non-compliance with any requirement imposes no additional obligations on the City nor does it waive any rights hereunder.

(h) Requirements not limiting. Requirements of specific coverage features or limits contained in this section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type. If the Consultant maintains higher limits than the minimums shown above, the City requires and shall be entitled to coverage for the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

(i) Notice of cancellation. Consultant agrees to oblige its insurance agent or broker and insurers to provide to City with a thirty (30) day notice of cancellation (except for nonpayment for which a ten (10) day notice is required) or nonrenewal of coverage for each required coverage.

(j) Additional insured status. General liability policies shall provide or be endorsed to provide that City and its officers, officials, employees, and agents, and volunteers shall be additional insureds under such policies. This provision shall also apply to any excess/umbrella liability policies.

(k) Prohibition of undisclosed coverage limitations. None of the coverages required herein will be in compliance with these requirements if they include any limiting endorsement of any kind that has not been first submitted to City and approved of in writing.

(l) Separation of insureds. A severability of interests provision must apply for all additional insureds ensuring that Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the insurer's limits of liability. The policy(ies) shall not contain any cross-liability exclusions.

(m) Pass through clause. Consultant agrees to ensure that its subconsultants, subcontractors, and any other party involved with the project who is brought onto or involved in the project by Consultant, provide the same minimum insurance coverage and endorsements required of Consultant. Consultant agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. Consultant agrees that upon request, all agreements with consultants, subcontractors, and others engaged in the project will be submitted to City for review.

(n) Agency's right to revise specifications. The City reserves the right at any time during the term of the contract to change the amounts and types of insurance required by giving the Consultant ninety (90) days advance written notice of such change. If such change results in substantial additional cost to the Consultant, the City and Consultant may renegotiate Consultant's compensation.

(o) Self-insured retentions. Any self-insured retentions must be declared to and approved by City. City reserves the right to require that self-insured retentions be eliminated, lowered, or replaced by a deductible. Self-insurance will not be considered to comply with these specifications unless approved by City.

(p) Timely notice of claims. Consultant shall give City prompt and timely notice of claims made or suits instituted that arise out of or result from Consultant's performance under this Agreement, and that involve or may involve coverage under any of the required liability policies.

(q) Additional insurance. Consultant shall also procure and maintain, at its own cost and expense, any additional kinds of insurance, which in its own judgment may be necessary for its proper protection and prosecution of the work.

5.3 **Indemnification.**

To the full extent permitted by law, Consultant agrees to indemnify, defend and hold harmless the City, its officers, employees and agents (“Indemnified Parties”) against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein “claims or liabilities”) that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Consultant, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Consultant is legally liable (“indemnitors”), or arising from Consultant’s or indemnitors’ reckless or willful misconduct, or arising from Consultant’s or indemnitors’ negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Consultant will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorneys’ fees incurred in connection therewith;

(b) Consultant will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Consultant hereunder; and Consultant agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Consultant hereunder, Consultant agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorneys’ fees.

Consultant shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Consultant shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Consultant in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City’s sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City’s negligence, except that design professionals’ indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Consultant and shall survive termination of this Agreement.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Consultant shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the “books and records”), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Consultant’s business, custody of the books and records may be given to City, and access shall be provided by Consultant’s successor in interest. Notwithstanding the above, the Consultant shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Consultant shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement as the Contract Officer shall require. Consultant hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Consultant is providing design services, the cost of the project being designed, Consultant shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Consultant is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the “documents and materials”) prepared by Consultant, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Contract Officer or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant will be at the City’s sole risk and without liability to Consultant, and Consultant’s guarantee and warranties shall not extend to such use, reuse or assignment. Consultant may retain copies of such

documents for its own use. Consultant shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom. Moreover, Consultant with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered “voluntary” provided Consultant gives City notice of such court order or subpoena.

(c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney’s fees, caused by or incurred as a result of Consultant’s conduct.

(d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Los Angeles, State of California, or any other appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District

Court, venue shall lie exclusively in the Central District of California, in the County of Los Angeles, State of California.

7.2 Disputes: Default.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Consultant hereby authorizes City to deduct from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Consultant's acts or omissions in performing or failing to perform Consultant's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Consultant, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Consultant to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this

Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Consultant shall file a statutory claim pursuant to Government Code Sections 905 et seq. and 910 et seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon thirty (30) days' written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officer. In addition, the Consultant reserves the right to terminate this Contract at any time, with or without cause, upon sixty (60) days' written notice to City, except that where termination is due to the fault of the City, the period of notice may be such shorter time as the Consultant may determine. Upon receipt of any notice of termination, Consultant shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Consultant has initiated termination, the Consultant shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Consultant has initiated termination, the Consultant shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Consultant.

