

CITY OF HUNTINGTON PARK

City Council

Regular Meeting

Agenda

Tuesday, February 15, 2022

6:00 p.m.
City Hall Council Chambers
6550 Miles Avenue, Huntington Park, CA 90255

Graciela Ortiz
Mayor

Eduardo “Eddie” Martinez
Vice Mayor

Karina Macias
Council Member



Marilyn Sanabria
Council Member

Manuel “Manny” Avila
Council Member

All agenda items and reports are available for review in the City Clerk’s Office and www.hpca.gov. Any writings or documents provided to a majority of the City Council regarding any item on this agenda (other than writings legally exempt from public disclosure) will be made available for public inspection in the Office of the City Clerk located at 6550 Miles Avenue, Huntington Park, California 90255 during regular business hours, 7:00 a.m. to 5:30 p.m., Monday – Thursday, and at the City Hall Council Chambers during the meeting.

Any person who requires a disability-related modification or accommodation, including auxiliary aids or services, in order to participate in the public meeting may request such modification, accommodation, aid or service by contacting the City Clerk’s Office either in person at 6550 Miles Avenue, Huntington Park, California or by telephone at (323) 584-6230. Notification in advance of the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

**PLEASE SILENCE ALL CELL PHONES AND OTHER ELECTRONIC EQUIPMENT
WHILE COUNCIL IS IN SESSION. Thank you.**

PLEASE NOTE--The numerical order of items on this agenda is for convenience of reference. Items may be taken out of order upon request of the Mayor or Members of the City Council. Members of the City Council and the public are reminded that they must preserve order and decorum throughout the Meeting. In that regard, Members of the City Council and the public are advised that any delay or disruption in the proceedings or a refusal to obey the orders of the City Council or the presiding officer constitutes a violation of these rules.

- The conduct of City Council meetings is governed by the portion of the California Government Code commonly known as the "Brown Act" and by the Huntington Park City Council Meeting Rules of Procedure.
- The City Council meeting is for conducting the City's business, and members of the audience must obey the rules of decorum set forth by law. This means that each speaker will be permitted to speak for three minutes to address items that are listed on the City Council agenda or topics which are within the jurisdictional authority of the City.
- No profanity, personal attacks, booing, cheering, applauding or other conduct disruptive to the meeting will be permitted. Any person not adhering to the Rules of Procedure or conduct authorized by the Brown Act may be asked to leave the Council Chambers.
- All comments directed to the City Council or to any member of the City Council must be directed to the Mayor (or Chairperson if Mayor is absent).

We ask that you please respect the business nature of this meeting and the order required for the proceedings conducted in the Council Chambers.

PUBLIC COMMENT

Hybrid virtual/in-person meetings are held pursuant to AB361 because state and local officials are recommending measures to promote social distancing. If you would like to comment on any listed Agenda Items or Non-Agenda Items, please email the City Clerk's office at publiccomment@hpcg.gov or Esarmiento@hpcg.gov or by telephone, by calling (323) 584-6297, up to one (1) hour, prior to the start of the meeting. Public Comments will then be read during public comment and made part of the record. Below is the virtual link and toll free phone number to participate in the meeting.

JOIN VIRTUALLY AT:

<https://zoom.us/j/97897123169?pwd=NkhsNEFacUZCMmJyVFRkOFBsQXZMdz09>

OR PARTICIPATE BY PHONE AT:

- Toll Free: 669-900-9128,
- Meeting ID: 978 9712 3169, then #
- Password: 632516

*ATTENDEES WILL BE MUTED UNTIL THE PUBLIC PARTICIPATION PERIOD IS OPENED. If you are joining by phone, press *9 to be placed in the queue to speak and *6 to unmute your line. Comments from the public are limited to 3 minutes per speaker.*

In the interest of Public Health and Safety in order to minimize the spread of the COVID 19 virus, you are strongly encouraged to observe the City Council meetings on the City of Huntington Park's website at www.hpca.gov or virtually via the Zoom link provided above.

The City of Huntington Park thanks you in advance for your cooperation.

For both open and closed session, each speaker will be limited to three minutes per Huntington Park Municipal Code Section 2-1.207. Time limits may not be shared with other speakers and may not accumulate from one period of public comment to another or from one meeting to another. **This is the only opportunity for public input except for scheduled public hearing items.**

All comments or queries shall be addressed to the Council as a body and not to any specific member thereof. Pursuant to Government Code Section 54954.2(a)(2), the Ralph M. Brown Act, no action or discussion by the City Council shall be undertaken on any item not appearing on the posted agenda, except to briefly provide information, ask for clarification, provide direction to staff, or schedule a matter for a future meeting.

Additions/Deletions to Agenda

Items of business may be added to the agenda upon a motion adopted by a minimum two-thirds vote finding that there is a need to take immediate action and that the need for action came to the attention of the City or Agency subsequent to the agenda being posted. Items may be deleted from the agenda upon the request of staff or Council.

Important Notice

The City of Huntington Park shows replays of City Council Meetings on Local Access Channel 3 and over the Internet at www.hpca.gov. NOTE: Your attendance at this public meeting may result in the recording and broadcast of your image and/or voice.

CALL TO ORDER

ROLL CALL

Mayor Graciela Ortiz
Vice Mayor Eduardo "Eddie" Martinez
Council Member Karina Macias
Council Member Marilyn Sanabria
Council Member Manuel "Manny" Avila

INVOCATION

PLEDGE OF ALLEGIANCE

PRESENTATION(S)

1. RECOGNITION OF JOB FAIR CONTRIBUTORS/PARTICIPANTS

PUBLIC COMMENT

Hybrid virtual/in-person meetings are held pursuant to AB361 because state and local officials are recommending measures to promote social distancing, any emailed public comment will be read into the record at this time.

Pursuant to Government Code Section 54954.3(a) Members of the public will have an opportunity to address the City Council on items listed on this agenda. For items on this agenda each speaker will be limited to three minutes per Huntington Park Municipal Code Section 2-1.207. Time limits may not be shared with other speakers and may not accumulate from one period of public comment to another or from one meeting to another.

STAFF RESPONSE

RECESS TO CLOSED SESSION

CLOSED SESSION

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Government Code Section 54956.9(d)(1)
Construction Industry Force Account Council v. City of Huntington Park
Los Angeles Superior Court Case No. 20STCPO3947
2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9(d)(4)
Consideration of initiation in one potential case
3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9(d)(2)
4. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9(d)(2)

CLOSED SESSION ANNOUNCEMENT

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine and will be enacted by one motion. There will be no separate discussion of these items prior to the time the Council votes on the motion unless members of the Council, staff, or the public request specific items to be discussed and/or removed from the Consent Calendar for separate action.

OFFICE OF THE CITY CLERK

1. CITY COUNCIL MEETING MINUTES

RECOMMENDED THAT CITY COUNCIL:

Approve Minute(s) of the following City Council Meeting(s):

1-1. Regular City Council Meeting held February 1, 2021

2. CONSIDERATION AND APPROVAL OF A RESOLUTION AUTHORIZING THE CITY TO CONTINUE ITS TELECONFERENCED OPEN MEETINGS PURSUANT TO ASSEMBLY BILL 361

RECOMMENDED THAT CITY COUNCIL:

Adopt Resolution No. 2022-06 to Authorize the City of Huntington Park to Conduct Teleconferenced Open Meetings in Accordance with Assembly Bill 361.

FINANCE

3. CHECK REGISTERS

RECOMMENDED THAT CITY COUNCIL:

Approve Accounts Payable and Payroll Warrant(s) dated February 15, 2022;

END OF CONSENT CALENDAR

REGULAR AGENDA

COMMUNITY DEVELOPMENT

4. CONSIDERATION AND APPROVAL TO AWARD PROFESSIONAL SERVICES AGREEMENT TO PROVIDE PRELIMINARY ARCHITECTURAL SERVICES

RECOMMENDED THAT CITY COUNCIL:

1. Award a professional service agreement (PSA) as it relates to Preliminary Architectural Services for the Salt Lake Park Recreation Building, to Crane Architectural Group as a responsive and responsible proposer for a not-to-exceed amount of \$32,200;
2. Authorize the City Manager to execute the PSA.

5. CONSIDERATION AND APPROVAL TO AWARD PROFESSIONAL SERVICES AGREEMENT TO PROVIDE WASTE MANAGEMENT ANALYSIS SERVICES

RECOMMENDED THAT THE CITY COUNCIL:

1. Award a professional service agreement (PSA) as it relates to Waste Management Analysis, to integrity Waste Management as the sole responsive and responsible proposer for a not-to-exceed amount of \$43,260;
2. Authorize the City Manager to execute the PSA.

CITY MANAGER

6. CONSIDERATION AND APPROVAL OF AMERICAN RECOVERY PLAN ACT SPENDING PROPOSAL

RECOMMENDED THAT CITY COUNCIL:

1. Approve the attached American Recovery Plan Act Spending Proposal.
2. Authorize the City Manager to effectuate the distribution of funds according to the American Recovery Plan Act Spending Proposal.

7. CONSIDERATION AND APPROVAL OF THE PROPOSED AGREEMENT WITH TYLER TECHNOLOGIES, INC. FOR FINANCIAL, CIVIC SERVICES, AND WORKFORCE MANAGEMENT SOFTWARE LICENSES AND IMPLEMENTATION

RECOMMENDED THAT CITY COUNCIL:

1. Approve the attached Software as a Service Agreement with Tyler Technologies Inc.
2. Authorize the City manager to negotiate final terms and execute all applicable documents.

PUBLIC WORKS

8. CONSIDERATION AND APPROVAL OF THE INSTALLATION OF WATER METERS AT THE PUBLIC WORKS YARD AND CHELSEA CIRCLE PARK

RECOMMENDED THAT CITY COUNCIL:

1. Approve Inframark's two proposals for a total amount of \$33,440 payable from Water Fund Account No. 681-8030-461.56-41 for the installation of water meters at the Public Works Yard and Chelsea Circle Park; and
2. Authorize the City Manager to execute all pertinent proposals.

9. CONSIDERATION AND APPROVAL TO SOLICIT CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES AS PART OF THE OVERSIGHT OF CIP 2017-03 ACTIVE TRANSPORTATION PROGRAM CYCLE III PROJECT NO. ATPL-5150(015)

RECOMMENDED THAT CITY COUNCIL:

1. Authorize staff to publish and solicit a Request for Proposal (RFP) from qualified firms to provide Construction Management and Inspection Services

10. CONSIDERATION AND APPROVAL OF AWARD OF A CONSTRUCTION CONTRACT FOR CIP 2021-02 CPS AND ARS PROJECT

RECOMMENDED THAT CITY COUNCIL:

1. Award the construction contract to United Storm Water, Inc. for the fabrication and installation of CIP 2021-02 CPS and ARS Project as the lowest responsive, responsible bidder for an amount of \$258,087.50 payable from Account No. 111-8031-433.76-17;
2. Allow for a 10% contingency in the amount of \$25,808.75 payable from Account No. 111-8031-433.76-17;
3. Appropriate a total of \$158,896.25 from the unspent Measure W funds from fiscal year 2020-21 to Account No. 111-8031-433.76-17; and
4. Authorize the City Manager to execute the construction contract agreement and all applicable change orders.

11. CONSIDERATION AND APPROVAL OF AWARD OF CONTRACT FOR THE PREPARATION OF PLANS, SPECIFICATIONS, AND ESTIMATE FOR CIP 2018-11 ATP CYCLE IV PROJECT NO. ATPL-5150(014)

RECOMMENDED THAT THE CITY COUNCIL:

1. Award the preparation of Plans, Specifications, and Estimate for CIP 2018-11 ATP Cycle IV Project No. ATPL-5150(014) to West & Associates, Inc. for a not-to-exceed amount of \$239,500 payable from Account No. 202-8080-431.76-21.
2. Authorize the City Manager to execute the professional services agreement.