If termination is due to the failure of the Consultant to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorneys' Fees.

If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees. Attorney's fees shall include attorney's fees on any appeal, and in addition a party entitled to attorney's fees shall be entitled to all other reasonable costs for investigating such action, taking depositions and discovery and all other necessary costs the court allows which are incurred in such litigation. All such fees shall be deemed to have accrued on commencement of such action and shall be enforceable whether or not such action is prosecuted to judgment.

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Consultant or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of services under this Agreement. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

No officer or employee of the City shall have any financial interest, direct or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

8.3 Covenant Against Discrimination.

Consultant covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Consultant shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Consultant hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C. § 1101 *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Consultant so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Consultant hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorneys' fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of South El Monte, 6330 Pine Avenue, South El Monte, California 90201 and in the case of the Consultant, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration: Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5. Consultant warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Consultant further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Consultant is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Consultant's Authorized Initials _____

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) that entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

CITY OF SOUTH EL MONTE, a municipal corporation

Gloria Olmos, Mayor

ATTEST

Donna G. Schwartz, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Anthony R. Taylor, City Attorney

CONSULTANT:

NBS GOVERNMENT FINANCE GROUP, a California corporation

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

Address: _____

Two corporate officer signatures required when Consultant is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

EXHIBIT “A”

SCOPE OF SERVICES

I. Consultant will perform the following:

- A. Consultant will perform a Cost Allocation Plan which is an analysis accompanied by supporting documentation which distributes general governmental and support service costs to the direct municipal services and activities provided to the public. The cost allocation plan encompasses the following analytical steps.
 - a. Compile actual cost data;
 - b. Express costs according to the functions of service they provide;
 - c. Assign a factor to use as a basis for allocation;
 - d. Perform a minimum of two-step iteration of cost allocations;
 - e. Derive total assigned overhead amounts by public service/fund;
 - f. Prepare a review-draft of outcomes from Cost Allocation Plan. Generate annual allocated costs by budget unit and fund. Meet with City staff via teleconference at least once during this process to review interim analysis and progress. Collect input and review at least one round of revisions to the draft plan results;
 - g. Prepare a report documenting the Cost Allocation Plan. The report shall include an Executive Summary, illustration of analytical methods, presentation of findings, narrative descriptions complying with the standards of Title 2 CFR, and a technical appendix showing the analysis and any relevant data sources; and
 - h. Participate in the presentation of the draft plan to the City’s Contract Officer and others deemed necessary by the Contract Officer, collect input, and make approximately one round of revisions to the draft report.
- B. Consultant will perform User Fee Study & Business License Fee Study recognizing user and/or regulatory fees represent cost recovery opportunities entirely within the City’s control. The approach taken for fee analysis shall be as follows:
 - a. Fee structure design – Review existing fees for service and set the best structure for cost recovery. Add new fee items where applicable. Consider and apply best industry practices.
 - b. Organizational and service time analysis – Understand key business processes that impact fees for services. Collect data on how long it takes to provide each

service.

- c. Cost of service analysis – Determine the total annual costs associated with fee-related services. Identify any costs that are not eligible for fee recovery. Calculate the total cost of providing each service at the individual fee level.
- d. Time valuation – Calculate fully burdened hourly rates.
- e. Implementation assistance – Meet with selected stakeholders as needed. Conduct information workshops with elected officials.
- f. Review results of time study used to generate work steps and the time taken in the development of each activity in the work process.
- g. Conduct review events with each individual department to go over the draft results of the study. Determine any necessary refinements to finalize level of effort.
- h. Review results of comparative fee survey with neighboring jurisdictions and ensure that there is an “apples to apples” comparison.
- i. Review pricing analysis with Staff to gain comfort with full cost recovery or some other alternative level of cost recovery. Once level of recovery is determined engage in public outreach with staff.