12. CONSIDERATION AND APPROVAL TO SOLICIT LABOR COMPLIANCE SERVICES FOR CIP 2021-01 SB1 CDBG STREET RECONSTRUCTION PROJECT FY 21/22

RECOMMENDED THAT THE CITY COUNCIL:

1. Authorize staff to publish and solicit a Request for Proposal (RFP) from qualified firms to provide labor compliance services for CIP 2021-01 SB1 CDBG Street Reconstruction Project FY 21/22.

END OF REGULAR AGENDA

DEPARTMENTAL REPORTS (Information only)

WRITTEN COMMUNICATIONS

COUNCIL COMMUNICATIONS

Council Member Manuel “Manny” Avila

Council Member Marilyn Sanabria

Council Member Karina Macias

Vice Mayor Eduardo “Eddie” Martinez

Mayor Graciela Ortiz

ADJOURNMENT

The City of Huntington Park City Council will adjourn to a Regular Meeting on Tuesday, March 1, 2022 at 6:00 P.M.

I, Eduardo Sarmiento, hereby certify under penalty of perjury under the laws of the State of California that the foregoing agenda was posted at City of Huntington Park City Hall and made available at www.hpca.gov not less than 72 hours prior to the meeting. Dated this 11th Day of February 2022.


Eduardo Sarmiento, City Clerk

ITEM NO. 1

MINUTES

Regular Meeting of the
City of Huntington Park City Council
Tuesday, February 1, 2022

The City Council hybrid virtual/in-person meetings are held pursuant to AB361 because state and local officials are recommending measures to promote social distancing conducted this meeting in accordance with

The regular meeting of the City Council of the City of Huntington Park, California was called to order at 6:05 p.m. on Tuesday, February 1, 2022, in the Council Chambers at City Hall, 6550 Miles Avenue, Huntington Park, California; Mayor Graciela Ortiz presiding.

PRESENT: Councilmember(s): Manuel "Manny" Avila, Marilyn Sanabria, Karina Macias, Vice-Mayor Eduardo "Eddie" Martinez and Mayor Graciela Ortiz

CITY OFFICIALS/STAFF: Ricardo Reyes, City Manager Ricardo Reyes; Cesar Roldan, Director of Public Works; Raul Alvarez Assistant City Manager; Eduardo Sarmiento, City Clerk; Cosme Lozano, Chief of Police, Director of Finance & Administrative Services – Absent; Steve Foster, Director of Community Development; Sergio Infanzon, Director of Communications; Araceli Almazan, City Attorney, Cynthia Norzagaray Director of Parks & Recreation.

INVOCATION

Invocation was led by Mayor Graciela Ortiz.

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Councilmember Macias

PRESENTATION(S)

None

Mayor Ortiz requested the inclusion of Animal Control Officer Recognition at the next City Council meeting.

PUBLIC COMMENTS

The following members of the public submitted public comments:

1. Maria Delia Morales
2. Jose Rivera
3. Guillermo Hernandez
4. Ali (No last name provided)
5. Sandra Pena

(Complete audio and video are available upon request at the City Clerk's office or can be accessed by clicking the following link. [02-1-22 Regular City Council Meeting](#))

STAFF RESPONSE

Mayor Otriz thanked community members for providing public comment and asked the City Manager to provide a response to the concerns mentioned during public comment.

City Manager Reyes began by sharing the Huntington Park does have a traffic authority where community members can report any street and traffic related issues including speed humps mentioned in one of the public comments. Mr. Reyes then turned it over to Police Chief Lozano to address the police related public comments.

Mayor Ortiz quickly chimed and directed the City Clerk's office to reach out to Maria Morales and inform her of the process for requesting speed humps. She also directed Public Works director Cesar Roldan to follow up with Mr. Guillermo Hernandez regarding asphalt situation he mentioned in his public comment.

Police Chief Lozano began by addressing the comments made regarding the incident on Gage. He shared that a supervisor has been assigned to follow up and a report will be provided to the Chief of Police and internal affairs. He added that police officers are discouraged from making those kinds of comments. And stated that the police department does have sufficient police personnel to address the concerns of residents and business owners. He also mentioned that the City operates under a mutual aid agreement where surrounding agencies are available to provide additional support if needed.

Police Chief Lozano then addressed the parking situation on Pacific Blvd. He shared that up until recent months the parking system had not been operating properly, but it has now been up and running for several months. Parking enforcement is monitoring Pacific Blvd. and providing enforcement when violations are seen. Chief Lozano pointed out that there are no time restrictions for individuals parking in stalls, provided that the space is paid for or renewed. He added that staffing challenges due to COVID-19 have also effected parking enforcement. Chief Lozano emphasized that the City has hired for the position of public safety officer and explained how two of those individuals will be put into the parking enforcement program. This additional support will increase the level of enforcement on Pacific Blvd.

Chief Lozano then addressed the issues occurring at the 58th street alley. He shared that enforcement in the alley continues and emphasized that resources have been increased to address the issue. This includes the deployment and collaboration between Police, Public Works, and Inner City Visions who are engaging the vagrant population and providing assistance in order to help transition them out of the alley. Chief Lozano closed his comments by stating that Police are aware of the restraining order Mr. Rivera referred to in his comment and clarified that it is a third party restraining order and not his own. He added that individuals who requested the restraining order conveniently ignore it to allow this individual an opportunity to shower or eat. He reminded that those who requested the restraining order need to report a failure to comply, but none the less police staff continues to monitor the situation.

Mayor Ortiz followed up Chief Lozano's comments by directing staff to document those instances in the alley when assistance is given to ensure tractability. This will also help identify repeat offenders or those who are not accepting the resources being provided by the City.

Community Development Director Steve Forster commented that Inner City Visions is keeping records of individuals who they've engaged and offered assistance. He added that the code enforcement team continues to monitor the area and siting property owners for improper disposal of items like pallets and other waste products that are stored in the alley. Mr. Forster also commented on the asphalt related public comment and clarified the issue is a result of Los Angeles County Sanitation Districts and they are currently in the process of acquiring permits and materials for repairs.

Vice Mayor Martinez inquired about a community hotline where residents can report homeless issues.

Police Chief Lozano shared that current protocol encourages residents to call the police department. Once reported and identified as non-emergency situation the case is delegated to the Police SERMET Team who collaborates with Inner City Visions to address the concern. Chief Lozano then shared the number where residents can call to report any homeless issues (323-584-6254).

(Complete audio and video are available upon request at the City Clerk's office or can be accessed by clicking the following link. [02-1-22 Regular City Council Meeting](#))

CLOSED SESSION

City Attorney Almazan announced it is now appropriate that City Council recess into closed session to discuss the matters listed under the close session portion of the agenda.

Mayor Graciela Ortiz recessed to closed session at 6:30 p.m.

1. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Government Code Section 54956.9(d)(1)
Communities for a Better Environment et. al. v. City of Huntington Park
Los Angeles Superior Court Case No. 21STCP00834
2. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Government Code Section 54956.9(d)(1)
Construction Industry Force Account Council v. City of Huntington Park
Los Angeles Superior Court Case No. 20STCPO3947
3. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Government Code Section 54956.9(d)(4)
Consideration of initiation in one potential case

Mayor Graciela Ortiz reconvened to open session at 7:24 p.m. with all Councilmembers present.

CLOSED SESSION ANNOUNCEMENT

City Attorney Araceli Almazan announced the minutes should reflect that with all five members of the City Council present, the three (3) items listed on the close session

agenda were discussed. With regard to item one (1) Council was briefed, direction was provided, but no final action was taken. With regard to item two (2) and three (3), Council was briefed and no final action was taken. This concluded the closed session report.

CONSENT CALENDAR

OFFICE OF THE CITY CLERK

Prior to the vote Mayor Ortiz asked for clarification on the minutes related to item where minutes reflect Vice Mayor rejoined the City Council meeting.

City Clerk Sarmiento clarified that this was a typo and left on from a previous meeting minutes. He stated that the minutes would be corrected and struck from the record.

Mayor Ortiz asked the Council members who initialed the vote if they were ok with a friendly amendment to include the correction to the minutes.

Both Councilmembers agreed to the friendly amendment and included the correction as part of there motion.

MOTION: Councilmember Sanabria moved to approve the consent calendar with the correction to the City Council Meeting minutes of January 18, 2022, seconded by Councilmember Macias. Motion carried by unanimous consent.

AYES: Council Member(s): Avila, Sanabria, Macias, Vice Mayor Martinez, and Mayor Ortiz

NOES: None

1. CITY COUNCIL MEETING MINTUES

Approve Minute(s) of the following City Council Meeting(s):

1-1. Regular City Council Meeting held December 21, 2021

FINANCE

2. CHECK REGISTERS

Approve Accounts Payable and Payroll Warrant(s) dated January 4, 2022; and
Approve Accounts Payable and Payroll Warrant(s) dated January 18, 2022

END OF CONSENT CALENDAR

REGULAR AGENDA

PUBLIC WORKS

3. CONSIDERATION AND APPROVAL TO SOLICIT PROPOSALS FOR PROJECT

APPROVAL AND ENVIRONMENTAL DESIGN OF CIP 2019-14 ATP CYCLE V PROJECT

MOTION: Councilmember Sanabria moved to authorize staff to publish and solicit a Request for Proposal (RFP) from qualified engineering firms to provide the Project Approval and Environmental Design of CIP 2019-14 ATP Cycle V Project, seconded by Councilmember Macias. Motion carried by unanimous consent.

AYES: Council Member(s): Avila, Sanabria, Macias, Vice Mayor Martinez, and Mayor Ortiz

NOES: None

4. CONSIDERATION AND APPROVAL TO ADVERTISE AND SOLICIT BIDS FOR CIP 2017-03 ATP CYCLE III PROJECT NO. ATPL-5150(015)

MOTION: Councilmember Sanabria moved to approve Environmental Assessment pursuant to 14 California Code of Regulations § 15301 as a Class 1 categorical exemption under the California Environmental Quality Act (CEQA); and approve CIP 2017-03 ATP Cycle III Project No. ATPL-5150(015) 100% completion of plans, specifications and engineer's estimate (PS&E); and authorize staff to proceed with bid advertisement for construction, seconded by Councilmember Avila. Motion carried by unanimous consent.

AYES: Council Member(s): Avila, Sanabria, Macias, Vice Mayor Martinez and Mayor Ortiz

NOES: None

5. CONSIDERATION AND APPROVAL OF AWARD OF A CONSTRUCTION CONTRACT FOR CIP 2020-01 SB1 STREET ENHANCEMENT PROJECT FY 2020-21

MOTION: Councilmember Macias moved to award the construction contract to Palp, Inc. dba Excel Paving Co. for the construction of CIP 2020-01 SB1 Street Enhancement Project FY 2020-21 as the lowest responsive, responsible bidder for a not-to-exceed amount of \$1,597,444.08; and appropriate \$656,549.59 from Account No. 221-8010-431.76-12; and appropriate \$940,894.49 from Account No. 111-8010-431.76-12; and appropriate a five percent (5%) construction contingency of \$79,872.20 payable from Account No. 221-8010-431.76-12; and authorize the City Manager to execute the construction contract agreement, seconded by Councilmember Sanabria. Motion carried by unanimous consent.

AYES: Council Member(s): Avila, Sanabria, Macias, Vice Mayor Martinez, and Mayor Ortiz

NOES: None

6. CONSIDERATION AND APPROVAL TO AWARD PROFESSIONAL SERVICES AGREEMENT TO PROVIDE GEOTECHNICAL AND ENVIRONMENTAL SERVICES

MOTION: Councilmember Sanabria moved to award a professional service agreement (PSA) as it relates to Geotechnical and Environmental Services, to Geosyntec as the sole responsive and responsible proposer; and approve a budget appropriation in the amount of \$50,000 from account number 111-6010-451.76-05 Aquatics Center Capital Improvement Project; and authorize the City Manager to execute the PSA, seconded by Mayor Ortiz. Motion carried by unanimous consent.

AYES: Council Member(s): Avila, Sanabria, Macias, Vice Mayor Martinez, and Mayor Ortiz

NOES: None

END OF REGULAR AGENDA

DEPARTMENTAL REPORTS

City Manager Reyes shared that last week the new Human Resources Supervisor Marisol Nieto started with the City and is working diligently to ensure all vacancies are filled. He added that Public Works held multiple interviews today and hope to see those positions filled in the near future.

Police Chief Lozano shared that a contingency plan is being developed for Super Bowl Sunday to have additional personnel in City ready to deploy and collaboration is occurring with neighboring agencies as well regarding this topic.

Communications Director Sergio Infanzon shared that the latest first time home buyer workshop was a success. He also shared that last week a job training workshops were also held and was successful, followed by the job fair event at Keller Park the following day which resulted in numerous applications being submitted. That same afternoon the first Environmental Justice workshop was held and was well attended. Mr. Infanzon also mentioned some upcoming activities in February which include, a first time home buyer workshop, a job training workshop on February 15, 2022, a housing rights workshop on February 22, 2022, and a second job fair the last week of February. He closed by sharing the roll out of an electronic newsletter for all residents in the coming weeks.

Community Development Director Steve Forster shared that free COVID-19 testing is still available at Raul Perez Park. He also mentioned the first Environmental Justice workshop justice was held and encouraged residents to continue submitting the environmental surveys online.

WRITTEN COMMUNICATIONS

None

COUNCIL COMMUNICATIONS

Council Member Manuel Avila did not provide any communications

Council Member Marilyn Sanabria congratulated staff on a job well done with the job fair. She also requested staff look into the possibility of conducting a spay and neuter clinic for residents with pets.

Council Member Karina Macias thanked staff for their work. She also mentioned the Metro Board meeting was transmitted live for residents, and a new timetable was approved for the construction of the expansion of the rail line.

Vice Mayor Eduardo "Eddie" Martinez thanked staff for all their efforts and keeping us safe. He thanked Sergio Infanzon for the successful job fair and thanked both Sergio and Steve Forster for pulling off the Environmental Justice workshop. He closed by asking all residents to please respect the roads and share the road with bikers.

Mayor Ortiz wished everyone a happy Valentine's Day, and directed the Community Development Department to collaborate with Police staff to be vigilant for unauthorized street vendors. She thanked staff for all their hard work on the various projects going on. She gave a special shout out to Councilmember Macias for the successful result at the Metro Board meeting which she has been tirelessly working on for many years.

ADJOURNMENT

Mayor Ortiz adjourned the meeting at 7:40 p.m. The next City of Huntington Park City Council meeting will be held on Tuesday February 15, 2022 at 6:00 pm

Respectfully submitted,



Eduardo Sarmiento
City Clerk

ITEM NO. 2



CITY OF HUNTINGTON PARK

City Clerk's Office
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL OF A RESOLUTION AUTHORIZING THE CITY TO CONTINUE ITS TELECONFERENCED OPEN MEETINGS PURSUANT TO ASSEMBLY BILL 361

IT IS RECOMMENDED THAT CITY COUNCIL:

Adopt Resolution No. 2022-06 to Authorize the City of Huntington Park to Conduct Teleconferenced Open Meetings in Accordance with Assembly Bill 361.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of this resolution is to clarify that cities may continue to meet remotely in accordance with the procedures outlined by previous executive orders issued. Assembly Bill (AB) 361 allows cities to continue to meet remotely during gubernatorial states of emergency under modified Brown Act provisions. The provisions enacted in AB 361 providing flexibility to meet remotely during a proclaimed emergency ***will sunset on January 1, 2024.***

AB 361 amends Government Code § 54953 to provide more clarity on the Brown Act's rules and restrictions surrounding the use of teleconferencing to conduct meetings. AB 361 provides relief from teleconferencing requirements, including the obligation to post meeting agendas at all teleconference locations for local agencies. However, the meeting must still be conducted in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Meaning, although local agencies are relieved from this obligation, local agencies should endeavor to post meeting agendas at all usual locations where it remains feasible to do so.

ADOPT RESOLUTION NO. 2022-04 AUTHORIZING THE CITY TO IMPLEMENT TELECONFERENCED OPEN MEETINGS PURSUANT TO ASSEMBLY BILL 361

February 15, 2022
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Additionally, AB 361 clarifies on the following:

(A) State of Emergency: Teleconferencing will be Allowed as long as There is an Active Gubernatorial State of Emergency

The bill amends the Brown Act to allow local agencies to continue using teleconferencing and virtual meeting technology ***as long as there is a gubernatorial “proclaimed state of emergency.”*** It is not sufficient that county and/or city officials have issued a local emergency declaration – the emergency declaration must be one that is made pursuant to the California Emergency Services Act (Gov’t Code § 8625).

(B) Public Participation and Public Comment

(1) Local agencies must ensure that the opportunity for the public to participate in a meeting remains as accessible as possible

This means that local agencies cannot discriminate against members of the public participating either remotely or in-person. For instance, local agencies must clearly advertise how members of the public can observe a public meeting or offer comment during a meeting remotely, via either a call-in or internet-based option. Additionally, local agencies are required to provide the remote access information which includes the URL, email addresses, phone numbers, etc. Any of the information related to participation must be included in the relevant meeting notice(s) and meeting agenda(s).

(2) Legislative Bodies must offer the public a chance to comment in real time and until comment period is closed

Additionally, AB 361 requires a public comment period where the public can address the legislative body directly. It expressly prohibits the board from limiting public comments to only comments submitted in advance. Additionally, the legislative body must allow for public comment (written and/or remote) up until the public comment period is closed at the meetings. Until such time during a meeting that the chairperson (or other authorized person) calls for a close to the public comment period, members of the public are allowed to submit their public comments directly or indirectly, orally, written, or otherwise. An individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body that requires registration to log in to a teleconference, may be required to register as required by the third-party internet website or online platform to participate.

(C) Technical Issues

ADOPT RESOLUTION NO. 2022-04 AUTHORIZING THE CITY TO IMPLEMENT TELECONFERENCED OPEN MEETINGS PURSUANT TO ASSEMBLY BILL 361

February 15, 2022

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As discussed above, the agenda must include information on the way the public may access the meeting and provide comments remotely. ***If technical problems arise that result in the public's access being disrupted, the local agency may not take any vote or other official action until the technical disruption is corrected and public access is restored.*** (Gov't Code § 54953(e)(2)(D).)

(D) Local agency must make findings every 30 days by majority vote to continue exemptions to teleconferencing rules

A local agency acting under the teleconference exemptions ***must make findings about whether the circumstances explained above still apply.*** Specifically, when there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, AB 361 requires a legislative body to make ***specified findings*** not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and ***to make those findings every 30 days thereafter***, in order to continue to meet under these abbreviated teleconferencing procedures pursuant to AB 361.

As a result, it is recommended that a resolution be considered by City Council to make said findings (i.e., The legislative body has reconsidered the circumstances of the state of emergency; AND, Any of the following circumstances exist: (i) The state of emergency continues to directly impact the ability of the members to meet safely in person; and/or (ii) State or local officials continue to impose or recommend measures to promote social distancing), consistent with AB 361, and reconsider said resolution every 30 days thereafter by a majority vote, should the City desire to move in that direction.

FISCAL IMPACT/FINANCING

There is no fiscal impact with this action.

CONCLUSION

The goal of AB 361 is "to improve and enhance public access to local agency meetings during the Covid-19 pandemic and future applicable state of emergencies, by allowing wider access through conducting teleconferencing meetings consistent with Executive Order N-29-20. In accordance, the City Attorney's Office has prepared a Resolution for City Council's consideration that would authorize the City to conduct teleconferenced public meetings in accordance to AB 361. Upon Council approval, we will proceed with the recommended actions.

**ADOPT RESOLUTION NO. 2022-04 AUTHORIZING THE CITY TO IMPLEMENT
TELECONFERENCED OPEN MEETINGS PURSUANT TO ASSEMBLY BILL 361**

February 15, 2022

Page 2 of 2

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Edu Sarmiento", is written over a light gray rectangular background.

EDUARDO SARMIENTO
City Manager

ARNOLD M. ALVAREZ-GLASMAN
City Attorney

ATTACHMENT(S)

- A. Resolution No. 2022-05 Authorizing the City to Implement Teleconferenced Open Meetings Pursuant to Assembly Bill 361
- B. Full Text of Assembly Bill 361

ATTACHMENT "A"

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WHEREAS, City of Huntington Park values and places the highest priority on public safety and protecting its community; and

WHEREAS, the City Council of the City of Huntington Park continues to respond to the spread of coronavirus disease, and now hereby finds that international, national, state, and local health and governmental authorities are continuing to respond to an outbreak of said respiratory disease caused by a novel coronavirus, also known and abbreviated as COVID-19, ("COVID-19"); and

WHEREAS, the City of Huntington Park remains vigilant with federal, state, and county official updates related to COVID-19 because information, orders, and directives continue to change; and

WHEREAS, Chapter 4-4.06, et seq. of the Huntington Park Municipal Code authorizes the City Council to proclaim the existence or threatened existence of a local emergency, and further authorizes the Director of Emergency Services with enumerated powers when the Governor or County has declared a state of emergency, which has been the case as discussed hereinabove as it relates to COVID-19; and

WHEREAS, the City of Huntington Park is committed to preserving and nurturing public access and participation in meetings of City Council; and

WHEREAS, all meetings of the City of Huntington Park's City Council are open and public, as required by the Ralph M. Brown Act (Gov't Code § 54950 – 54963), so that any member of the public may attend, participate, and watch the City's Council conduct their business; and

WHEREAS, the Brown Act, Government Code § 54953(e), makes provisions for remote teleconferencing participation in meetings by members of local agencies, without compliance with the requirements of Government Code section 54953(b)(3), subject to the existence of certain conditions; and

WHEREAS, on March 17, 2020, the Governor issued Executive Order N-29-20, which suspended and modified the teleconferencing requirements under the Brown Act (Gov't. Code § 54950 et seq.) so that local agencies can hold public meetings via teleconferences (with audio or video communications, without a physical meeting location), as long as the meeting agenda identifies the teleconferencing procedures to be used; and

1 **WHEREAS**, on June 11, 2021, the Governor issued Executive Order N-08-21,
2 which extended the provision of N-29-20 concerning the conduct of public meetings
3 through September 30, 2021; and

4 **WHEREAS**, California Assembly Bill 361 was signed into law on September 16,
5 2021 and amended Government Code Section 54953; and

6 **WHEREAS**, Assembly Bill 361 has several requirements to ensure the public can
7 view and make public comments during the teleconferenced open meetings, including:

- 8 • To provide notice of how members of the public may access the meeting
9 and offer public comments, including the chance for all persons to attend
10 the meeting via a call-in or internet-based service option;
- 11 • The City Council cannot take further action on agenda items when there is
12 a disruption which prevents the public agency from broadcasting the
13 meeting, or in the event of a disruption within the City Council's control
14 which prevents members of the public from offering public comments, until
15 public access is restored;
- 16 • Prohibiting City Council from requiring public comments to be submitted in
17 advance of the meeting and would specify that the City Council must
18 provide an opportunity for the public to address the City Council and offer
19 comments in real time;
- 20 • Prohibiting City Council from closing the public comment period until the
21 public comment period has elapsed or until a reasonable amount of time
22 has elapsed; and

23 **WHEREAS**, Government Code Section 54953(e)(3)(A-B) permits public
24 meetings by teleconference but requires agendas be posted at all teleconference
25 locations, each teleconference location shall be identified in the notice and agenda of
26 the meeting or proceeding, and each teleconference location shall be accessible to
27 the public; and

28 **WHEREAS**, Government Code Section 54953(b)(3) provides an alternative to
having public meetings in accordance with Government Code Section 54953(b)(3) when
City Council has reconsidered the circumstances of the COVID-19 state of emergency
and that the following circumstances exists;

1. The state of emergency as a result of COVID-19 continues to directly impact
the ability of the members of City Council and the members of the City's
subordinate Committees, Commissions, and Boards to meet safely in
person; and
2. The State of California and the City of Huntington Park continue to impose or
recommend measures to promote social distancing

WHEREAS, the City of Huntington Park continues to impose or recommend
measures to promote social distancing, which includes, but is not limited to:

- 1 1. For the safety of everyone and due to COVID-19, not allowing the public to
2 attend City Council meetings in person.
- 3 2. Posting COVID-19 safety measures.

4 **WHEREAS**, the proposed action is exempt from the requirements of the California
5 Environmental Quality Act (CEQA) in accordance with CEQA Guidelines Section
6 15378(b)(5), in that adopting a Resolution authorizing the City Manager to conduct
7 teleconferenced public meetings for all City's Committees, Commissions, and Boards,
8 does not meet CEQA's definition of a "project", because the action does not have the
9 potential for resulting in either a direct physical change in the environment or a reasonably
10 foreseeable indirect physical change in the environment, and because the action
11 constitutes organizational or administrative activities of governments that will not result in
12 direct or indirect physical changes in the environment and is exempt pursuant to Section
13 15269(c) of the CEQA Guidelines, as specific actions necessary to prevent or mitigate an
14 emergency; and

15 **WHEREAS**, the City Council has considered all information related to this
16 matter, as presented at the public meetings of the City Council identified herein;

17 **WHEREAS**, the City Council finds it is in the best interest of the City to
18 implement teleconferenced open meetings pursuant to Assembly Bill 361; and

19 **WHEREAS**, the Huntington Park City Council have determined that the provisions
20 contained herein are necessary for the preservation of the public health and safety;

21 **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF HUNTINGTON
22 PARK DOES HEREBY RESOLVE AS FOLLOWS:**

23 **SECTION 1.** The City of Huntington Park shall charge the fee amount specified
24 in Exhibit A – Proposed Fee Changes to the Master Fee Schedule for Fiscal Year
25 2018-19, attached hereto and incorporated herein by this reference, for each itemized
26 service listed herein.

27 **SECTION 2.** That based on the City's powers, City Council may at its sole and
28 absolute discretion, establish by resolution to authorize the City to conduct
teleconferenced open meetings pursuant to Assembly Bill 361; and

SECTION 3. That the City Council of the City of Huntington Park has reconsidered
the circumstances of COVID-19 state of emergency and that the following circumstances
continue to exist:

- The state of emergency as a result of COVID-19 continues to directly impact
the ability of the members of City Council and the City's subordinate
Committees, Commissions, and Boards to meet safely in person; and
- The State of California and the City of Huntington Park continue to impose
or recommend measures to promote social distancing.

SECTION 4. Adoption of this Resolution declares and affirms that the City Council
of the City of Huntington Park authorizes that public meetings be teleconferenced in
accordance to the provisions within AB 361.

1 **SECTION 5.** It is hereby proclaimed and ordered that during the existence of said
2 local emergency, the powers, functions, and duties of the emergency organization of the
3 City shall be as prescribed by federal, state, and county law, as well as the laws,
ordinances and resolutions of the City of Huntington Park.

4 **SECTION 6.** If any section, subsection, paragraph, sentence, clause, phrase,
5 or portion thereof, of this Resolution is declared by a court of competent jurisdiction
6 to be unconstitutional or otherwise invalid, such decision shall not affect the validity
7 of the remaining portions of this Resolution. The City Council declares that it would
8 have adopted this Resolution, and each section, subsection, paragraph, sentence,
9 clause, phrase, or portion thereof, irrespective of the fact that any one or more
sections, subsections, paragraphs, sentences, clauses, phrases, or portions thereof,
be declared invalid or unconstitutional. To this end, the provisions of this Resolution
are declared to be severable.

10 **SECTION 7.** That the City Clerk shall certify to the passage and adoption of
11 this Resolution and enter it into the book of original Resolutions and is directed to
12 transmit a certified copy of this Resolution to the Board of Supervisors and the County
13 Clerk of the County of Los Angeles.

14 **PASSED, APPROVED AND ADOPTED this 15th day of February, 2022.**

15
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17 _____
Gabriela Ortiz,
18 Mayor

19 **ATTEST:**

20
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22 _____
Eduardo Sarmiento,
23 City Clerk

ATTACHMENT "B"

Assembly Bill No. 361

CHAPTER 165

An act to add and repeal Section 89305.6 of the Education Code, and to amend, repeal, and add Section 54953 of, and to add and repeal Section 11133 of, the Government Code, relating to open meetings, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 16, 2021. Filed with
Secretary of State September 16, 2021.]

LEGISLATIVE COUNSEL'S DIGEST

AB 361, Robert Rivas. Open meetings: state and local agencies: teleconferences.

(1) Existing law, the Ralph M. Brown Act requires, with specified exceptions, that all meetings of a legislative body of a local agency, as those terms are defined, be open and public and that all persons be permitted to attend and participate. The act contains specified provisions regarding the timelines for posting an agenda and providing for the ability of the public to directly address the legislative body on any item of interest to the public. The act generally requires all regular and special meetings of the legislative body be held within the boundaries of the territory over which the local agency exercises jurisdiction, subject to certain exceptions. The act allows for meetings to occur via teleconferencing subject to certain requirements, particularly that the legislative body notice each teleconference location of each member that will be participating in the public meeting, that each teleconference location be accessible to the public, that members of the public be allowed to address the legislative body at each teleconference location, that the legislative body post an agenda at each teleconference location, and that at least a quorum of the legislative body participate from locations within the boundaries of the local agency's jurisdiction. The act provides an exemption to the jurisdictional requirement for health authorities, as defined. The act authorizes the district attorney or any interested person, subject to certain provisions, to commence an action by mandamus or injunction for the purpose of obtaining a judicial determination that specified actions taken by a legislative body are null and void.

Existing law, the California Emergency Services Act, authorizes the Governor, or the Director of Emergency Services when the governor is inaccessible, to proclaim a state of emergency under specified circumstances.

Executive Order No. N-29-20 suspends the Ralph M. Brown Act's requirements for teleconferencing during the COVID-19 pandemic provided that notice and accessibility requirements are met, the public members are allowed to observe and address the legislative body at the meeting, and that a legislative body of a local agency has a procedure for receiving and swiftly

resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 1, 2024, would authorize a local agency to use teleconferencing without complying with the teleconferencing requirements imposed by the Ralph M. Brown Act when a legislative body of a local agency holds a meeting during a declared state of emergency, as that term is defined, when state or local health officials have imposed or recommended measures to promote social distancing, during a proclaimed state of emergency held for the purpose of determining, by majority vote, whether meeting in person would present imminent risks to the health or safety of attendees, and during a proclaimed state of emergency when the legislative body has determined that meeting in person would present imminent risks to the health or safety of attendees, as provided.

This bill would require legislative bodies that hold teleconferenced meetings under these abbreviated teleconferencing procedures to give notice of the meeting and post agendas, as described, to allow members of the public to access the meeting and address the legislative body, to give notice of the means by which members of the public may access the meeting and offer public comment, including an opportunity for all persons to attend via a call-in option or an internet-based service option, and to conduct the meeting in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body. The bill would require the legislative body to take no further action on agenda items when there is a disruption which prevents the public agency from broadcasting the meeting, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments, until public access is restored. The bill would specify that actions taken during the disruption are subject to challenge proceedings, as specified.

This bill would prohibit the legislative body from requiring public comments to be submitted in advance of the meeting and would specify that the legislative body must provide an opportunity for the public to address the legislative body and offer comment in real time. The bill would prohibit the legislative body from closing the public comment period and the opportunity to register to provide public comment, until the public comment period has elapsed or until a reasonable amount of time has elapsed, as specified. When there is a continuing state of emergency, or when state or local officials have imposed or recommended measures to promote social distancing, the bill would require a legislative body to make specified findings not later than 30 days after the first teleconferenced meeting pursuant to these provisions, and to make those findings every 30 days thereafter, in order to continue to meet under these abbreviated teleconferencing procedures.

Existing law prohibits a legislative body from requiring, as a condition to attend a meeting, a person to register the person's name, or to provide other information, or to fulfill any condition precedent to the person's attendance.

This bill would exclude from that prohibition, a registration requirement imposed by a third-party internet website or other online platform not under the control of the legislative body.

(2) Existing law, the Bagley-Keene Open Meeting Act, requires, with specified exceptions, that all meetings of a state body be open and public and all persons be permitted to attend any meeting of a state body. The act requires at least one member of the state body to be physically present at the location specified in the notice of the meeting.

The Governor's Executive Order No. N-29-20 suspends the requirements of the Bagley-Keene Open Meeting Act for teleconferencing during the COVID-19 pandemic, provided that notice and accessibility requirements are met, the public members are allowed to observe and address the state body at the meeting, and that a state body has a procedure for receiving and swiftly resolving requests for reasonable accommodation for individuals with disabilities, as specified.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a state body to hold public meetings through teleconferencing and to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body. With respect to a state body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the state body at each teleconference location. Under the bill, a state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the state body allow members of the public to attend the meeting and offer public comment. The bill would require that each state body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge state bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(3) Existing law establishes the various campuses of the California State University under the administration of the Trustees of the California State University, and authorizes the establishment of student body organizations in connection with the operations of California State University campuses.

The Gloria Romero Open Meetings Act of 2000 generally requires a legislative body, as defined, of a student body organization to conduct its business in a meeting that is open and public. The act authorizes the legislative body to use teleconferencing, as defined, for the benefit of the public and the legislative body in connection with any meeting or proceeding authorized by law.

This bill, until January 31, 2022, would authorize, subject to specified notice and accessibility requirements, a legislative body, as defined for purposes of the act, to hold public meetings through teleconferencing and

to make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body. With respect to a legislative body holding a public meeting pursuant to these provisions, the bill would suspend certain requirements of existing law, including the requirements that each teleconference location be accessible to the public and that members of the public be able to address the legislative body at each teleconference location. Under the bill, a legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically would satisfy any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. The bill would require that each legislative body that holds a meeting through teleconferencing provide notice of the meeting, and post the agenda, as provided. The bill would urge legislative bodies utilizing these teleconferencing procedures in the bill to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to existing law, as provided.

(4) This bill would declare the Legislature's intent, consistent with the Governor's Executive Order No. N-29-20, to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future emergencies by allowing broader access through teleconferencing options.

(5) This bill would incorporate additional changes to Section 54953 of the Government Code proposed by AB 339 to be operative only if this bill and AB 339 are enacted and this bill is enacted last.

(6) The California Constitution requires local agencies, for the purpose of ensuring public access to the meetings of public bodies and the writings of public officials and agencies, to comply with a statutory enactment that amends or enacts laws relating to public records or open meetings and contains findings demonstrating that the enactment furthers the constitutional requirements relating to this purpose.

This bill would make legislative findings to that effect.

(7) Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

(8) This bill would declare that it is to take effect immediately as an urgency statute.

The people of the State of California do enact as follows:

SECTION 1. Section 89305.6 is added to the Education Code, to read:
89305.6. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a legislative body may hold public meetings through teleconferencing

and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the legislative body.

(b) (1) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the legislative body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a legislative body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the legislative body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the legislative body be physically present at the location specified in the notice of the meeting.

(c) A legislative body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the legislative body allow members of the public to attend the meeting and offer public comment. A legislative body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a legislative body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the legislative body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each legislative body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a legislative body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the legislative body's internet website.

(f) All legislative bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to legislative body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 2. Section 11133 is added to the Government Code, to read:

11133. (a) Notwithstanding any other provision of this article, and subject to the notice and accessibility requirements in subdivisions (d) and (e), a state body may hold public meetings through teleconferencing and make public meetings accessible telephonically, or otherwise electronically, to all members of the public seeking to observe and to address the state body.

(b) (1) For a state body holding a public meeting through teleconferencing pursuant to this section, all requirements in this article requiring the physical presence of members, the clerk or other personnel of the state body, or the public, as a condition of participation in or quorum for a public meeting, are hereby suspended.

(2) For a state body holding a public meeting through teleconferencing pursuant to this section, all of the following requirements in this article are suspended:

(A) Each teleconference location from which a member will be participating in a public meeting or proceeding be identified in the notice and agenda of the public meeting or proceeding.

(B) Each teleconference location be accessible to the public.

(C) Members of the public may address the state body at each teleconference conference location.

(D) Post agendas at all teleconference locations.

(E) At least one member of the state body be physically present at the location specified in the notice of the meeting.

(c) A state body that holds a meeting through teleconferencing and allows members of the public to observe and address the meeting telephonically

or otherwise electronically, consistent with the notice and accessibility requirements in subdivisions (d) and (e), shall have satisfied any requirement that the state body allow members of the public to attend the meeting and offer public comment. A state body need not make available any physical location from which members of the public may observe the meeting and offer public comment.

(d) If a state body holds a meeting through teleconferencing pursuant to this section and allows members of the public to observe and address the meeting telephonically or otherwise electronically, the state body shall also do both of the following:

(1) Implement a procedure for receiving and swiftly resolving requests for reasonable modification or accommodation from individuals with disabilities, consistent with the federal Americans with Disabilities Act of 1990 (42 U.S.C. Sec. 12101 et seq.), and resolving any doubt whatsoever in favor of accessibility.

(2) Advertise that procedure each time notice is given of the means by which members of the public may observe the meeting and offer public comment, pursuant to paragraph (2) of subdivision (e).

(e) Except to the extent this section provides otherwise, each state body that holds a meeting through teleconferencing pursuant to this section shall do both of the following:

(1) Give advance notice of the time of, and post the agenda for, each public meeting according to the timeframes otherwise prescribed by this article, and using the means otherwise prescribed by this article, as applicable.

(2) In each instance in which notice of the time of the meeting is otherwise given or the agenda for the meeting is otherwise posted, also give notice of the means by which members of the public may observe the meeting and offer public comment. As to any instance in which there is a change in the means of public observation and comment, or any instance prior to the effective date of this section in which the time of the meeting has been noticed or the agenda for the meeting has been posted without also including notice of the means of public observation and comment, a state body may satisfy this requirement by advertising the means of public observation and comment using the most rapid means of communication available at the time. Advertising the means of public observation and comment using the most rapid means of communication available at the time shall include, but need not be limited to, posting such means on the state body's internet website.

(f) All state bodies utilizing the teleconferencing procedures in this section are urged to use sound discretion and to make reasonable efforts to adhere as closely as reasonably possible to the otherwise applicable provisions of this article, in order to maximize transparency and provide the public access to state body meetings.

(g) This section shall remain in effect only until January 31, 2022, and as of that date is repealed.

SEC. 3. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, "teleconference" means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public's right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3.

In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 3.1. Section 54953 of the Government Code is amended to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency in person, except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all otherwise applicable requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body

shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivisions (d) and (e). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter

2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) (1) A local agency may use teleconferencing without complying with the requirements of paragraph (3) of subdivision (b) if the legislative body complies with the requirements of paragraph (2) of this subdivision in any of the following circumstances:

(A) The legislative body holds a meeting during a proclaimed state of emergency, and state or local officials have imposed or recommended measures to promote social distancing.

(B) The legislative body holds a meeting during a proclaimed state of emergency for the purpose of determining, by majority vote, whether as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(C) The legislative body holds a meeting during a proclaimed state of emergency and has determined, by majority vote, pursuant to subparagraph (B), that, as a result of the emergency, meeting in person would present imminent risks to the health or safety of attendees.

(2) A legislative body that holds a meeting pursuant to this subdivision shall do all of the following:

(A) The legislative body shall give notice of the meeting and post agendas as otherwise required by this chapter.

(B) The legislative body shall allow members of the public to access the meeting and the agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3. In each instance in which notice of the time of the teleconferenced meeting is otherwise given or the agenda for the meeting is otherwise posted, the legislative body shall also give notice of the means by which members of the public may access the meeting and offer public comment. The agenda shall identify and include an opportunity for all persons to attend via a call-in option or an internet-based service option. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(C) The legislative body shall conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties and the public appearing before the legislative body of a local agency.

(D) In the event of a disruption which prevents the public agency from broadcasting the meeting to members of the public using the call-in option or internet-based service option, or in the event of a disruption within the local agency's control which prevents members of the public from offering public comments using the call-in option or internet-based service option, the body shall take no further action on items appearing on the meeting agenda until public access to the meeting via the call-in option or internet-based service option is restored. Actions taken on agenda items during a disruption which prevents the public agency from broadcasting the meeting may be challenged pursuant to Section 54960.1.

(E) The legislative body shall not require public comments to be submitted in advance of the meeting and must provide an opportunity for

the public to address the legislative body and offer comment in real time. This subparagraph shall not be construed to require the legislative body to provide a physical location from which the public may attend or comment.

(F) Notwithstanding Section 54953.3, an individual desiring to provide public comment through the use of an internet website, or other online platform, not under the control of the local legislative body, that requires registration to log in to a teleconference may be required to register as required by the third-party internet website or online platform to participate.

(G) (i) A legislative body that provides a timed public comment period for each agenda item shall not close the public comment period for the agenda item, or the opportunity to register, pursuant to subparagraph (F), to provide public comment until that timed public comment period has elapsed.

(ii) A legislative body that does not provide a timed public comment period, but takes public comment separately on each agenda item, shall allow a reasonable amount of time per agenda item to allow public members the opportunity to provide public comment, including time for members of the public to register pursuant to subparagraph (F), or otherwise be recognized for the purpose of providing public comment.

(iii) A legislative body that provides a timed general public comment period that does not correspond to a specific agenda item shall not close the public comment period or the opportunity to register, pursuant to subparagraph (F), until the timed general public comment period has elapsed.

(3) If a state of emergency remains active, or state or local officials have imposed or recommended measures to promote social distancing, in order to continue to teleconference without compliance with paragraph (3) of subdivision (b), the legislative body shall, not later than 30 days after teleconferencing for the first time pursuant to subparagraph (A), (B), or (C) of paragraph (1), and every 30 days thereafter, make the following findings by majority vote:

(A) The legislative body has reconsidered the circumstances of the state of emergency.

(B) Any of the following circumstances exist:

(i) The state of emergency continues to directly impact the ability of the members to meet safely in person.

(ii) State or local officials continue to impose or recommend measures to promote social distancing.

(4) For the purposes of this subdivision, “state of emergency” means a state of emergency proclaimed pursuant to Section 8625 of the California Emergency Services Act (Article 1 (commencing with Section 8550) of Chapter 7 of Division 1 of Title 2).

(f) This section shall remain in effect only until January 1, 2024, and as of that date is repealed.

SEC. 4. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting

of the legislative body of a local agency, except as otherwise provided in this chapter.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting,

members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 4.1. Section 54953 is added to the Government Code, to read:

54953. (a) All meetings of the legislative body of a local agency shall be open and public, and all persons shall be permitted to attend any meeting of the legislative body of a local agency, in person except as otherwise provided in this chapter. Local agencies shall conduct meetings subject to this chapter consistent with applicable state and federal civil rights laws, including, but not limited to, any applicable language access and other nondiscrimination obligations.

(b) (1) Notwithstanding any other provision of law, the legislative body of a local agency may use teleconferencing for the benefit of the public and the legislative body of a local agency in connection with any meeting or proceeding authorized by law. The teleconferenced meeting or proceeding shall comply with all requirements of this chapter and all otherwise applicable provisions of law relating to a specific type of meeting or proceeding.

(2) Teleconferencing, as authorized by this section, may be used for all purposes in connection with any meeting within the subject matter jurisdiction of the legislative body. All votes taken during a teleconferenced meeting shall be by rollcall.

(3) If the legislative body of a local agency elects to use teleconferencing, it shall post agendas at all teleconference locations and conduct teleconference meetings in a manner that protects the statutory and constitutional rights of the parties or the public appearing before the

legislative body of a local agency. Each teleconference location shall be identified in the notice and agenda of the meeting or proceeding, and each teleconference location shall be accessible to the public. During the teleconference, at least a quorum of the members of the legislative body shall participate from locations within the boundaries of the territory over which the local agency exercises jurisdiction, except as provided in subdivision (d). The agenda shall provide an opportunity for members of the public to address the legislative body directly pursuant to Section 54954.3 at each teleconference location.

(4) For the purposes of this section, “teleconference” means a meeting of a legislative body, the members of which are in different locations, connected by electronic means, through either audio or video, or both. Nothing in this section shall prohibit a local agency from providing the public with additional teleconference locations.

(c) (1) No legislative body shall take action by secret ballot, whether preliminary or final.

(2) The legislative body of a local agency shall publicly report any action taken and the vote or abstention on that action of each member present for the action.

(3) Prior to taking final action, the legislative body shall orally report a summary of a recommendation for a final action on the salaries, salary schedules, or compensation paid in the form of fringe benefits of a local agency executive, as defined in subdivision (d) of Section 3511.1, during the open meeting in which the final action is to be taken. This paragraph shall not affect the public’s right under the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) to inspect or copy records created or received in the process of developing the recommendation.

(d) (1) Notwithstanding the provisions relating to a quorum in paragraph (3) of subdivision (b), if a health authority conducts a teleconference meeting, members who are outside the jurisdiction of the authority may be counted toward the establishment of a quorum when participating in the teleconference if at least 50 percent of the number of members that would establish a quorum are present within the boundaries of the territory over which the authority exercises jurisdiction, and the health authority provides a teleconference number, and associated access codes, if any, that allows any person to call in to participate in the meeting and the number and access codes are identified in the notice and agenda of the meeting.

(2) Nothing in this subdivision shall be construed as discouraging health authority members from regularly meeting at a common physical site within the jurisdiction of the authority or from using teleconference locations within or near the jurisdiction of the authority. A teleconference meeting for which a quorum is established pursuant to this subdivision shall be subject to all other requirements of this section.

(3) For purposes of this subdivision, a health authority means any entity created pursuant to Sections 14018.7, 14087.31, 14087.35, 14087.36, 14087.38, and 14087.9605 of the Welfare and Institutions Code, any joint

powers authority created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 for the purpose of contracting pursuant to Section 14087.3 of the Welfare and Institutions Code, and any advisory committee to a county-sponsored health plan licensed pursuant to Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code if the advisory committee has 12 or more members.

(e) This section shall become operative January 1, 2024.

SEC. 5. Sections 3.1 and 4.1 of this bill incorporate amendments to Section 54953 of the Government Code proposed by both this bill and Assembly Bill 339. Those sections of this bill shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2022, but this bill becomes operative first, (2) each bill amends Section 54953 of the Government Code, and (3) this bill is enacted after Assembly Bill 339, in which case Section 54953 of the Government Code, as amended by Sections 3 and 4 of this bill, shall remain operative only until the operative date of Assembly Bill 339, at which time Sections 3.1 and 4.1 of this bill shall become operative.

SEC. 6. It is the intent of the Legislature in enacting this act to improve and enhance public access to state and local agency meetings during the COVID-19 pandemic and future applicable emergencies, by allowing broader access through teleconferencing options consistent with the Governor's Executive Order No. N-29-20 dated March 17, 2020, permitting expanded use of teleconferencing during the COVID-19 pandemic.

SEC. 7. The Legislature finds and declares that Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, further, within the meaning of paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the purposes of that constitutional section as it relates to the right of public access to the meetings of local public bodies or the writings of local public officials and local agencies. Pursuant to paragraph (7) of subdivision (b) of Section 3 of Article I of the California Constitution, the Legislature makes the following findings:

This act is necessary to ensure minimum standards for public participation and notice requirements allowing for greater public participation in teleconference meetings during applicable emergencies.

SEC. 8. (a) The Legislature finds and declares that during the COVID-19 public health emergency, certain requirements of the Bagley-Keene Open Meeting Act (Article 9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code) were suspended by Executive Order N-29-20. Audio and video teleconference were widely used to conduct public meetings in lieu of physical location meetings, and public meetings conducted by teleconference during the COVID-19 public health emergency have been productive, have increased public participation by all members of the public regardless of their location in the state and ability to travel to physical meeting locations, have protected the health and safety of civil servants and the public, and have reduced travel costs incurred by members of state bodies and reduced work hours spent traveling to and from meetings.

(b) The Legislature finds and declares that Section 1 of this act, which adds and repeals Section 89305.6 of the Education Code, Section 2 of this act, which adds and repeals Section 11133 of the Government Code, and Sections 3 and 4 of this act, which amend, repeal, and add Section 54953 of the Government Code, all increase and potentially limit the public's right of access to the meetings of public bodies or the writings of public officials and agencies within the meaning of Section 3 of Article I of the California Constitution. Pursuant to that constitutional provision, the Legislature makes the following findings to demonstrate the interest protected by this limitation and the need for protecting that interest:

(1) By removing the requirement that public meetings be conducted at a primary physical location with a quorum of members present, this act protects the health and safety of civil servants and the public and does not preference the experience of members of the public who might be able to attend a meeting in a physical location over members of the public who cannot travel or attend that meeting in a physical location.

(2) By removing the requirement for agendas to be placed at the location of each public official participating in a public meeting remotely, including from the member's private home or hotel room, this act protects the personal, private information of public officials and their families while preserving the public's right to access information concerning the conduct of the people's business.

SEC. 9. This act is an urgency statute necessary for the immediate preservation of the public peace, health, or safety within the meaning of Article IV of the California Constitution and shall go into immediate effect. The facts constituting the necessity are:

In order to ensure that state and local agencies can continue holding public meetings while providing essential services like water, power, and fire protection to their constituents during public health, wildfire, or other states of emergencies, it is necessary that this act take effect immediately.

ITEM NO. 3

**City of Huntington Park
List of Funds**

Fund	Description
111	General Fund
121	Special Revenue Welfare Inmate
122	Prevention Intervention
152	Greenway Linear Park Project
210	Measure M
216	Employees Retirement Fund
217	OPEB
219	Sales Tax - Transit Proposition A
220	Sales Tax - Transit Proposition C
221	State Gasoline Tax Fund
222	Measure R
224	Office of Traffic & Safety
225	Cal Cops Fund
226	Air Quality Improvement Trust
227	Office of Criminal Justice
228	Bureau of Justice Fund
229	Police Forfeiture Fund
231	Parking System Fund
232	Art in Public Places Fund
233	Bullet Proof Vest Grant
239	Federal Community Development Block Grant
242	HUD Home Program
275	Successor Agency
283	Sewer Maintenance Fund
285	Solid Waste Management Fund
287	Solid Waste Recycle Grant
334	Ped/Bike Path Fund
475	Public Financing Authority
535	Street Lighting and Landscape
681	Water Department Fund
741	Fleet Maintenance
745	Self-Insurance Fund

**City of Huntington Park
Demand Register
WR 2-15-2022**

Payee Name	Invoice Number	Account Number	Description	Transaction Amount
ACCESS AUTO GLASS LLC	963	219-8085-431.43-21	WINDOWSHIELD SHUTTLE BUS	329.93
	1055	741-8060-431.43-20	CHIP WINDOWSHIELD REPAIR	50.00
ACCURATE STAGING INC.	ASR21-1109	111-8010-431.44-10	MOBILE BLEACHER- PARADE	\$379.93
				3,000.00
ADAMSON POLICE PRODUCTS	INV369825	111-7022-421.61-24	PD-DISTRACTION DEVICE	\$3,000.00
	INV369834	111-7022-421.61-24	POLICE DEPT PRODUCTS	1,035.31
	INV369904	111-7022-421.61-24	NEW UNIFORM POUCHES	600.03
				112.29
ADLERHORST INTERNATIONAL LLC	107685	111-7010-421.59-15	BASIC HANDLERS COURSE	\$1,747.63
				5,700.00
ALADDIN LOCK & KEY SERVICE	31442	111-8022-419.43-10	MULTIPLE LOCKS AND KEYS	\$5,700.00
	31454	111-8022-419.43-10	KEYS FOR GATES AT PARKS	574.37
	31557	111-8022-419.43-10	RE-KEY COURTHOUSE LOCK	396.67
	31566	111-8022-419.43-10	RE-KEY COURTHOUSE LOCK	111.17
	31603	111-8022-419.43-10	RE-KEY COURTHOUSE LOCK	1,290.07
	31574	111-8024-421.43-10	RE-KEY PD OFFICE DOOR	317.37
	31579	535-8090-452.61-20	PADLOCKS FOR THE PARKS	1,207.13
				1,852.20
ALL CITY MANAGEMENT SERVICES, INC	74194	111-7022-421.56-41	SCHOOL CROSSING GUARD	\$5,748.98
				4,623.15
AMAZON.COM SERVICES, INC.	1FDF-NWDD-FKKK	239-6060-490.61-60	AFTERSCHOOL ART SUPPLIES	\$4,623.15
	1FTM-XY9T-WVCD	239-6060-490.61-60	AFTERSCHOOL CARE PKG	1,975.04
	1M1G-F9YN-9HD7	239-6060-490.61-60	AFTERSCHOOL ART SUPPLIES	1,913.22
	1YRW-44G6-KFTK	239-6060-490.61-60	AFTERSCHOOL SUPPLIES	1,722.24
	1GJN-JT3H-RJQH	239-6065-490.61-60	SENIOR ROGRAM CARE PKG	700.74
				1,270.09
ANIMAL FRIENDS PET HOTEL	456113	111-7010-421.61-20	SVCS POLICE K9 BAM	\$7,581.33
				227.00
AREA E DISASTER MGMT BOARD	2021-22-015	111-7010-421.56-41	MEMBERSHIP FEES FY 21-22	\$227.00
				5,972.00
ARROYO BACKGROUND INVESTIGATIONS	2669	111-7010-421.56-41	EMPLOYEE BACKGROUND	\$5,972.00
				550.00
AT&T	12/22-1/21	111-6010-419.53-10	SALT LAKE CAMERAS	\$550.00
	000017574623	111-7010-421.53-10	PD PHONE SVCS-DISPATCH	137.68
	000017651173	111-7010-421.53-10	PD PHONE SVCS-DISPATCH	538.35
	1/1/22-1/31/22	111-9010-419.53-10	SALT LAKE PARK INTERNET SVCS	388.69
	1/21-2/20	111-9010-419.53-10	COMMUNITY CENTER INTERNET SVCS	79.54
	1/23-2/22	111-9010-419.53-10	PUBLIC WORKS INTERNET SVCS	90.24
	1/28-2/27	111-9010-419.53-10	FREEDOM PARK INTERNET SVCS	90.24
				45.31
AT&T MOBILITY	X01252022	111-7010-421.53-10	PD WIRELESS PHONES	\$1,370.05
				3,929.16
				\$3,929.16

**City of Huntington Park
Demand Register
WR 2-15-2022**

Payee Name	Invoice Number	Account Number	Description	Transaction Amount
AT&T PAYMENT CENTER	1/7/22-2/6/22	111-9010-419.53-10	CITY WIDE PHONE SERVICES	33.78
	1/7/22-2/6/22	111-9010-419.53-10	CITY WIDE PHONE SERVICES	33.78
	1/7/22-2/6/22	111-9010-419.53-10	CITY WIDE PHONE SERVICES	33.78
	1/7/22-2/6/22	111-9010-419.53-10	CITY WIDE PHONE SERVICES	33.78
	1/7/22-2/6/22	111-9010-419.53-10	CITY WIDE PHONE SERVICES	102.77
	1/7/22-2/6/22	111-9010-419.53-10	CITY WIDE PHONE SERVICES	198.39
	1/7/22-2/6/22	111-9010-419.53-10	CITY WIDE PHONE SERVICES	82.15
	12042022	121-7040-421.56-14	PD INMATE PHONE SERVICE	99.89
				\$618.32
AUGUST SCHELL ENTERPRISES, INC	32156079	111-1010-411.56-41	PEAK AGENDA ANNUAL SUBSCRIPTION	14,843.76
				\$14,843.76
AZTECA SIGNS	6775	111-6010-466.55-35	VETERANS DAY BANNER	87.05
				\$87.05
B AND H SIGNS	19569	111-7022-421.61-24	PD VEHICLE GRAPHICS	1,350.00
				\$1,350.00
BENEFIT ADMINISTRATION CORPORATION	6030441-IN	111-2030-413.56-41	FLEX ADMINISTRATION FEES	50.00
				\$50.00
BLACK AND WHITE EMERGENCY VEHICLES	4172	111-7022-421.61-24	UNIT 983 K9 BUILD	2,817.62
	4263	111-7022-421.61-24	UNIT 983 K9 BUILD	4,436.92
				\$7,254.54
BRIZUELA'S IRON WORK	0868	111-8010-431.61-20	TRASH RECEPTACLES	1,400.00
	0866	111-8023-451.43-10	FREEDOM PARK ROOF REPAIR	1,861.50
	0867	741-8060-431.43-20	FLEET SHOP SUPPLIES	1,999.00
	0869	741-8060-431.43-20	WASHER AT FLEET SHOP	876.00
				\$22,205.99
CALIFORNIA FRAME & AXLE	66992	219-8085-431.43-21	FRONT WHEEL ALIGNMENT BUS	301.08
				\$301.08
CENTRAL BASIN MWD	HP-DEC21	681-8030-461.41-00	IMPORT WATER FOR DEC	230,011.88
				\$230,011.88
CENTRAL FORD	383725	741-8060-431.43-20	COOLING SYSTEMS- PD UNIT	495.02
	383867	741-8060-431.43-20	TRANSMISSION MOUNTS PD	223.58
	383917	741-8060-431.43-20	PARTS OF UNIT PD	271.49
	383952	741-8060-431.43-20	FIX POLICE RIGHT MIRROR	368.54
	383964	741-8060-431.43-20	FIX BRAKES PD UNIT	705.03
	384017	741-8060-431.43-20	POLICE UNIT	48.74
	384433	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	443.03
	384719	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	123.19
	384884	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	17.49
	C80491	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	175.00
				\$2,871.11
CHAMPION CJD	650925	741-8060-431.43-20	TRANSMISSION SAFETY PD	67.32
	651129	741-8060-431.43-20	TRANSMISSION SVCS PARTS	60.85
				\$128.17

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CHARTER COMMUNICATIONS	0467069010722	111-7010-421.53-10	PD INTERNET	1,650.00
	0511379011322	111-7010-421.53-10	CLOUD BACKUP (ANNEX)-PD	154.98
	0511353011922	111-9010-419.53-10	CITY HALL BACK UP INTERNET	194.97
CINTAS CORPORATION NO 3				\$1,999.95
	4105842188	111-8020-431.43-10	UNIFORM DRY CLEANING	358.89
	4107146641	111-8020-431.43-10	UNIFORM DRY CLEANING	358.89
	4107638081	111-8020-431.43-10	UNIFORM DRY CLEANING	358.89
	4108507528	111-8020-431.43-10	UNIFORM DRY CLEANING	358.89
				\$1,435.56
CITY CLERKS ASSOCIATION OF CA	300000826	111-1010-411.59-15	CLERK TRAINING REGISTRATION	200.00
CITY TRAFFIC COUNTERS	300989	221-8014-429.61-20	TRAFFIC COUNTERS IN CITY	\$200.00
CONCENTRA MEDICAL CENTERS	74050204	111-2030-413.56-41	PHYSICAL RECERTIFICATIONS	\$1,235.00
				200.00
COUNTY OF L.A. DEPT OF PUBLIC WORKS	REPW22011004170	221-8014-429.56-41	TRAFFIC SIGNAL MAINT.	\$200.00
				495.32
CSULB FOUNDATION	02102022	111-7010-421.59-20	CSULB TRAINING	\$495.32
				182.00
DATA TICKET INC.	132920	111-7065-441.61-20	ANIMAL CONTROL CITATION	\$182.00
	133259	111-7065-441.61-20	PUBLIC SAFETY-FIREWORKS	50.50
				37.50
DEPARTMENT OF JUSTICE	554019	111-7030-421.56-41	FINGERPRINT APPS	\$88.00
				322.00
DOG WASTE DEPOT	444889	111-8023-461.43-10	DOG WASTE SIGN FOR PARKS	\$322.00
				476.48
DUNN EDWARDS CORPORATION	2009333929	111-8095-431.61-50	PAINT FOR GRAFFITI	\$476.48
				1,162.28
E.B. BRADLEY CO.	1638167-00	111-8023-451.43-10	STORAGE CABINET CYLINDERS	\$1,162.28
				175.29
FM THOMAS AIR CONDITIONING INC				\$175.29
	43420	111-7024-421.56-41	MAINTENANCE A/C JAN-MARCH	1,247.05
	43465	111-7024-421.56-41	A/C SVCS TO PD BUILDING	3,674.04
	43420	111-8020-431.56-41	MAINTENANCE A/C JAN-MARCH	106.89
	43415	111-8022-419.56-41	A/C SVCS TO CITY HALL	545.00
	43420	111-8022-419.56-41	MAINTENANCE A/C JAN-MARCH	1,247.05
	43420	111-8023-451.56-41	MAINTENANCE A/C JAN-MARCH	962.01
				\$7,782.04
GEORGE CHEVROLET	102937	741-8060-431.43-20	PARTS OF UNIT	121.07
	103050	741-8060-431.43-20	PARTS OF UNIT	56.78
	103264	741-8060-431.43-20	PARTS FOR PD UNITS	65.23
	103266	741-8060-431.43-20	PARTS OF UNIT	293.12
	103449	741-8060-431.43-20	PARTS OF UNIT	272.88
	103524	741-8060-431.43-20	PARTS FOR PD UNITS	205.04

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GEORGE CHEVROLET	103993	741-8060-431.43-20	PARTS FOR PD UNITS	57.25
	103995	741-8060-431.43-20	PARTS FOR PD UNITS	17.21
	104048	741-8060-431.43-20	PARTS FOR PD UNITS	43.84
	104102	741-8060-431.43-20	PARTS FOR PD UNITS	62.49
	104130	741-8060-431.43-20	PARTS FOR PD UNITS	1,497.78
	104132	741-8060-431.43-20	PARTS FOR PD UNITS	36.59
	104381	741-8060-431.43-20	PARTS FOR PD UNITS	244.46
	CVC394185	741-8060-431.43-20	PARTS OF UNIT	396.00
				\$3,369.74
GOLD COAST K9	HPD-11	111-7010-421.59-15	JAN 2022 TRAINING- K9	250.00
				\$250.00
GOLDEN WEST COLLEGE	02222022	111-7010-421.59-20	BASIC SWAT TRAINING	351.00
				\$351.00
HASA, INC.	790451	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	308.40
	790724	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	204.23
	790725	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	367.61
	791307	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	308.40
	793065	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	224.65
	793066	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	205.60
	793617	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	215.88
	793618	681-8030-461.41-00	SODIUM HYPOCHLORITE-WELLS	153.17
				\$2,161.53
HILTI, INC.	4618697613	111-8010-431.61-20	CONCRETE SUPPLIES	381.02
				\$381.02
HOME DEPOT - PUBLIC WORKS	4360377	111-0110-411.66-05	HOLIDAY AWARD GIFT CARDS	200.00
	5370336	111-8010-431.61-20	XMAS LIGHTS-PACIFIC BLVD	185.09
	8360400	111-8010-431.61-20	BLADES FOR CUTTING	219.40
	9370357	111-8010-431.61-20	FLAGGING TAPE	283.18
	2032774	111-8020-431.43-10	XMAS SUPPLIES	353.78
	2032782	111-8020-431.43-10	AIR MOVER BLOWER	120.17
	6972950	111-8020-431.43-10	PW BUILDING REPAIRS	472.98
	1380100	111-8022-419.43-10	COURTHOUSE PAINT	636.36
	8370329	111-8022-419.43-10	GRAFFITI REMOVAL ITEMS	671.38
	9630351	111-8022-419.43-10	COURTHOUSE PAINT SUPPLIES	877.69
	6033197	111-8024-421.43-10	TARPS FOR COVER PD ROOF	348.84
	4511454	111-8095-431.61-50	NAVY SPRAY GRAFFITI SUPPL	54.90
				\$4,423.77
IBE DIGITAL	438131	111-9010-419.44-10	BW TONER SUPPLIES	27.11
	439868	111-9010-419.44-10	BW & COLOR TONER SUPPL.	46.49
	440329	111-9010-419.44-10	WASTE TONER BOX	18.07
	441109	111-9010-419.44-10	BW TONER SUPPLIES	18.07
				\$109.74

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Payee Name	Invoice Number	Account Number	Description	Transaction Amount
IDR ENVIRONMENTAL SERVICES	70231	111-8020-431.43-10	DISPOSE HAZARD MATERIALS	3,633.40
	70057	741-8060-431.43-20	PW YARD MAINTENANCE	2,227.50
				\$5,860.90
INFRAMARK LLC	72939	283-8040-432.56-41	ROUTINE MAINTENANCE	13,476.33
	73180	681-8030-461.43-30	EMERGENCY REPAIR IN WELLS	17,713.38
	72939	681-8030-461.56-41	ROUTINE MAINTENANCE	103,885.14
				\$135,074.85
INFRASTRUCTURE ENGINEERS	26425	111-5010-419.56-49	PLANNING SVCS-COMM DEVEL	10,972.50
	26426	111-5010-419.56-49	BUILD/SAFETY SVCS	41,005.00
	26473	111-5010-419.56-49	BUILD/SAFETY CONSU SVCS	5,894.55
	26507	111-5010-419.56-49	PLANNING SVCS-COMM. DEVEP	12,147.50
	26524	111-5010-419.56-49	BUILDING & SAFETY SVCS	40,330.00
	26559	111-5010-419.56-49	BUILD/SAFETY CONSUL SVCS	6,561.94
				\$116,911.49
JCL TRAFFIC	112510	221-8012-429.61-20	MUNI BLDG SIGN ON STREET	174.75
				\$174.75
JERRY'S AUTO BODY, INC.	32406	741-8060-431.43-20	MIRROR FOR PD UNIT 967	109.61
	32421	741-8060-431.43-20	REPAIR DOOR PD UNIT 357	431.54
				\$541.15
JIMENEZ'S BRAKES & ALIGNMENTS INC	55577	741-8060-431.43-20	ALIGNMENT PD UNIT	65.00
				\$65.00
JOEL GORDILLO	JG202201	111-1010-411.56-41	COUNCIL MEETING FILMING	1,650.00
				\$1,650.00
JONES LUMBER COMPANY, INC	260342	111-8020-431.43-10	PW YARD ROOF REPAIRS	42.23
	260512	111-8020-431.43-10	PW YARD ROOF REPAIRS	258.83
	260513	111-8020-431.43-10	PW YARD ROOF REPAIRS	1,980.26
				\$2,281.32
JTB SUPPLY COMPANY INC	109796	221-8014-429.61-20	TRAFFIC SIGNAL SUPPLIES	4,387.98
	109897	535-8016-431.74-10	SUPPLIES FOR TAFFIC POLES	6,097.93
				\$10,485.91
JXTRA ENTERTAINMENT	007	111-6065-451.57-46	SENIOR DANCE ENTERTAIN.	490.00
				\$490.00
LAN WAN ENTERPRISE, INC	72800	111-7010-419.43-15	IT SVCS MAINTENANCE FEE	23,910.50
	72828	111-7010-419.43-15	IT SVCS MAINTENANCE FEE	205.50
	72761	111-7010-421.74-10	CYBERSECURITY PROJECT	45,000.00
	72800	111-9010-419.43-15	IT SVCS MAINTENANCE FEE	23,910.50
	72828	111-9010-419.43-15	IT SVCS MAINTENANCE FEE	205.50
	72760	111-9010-419.56-41	CYBERSECURITY PROJRCT	45,000.00
				\$138,232.00
LB JOHNSON HARDWARE CO.	118687	741-8060-431.43-20	CHAIN SHOP SUPPLY	19.08
	118695	741-8060-431.43-20	CHAIN SHOP SUPPLY	52.43
				\$71.51

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Payee Name	Invoice Number	Account Number	Description	Transaction Amount
LGP EQUIPMENT RENTALS INC	121248	535-8016-431.44-10	RENTAL FOR BOOM TRUCK	600.32
				\$600.32
MERRIMAC ENERGY GROUP	2216661	741-8060-431.62-30	FUEL PURCHASE	27,156.00
				\$27,156.00
NAPA AUTO PARTS	121756	741-8060-431.43-20	MECHANIC FOR PD UNIT	98.55
				\$98.55
NORTH STAR LAND CARE	1601-246	535-8090-452.56-60	CONTRACTURAL SVCS DEC	23,057.75
	1601-272	535-8090-452.56-60	LANDSCAPE MAINT. SVCS	23,057.75
				\$46,115.50
O'REILLY AUTO PARTS	2959-100471	219-8085-431.43-21	TURN SIGNAL LIGHT BULBS	34.01
	2959-100483	219-8085-431.43-21	LIGHT BULBS SHUTTLES	26.32
	5655-281268	219-8085-431.43-21	SHUTTLE BUS REPAIR	50.27
	5655-282546	219-8085-431.43-21	BRAKE FOR SHUTTLES	6.60
	2959-100507	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	8.20
	2959-100640	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	163.77
	2959-100943	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	194.75
	2959-103167	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	205.07
	2959-103174	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	215.83
	2959-494583	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	24.23
	2959-496078	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	287.73
	2959-496180	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	124.23
	2959-496239	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	79.88
	2959-497629	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	215.84
	2959-497885	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	38.76
	2959-498045	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	40.37
	2959-498185	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	122.13
	2959-498490	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	111.09
	2959-498607	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	451.47
	5655-279324	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	263.20
	5655-280307	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	18.57
	5655-280330	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	-160.02
	5655-280430	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	-18.57
	5655-281261	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	93.27
	5655-281262	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	13.21
	5655-281269	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	-50.70
	5655-281271	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	50.70
	5655-281347	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	219.40
	5655-281372	741-8060-431.43-20	PARTS FOR MULTIPLE UNITS	157.02
	5655-281789	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	1,055.72
	5655-281790	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	175.74

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O'REILLY AUTO PARTS	5655-281791	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	5.50
	5655-281871	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	-16.52
	5655-282376	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	7.16
	5655-282545	741-8060-431.43-20	PARTS FOR VARIOUS PD UNIT	168.88
OCEAN BLUE ENVIRONMENTAL SERVICES	36007	283-8040-432.56-41	SEWAGE SPILL CLEAN-UP	\$4,383.11
OK PRINTING DESIGN & DIGITAL PRINT	2323	111-7030-421.61-20	PD-BUSINESS CARDS	3,978.48
	2335	681-3022-415.61-20	PRINTING SUPPLIES-INK	120.00
PARS	49720	111-9010-419.56-41	PARS FEE	1,600.60
	49783	216-3010-415.56-41	PARS FEE	\$1,720.60
PRADO FAMILY SHOOTING RANGE	02222022	111-7010-421.59-20	BASIC SWAT TRAINING FEE	494.07
				2,533.54
PURCHASE POWER	01112022	111-7040-421.56-41	POSTAGE FEES	\$3,027.61
QDOXS	IN40460	111-8020-431.43-05	XEROX COPIER BASE	75.00
	IN41044	111-8020-431.43-05	XEROX COPIER BASE CONTRACT	\$542.74
	IN40460	285-8050-432.43-05	XEROX COPIER BASE	23.88
	IN41044	285-8050-432.43-05	XEROX COPIER BASE CONTRACT	21.90
	IN40460	681-8030-461.43-05	XEROX COPIER BASE	23.89
	IN41044	681-8030-461.43-05	XEROX COPIER BASE CONTRACT	21.90
REXEL COMMERCIAL & INDUSTRIAL	S132763446.001	741-8060-431.43-20	FLEETSHOP COMPRESSOR-PW	\$137.35
RIO HONDO COLLEGE	2122--RG-HP-46	111-7010-421.59-15	COLLEGE RANGE BILLING	342.99
	F21-217-ZHPK	111-7010-421.59-15	ENROLLMENT FEES	\$342.99
	F21-234-ZHPK	111-7010-421.59-15	ENROLLMENT FEES	1,900.00
RIVERSIDE COUNTY SHERIFFS DEPT	BCTC0044328	111-7010-421.59-20	FIREARMS TRAINING	50.00
	BCTC0044479	111-7010-421.59-20	FIREARMS TRAINING	100.00
	BCTC0045205	111-7010-421.59-20	TRAINING REGISTRATION	\$2,050.00
RODGERS KATHERINE	HP030037076	111-0000-351.10-10	REFUND DUE-LATE PENALTIES	388.00
SMART & FINAL	30338	111-0210-413.61-20	SUPPLIES FOR COUNCIL MEETING	388.00
SONSRAY MACHINERY, LLC	PSO001853-1	741-8060-431.43-20	TIE-ROD TRACTOR UNIT 412	165.00
SOUTHEAST POLICE CHIEFS GROUP	01182022	111-7010-421.59-15	ANNUAL FEES-PD DEPT	\$941.00
				145.00
				\$145.00
				\$25.90
				\$25.90
				475.90
				\$475.90
				600.00
				\$600.00

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SOUTHERN CALIFORNIA EDISON	01242022	111-8020-431.62-10	ELECTRICAL SVCS- 6900 BISSELL	1,531.62
	11/17-12/16	111-8022-419.62-10	ELECTRICAL SVCS-VARIOUS LOCATIONS	1,439.85
	12/07/21-1/5/22	111-8022-419.62-10	ELECTRICAL SVCS-COURTHOUSE	2,686.54
	11/17-12/16	111-8023-451.62-10	ELECTRICAL SVCS-VARIOUS LOCATIONS	5,106.91
	12/18-1/19	221-8014-429.62-10	ELECTRICAL SVCS-VARIOUS LOCATIONS	4,317.52
	01272022	535-8016-431.62-10	ELECTRICAL SVCS- 3220 OLIVE ST.	52.15
	12/3/21-1/3/22	535-8016-431.62-10	ELECTRICAL SVCS-VARIOUS LOCATIONS	18,590.97
	11/17-12/16	681-8030-461.62-20	ELECTRICAL SVCS-VARIOUS LOCATIONS	17,560.19
	11/17-12/16	681-8030-461.62-20	ELECTRICAL SVCS- BEAR/FLORENCE	4,579.29
	12/3/21-1/3/22	681-8030-461.62-20	ELECTRICAL SVCS-VARIOUS LOCATIONS	6,121.04
				\$61,986.08
SPARKLETTTS	15142085012722	111-0110-411.66-05	DRINKING WATER-ALL DEPTS	26.13
	15142085012722	111-0210-413.61-20	DRINKING WATER-ALL DEPTS	26.13
	15142085012722	111-1010-411.61-20	DRINKING WATER-ALL DEPTS	19.94
	15142085012722	111-2030-413.61-20	DRINKING WATER-ALL DEPTS	26.93
	15142085012722	111-3010-415.61-20	DRINKING WATER-ALL DEPTS	65.85
	15142085012722	111-5010-419.61-20	DRINKING WATER-ALL DEPTS	73.08
	15142085012722	111-5055-419.61-20	DRINKING WATER-ALL DEPTS	48.72
	15142085012722	111-6010-451.61-20	DRINKING WATER-ALL DEPTS	59.90
	15142085012722	111-8020-431.61-20	DRINKING WATER-ALL DEPTS	75.84
				\$422.52
STAPLES ADVANTAGE	8064776204	111-0110-411.61-20	OFFICE SUPPLIES-CITY WIDE	339.85
	8064776204	111-1010-411.61-20	OFFICE SUPPLIES-CITY WIDE	85.19
	8064776204	111-3010-415.61-20	OFFICE SUPPLIES-CITY WIDE	72.54
	8064776204	111-5010-419.61-20	OFFICE SUPPLIES-CITY WIDE	768.38
	8064776204	111-6010-451.61-20	OFFICE SUPPLIES-CITY WIDE	575.53
	8064776204	111-6010-466.55-35	OFFICE SUPPLIES-CITY WIDE	10.29
	8064776204	111-6020-451.61-35	OFFICE SUPPLIES-CITY WIDE	95.85
	8064776204	111-6065-466.61-20	OFFICE SUPPLIES-CITY WIDE	39.41
	8064776204	111-7010-421.61-20	OFFICE SUPPLIES-CITY WIDE	601.03
				\$2,588.07
STATE WATER RESOURCES CONTROL	SW-02222983	681-8030-461.42-05	ANNUAL PERMIT FEES	26,498.00
				\$26,498.00
SUPERION, LLC	320230	111-6010-451.56-41	SOFTWARE UPGRADE-PARKS	1,365.00
	342463	111-9010-419.33-10	FINANCIAL SYSTEM MAINT.	12,888.20
				\$14,253.20
T-MOBILE USA	01132022	111-8010-431.53-10	PUBLIC WORKS PHONE SERVICES	774.00
	01132022	111-8095-431.53-10	PUBLIC WORKS PHONE SERVICES	208.08
	01132022	681-8030-461.53-10	PUBLIC WORKS PHONE SERVICES	154.80
				\$1,136.88
THE GAS COMPANY	12/10-1/11	111-7024-421.62-10	SVCS IN VARIOUS BUILDINGS	1,098.60
	12/10-1/11	111-8020-431.62-10	SVCS IN VARIOUS BUILDINGS	878.49

**City of Huntington Park
Demand Register
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Payee Name	Invoice Number	Account Number	Description	Transaction Amount
THE GAS COMPANY	01/5/22-17/22	111-8022-419.62-10	NEW SVCS IN COURTHOUSE	28.53
	12/10-1/11	111-8022-419.62-10	SVCS IN VARIOUS BUILDINGS	1,591.92
	12/10-1/11	111-8023-451.62-10	SVCS IN VARIOUS BUILDINGS	650.56
THIRD DEGREE COMMUNICATIONS, INC.	10369	111-7010-421.59-20	TRAINING REGISTRATION	\$4,248.10
UNDERGROUND SERVICE ALERT OF SO CAL	120220131	221-8014-429.56-41	CHP01 NEW TICKET CHARGES	\$19,965.77
	1220210124	221-8014-429.56-41	CH001 NEW TICKET CHARGES	278.95
	DSB20206365	221-8014-429.56-41	MONTHLY BILL - DIG SAFE	203.05
	DSB20210084	221-8014-429.56-41	CA STATE REGULATION COST	104.51
UNITED INDUSTRIES	219884	111-8010-431.61-20	GLOVES	118.44
				\$704.95
				190.01
VALLEY ALARM	1043154	111-8020-431.56-41	FIRE & SECURITY ALARM	\$190.01
	1043154	111-8022-419.56-41	FIRE & SECURITY ALARM	665.34
	1043154	111-8023-451.56-41	FIRE & SECURITY ALARM	665.33
				715.28
VELADA CONSULTING LLC	35	111-0210-413.56-41	CONSULTING SVCS DEC-JAN	\$2,045.95
				7,500.00
				\$7,500.00
VULCAN MATERIALS COMPANY	73143631	221-8010-431.61-21	POT HOLE REPAIRS	452.30
	73145488	221-8010-431.61-21	POT HOLE REPAIRS	303.65
				\$755.95
WALNUT PARK MUTUAL WATER CO.	2021	283-8040-432.56-41	BI MONTHLY SVCS FEE	60.00
				\$60.00
WALTERS WHOLESALE ELECTRIC COMPANY	S119479576.003	111-8022-419.43-10	STREET LIGHT SUPPLIES	361.17
	S119617279.001	111-8022-419.43-10	STREET LIGHT SUPPLIES	828.90
	S119617279.002	111-8022-419.43-10	STREET LIGHT SUPPLIES	57.16
	S119617279.003	111-8022-419.43-10	STREET LIGHT SUPPLIES	121.46
	S119617279.004	111-8022-419.43-10	STREET LIGHT SUPPLIES	463.16
	S119617279.005	111-8022-419.43-10	STREET LIGHT SUPPLIES	228.22
	S119617279.006	111-8022-419.43-10	STREET LIGHT SUPPLIES	17.57
	S119746821.001	111-8022-419.43-10	STREET LIGHT SUPPLIES	339.36
	S119265096.002	535-8090-452.61-20	STREET LIGHT SUPPLIES	975.43
	S119265096.003	535-8090-452.61-20	STREET LIGHT SUPPLIES	20.24
	S119265096.005	535-8090-452.61-20	STREET LIGHT SUPPLIES	145.09
	S119479576.001	535-8090-452.61-20	STREET LIGHT SUPPLIES	569.80
	S119521116.001	535-8090-452.61-20	STREET LIGHT SUPPLIES	518.54
	S119705486.001	535-8090-452.61-20	STREET LIGHT SUPPLIES	306.89
				\$4,952.99
WEST & ASSOCIATES ENGINEERING, INC	1008.16.05-01	111-8031-433.76-17	STAFFING FOR PW & FINANCE	4,816.00
	1008.16.05-02	111-8031-433.76-17	STAFFING FOR COMM. DEVEL	1,806.00
	1008.16.05-03	111-8031-433.76-17	SVCS OCTOBER 2021	6,106.00
	1008.16.05-04	111-8031-433.76-17	SVCS NOVEMBER 2021	7,181.00

**City of Huntington Park
Demand Register
WR 2-15-2022**

Payee Name	Invoice Number	Account Number	Description	Transaction Amount
WEST & ASSOCIATES ENGINEERING, INC	1008.16.05-05	111-8031-433.76-17	SVCS DECEMBER 2021	6,880.00
	1008.16.05-06	111-8031-433.76-17	SVCS JANUARY 2022	6,880.00
	1008.16.22-02A	111-8031-433.76-17	CATCH BASIN INSPECTION	3,800.00
	1008.16.22-02B	111-8031-433.76-17	MNGT. NPDES JAN 2022	1,200.00
				\$38,669.00
WESTCHESTER MEDICAL GROUP	CH139-9550	111-2030-413.56-41	PD-STRESS TEST	200.00
				\$200.00
WESTERN EXTERMINATOR COMPANY	32042C	111-7024-421.56-41	EXTERMINATOR SVCS DEC	53.45
	32042C	111-8020-431.56-41	EXTERMINATOR SVCS DEC	73.60
	32042C	111-8022-419.56-41	EXTERMINATOR SVCS DEC	53.50
	32042C	111-8023-451.56-41	EXTERMINATOR SVCS DEC	100.90
	32042C	535-8090-