II. As part of the Services, Consultant will prepare and deliver the following tangible work products to the City:

- a. A written cost allocation study that complies with the requirements and guidelines of the Code of Federal Regulations. The intended use of the results is for the reimbursement of overhead costs for State and Federal grants and to assist in developing burdened labor rates used in the fee studies charged for services.
- b. A written report detailing the justification of fees to be considered for adoption.
- c. Technical appendices displaying the analytical support for findings and action items.
- d. Sufficient meetings with the staff during the analytical phases of the project to develop Study outcomes.
- e. Future access to Consultant experts as the need arises.

III. In addition to the requirements of Section 6.2, during performance of the Services, Consultant will keep the City apprised of the status of performance by delivering

the following status reports:

A. Consultant will provide weekly updates of work completed during previous week, status of ongoing tasks, and any additional information pertinent to City.

IV. All work product is subject to review and acceptance by the City, and must be revised by the Consultant without additional charge to the City until found satisfactory and accepted by City.

V. Consultant will utilize the following personnel to accomplish the Services:

- a. Nicole Kissam – Project Manager
- b. Michael Renter – Client Services Director
- c. Kevin Gardner – Consultant
- d. Lauren Guido – Consultant
- e. Nicole Huerta – Consultant

EXHIBIT “B”

**SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)**

(Not Applicable)

EXHIBIT “C”

SCHEDULE OF COMPENSATION

I. Consultant shall perform the following tasks at the following rates:

Work Plan & Tasks	Director \$190 Hr.	Consultant \$120 Hr.	Total Hours	Total Cost Per Task
Work Plan 1: Full Cost Allocation				
1. Commencement of Data Collection	1	1	2	\$310
2. Organization Review & Allocation Factors	8	16	24	\$3,440
3. Cost Allocation Model Development	2	12	14	\$1,820
4. Draft of Outcomes	1	4	5	\$670
5. Documentation and Presentation of Outcomes	2	6	8	\$1,100
6. Title 2 CFR Version	6	12	18	\$2,580
7. Models and Training	2	4	6	\$860
Subtotal Work Plan 1	22	55	77	\$10,780
Work Plan 2: User Fee Study/Business License Fee Update				
1. Commencement & Data Collection	-	-	-	-
2. Fee Structure Review	12	24	36	\$5,160
3. Time Study	6	40	46	\$5,940
4. Time Valuation	6	18	24	\$3,300
5. Cost of Service Analysis	8	24	32	\$4,400
6. Draft Review and Revision	6	16	22	\$3,060
7. Comparative Fee Study	2	18	20	\$2,540
8. Recommended Pricing Analysis	4	12	16	\$2,200
9. Final Report	4	14	18	\$2,400
10. Presentations & Implementation	8	6	14	\$2,240
11. Models and Training	2	4	6	\$860
Subtotal Work Plan 2	58	176	234	\$32,140
Total of Both Work Plan 1 & 2	80	231	311	\$42,920

II. A retention of ten percent (10%) shall be held from each payment as a contract retention to be paid as part of the final payment upon satisfactory completion of services.

III. Within the budgeted amounts for each Task, and with the approval of the Contract Officer, funds may be shifted from one Task sub-budget to another so long as the Contract Sum is not exceeded per Section 2.1, unless Additional Services are approved per Section 1.9.

- IV. The City will compensate Consultant for the Services performed upon submission of a valid invoice. Each invoice is to include:**
- A. Line items for all personnel describing the work performed, the number of hours worked, and the hourly rate.
 - B. Line items for all materials and equipment properly charged to the Services.
 - C. Line items for all other approved reimbursable expenses claimed, with supporting documentation.
 - D. Line items for all approved subcontractor labor, supplies, equipment, materials, and travel properly charged to the Services.
- V. The total compensation for the Services shall not exceed the Contract Sum as provided in Section 2.1 of this Agreement.**
- VI. The Consultant's billing rates for all personnel are attached in the work plan provided in the Schedule of Compensation.**

EXHIBIT “D”

SCHEDULE OF PERFORMANCE

- I. **Consultant shall perform all services timely in accordance with the following schedule:**

	<u>Hours to Perform</u>	<u>Deadline Date</u>
A. Full Cost Allocation	77	02/26/2021
B. Fees & Business License	234	03/31/2021

- II. **Consultant shall deliver the following tangible work products to the City by the following dates.**

<u>Full Cost Allocation</u>	<u>Deadline Date</u>
A. Draft Report of Outcomes	01/15/2021
B. Documentation & Presentation of Outcomes	02/15/2021
C. Final Report	02/26/2021

<u>Fees & Business License</u>	<u>Deadline Date</u>
A. Draft Review/Revision	01/31/2021
B. Comparative Fee Study/Pricing Analysis	02/15/2021
C. Presentations & Outreach	03/15/2021
D. Final Report	03/31/2021

- III. **The Contract Officer may approve extensions for performance of the services in accordance with Section 3.2.**



City Council Agenda Report

**Agenda
Item No.
9.c.**

DATE: October 13, 2020

TO: Honorable Mayor and Members of the City Council

APPROVED BY: Rachel Barbosa, City Manager

APPROVED AS TO FORM: Anthony R. Taylor, City Attorney

SUBMITTED BY: Donna Schwartz, City Clerk

SUBJECT: DISCUSSION AND/OR ACTION - CONSIDERATION OF
ASSEMBLY BILL (AB 571) IMPOSING CAMPAIGN
CONTRIBUTION LIMITS COMMENCING JANUARY 1, 2021

SUMMARY: Beginning on January 1, 2021, Assembly Bill 571 (AB 571) imposes default campaign contribution limits upon city elected offices and certain regulations relating to campaign funds for cities with no local campaign contribution limit, but also permits cities to enact their own local campaign contribution limits as explained further in the staff report. The City Council is asked to consider either establishing a local campaign contribution limits ordinance or maintaining the status quo of no local ordinance and default to the State requirements of AB 571.

RECOMMENDATION: Staff recommends City Council receive information, discuss, deliberate, and provide direction to staff regarding AB 571 and the following two options: 1. Maintain the status quo of no local ordinance and default to the requirements of AB 571 setting a campaign contribution limit of \$4,700, which is updated by the State in odd-numbered years, and establishing regulations for campaign funds; or 2. Establish an ordinance with local campaign contribution limits lower or higher than the State contribution limit and set standard enforcement regulations as explained further in the staff report.

FISCAL IMPACT: None

DISCUSSION: The City of South El Monte currently does not have mandatory local campaign contribution limits for local elections. Last year the California legislature enacted Assembly Bill 571 (AB 571) that, beginning January 1, 2021, will impose campaign contribution limits for State offices (that are not elected statewide) upon local elections in those cities that do not currently have a local limit in place. AB 571 amended Government

Code Section 85301(a) to do the following: Make State campaign contribution limits applicable to cities that do not currently have them; allow cities to set different campaign contribution limits based on their local circumstances; and empower cities to enforce these limits through standard enforcement methods, such as criminal, civil, or administrative citations. The current campaign contribution limit for State offices is \$4,700 and is updated by the State in odd-numbered years to reflect increases or decreases in CPI.

Commencing January 1, 2021, AB 571 also imposes additional requirements for candidates for elective city office in cities that do not have local campaign contribution limits (i.e., cities that default to State limits). These requirements are summarized as follows:

1. Candidates cannot make a campaign contribution to another candidate in excess of the State contribution limit.
2. A candidate or committee controlled by the candidate cannot make a contribution to any other candidate for city office in excess of \$3,000 per election.
3. Candidates may transfer campaign funds from one controlled committee to another controlled committee of the same candidate using the “last in, first out” or “first in, first out” accounting method. Attributed contributions, when combined with all contributions from the same contributor, cannot exceed the limit imposed by Government Code 85301
4. Candidates cannot personally loan money to his or her campaign an amount, which exceeds \$100,000.
5. An elected city official may establish a committee to oppose a recall measure and election as soon as the official receives a notice of intent against them and can accept contributions without regard to state contribution limits.
6. Candidates can accept contributions after the date of the election only to the extent that the contributions do not exceed net debts outstanding from the election and the contributions do not otherwise exceed the State’s contribution limits.
7. Candidates may carry over contributions raised with one election to pay campaign expenditures incurred in connection with a subsequent election for the same office.
8. A candidate for elective city office may raise contributions for a general election before the primary election, and for a special general election before a special primary election, for the same elective city office if the candidate sets aside these contributions and uses these contributions for the general election or special general election.

California cities are authorized by AB 571 to set local campaign contribution limits at amounts that may be higher or lower than the State limit. However, as noted above, if the City imposes its own local limits pursuant to AB 571, then none of the rules above will apply to the City (even though some do not relate to a limit on contributions). It should also be noted that the Fair Political Practices Commission (FPPC) will not enforce local campaign contribution limits, so staff recommends the City Council consider establishing appropriate local enforcement methods if the City Council desires to establish local campaign contribution limits.

ATTACHMENTS: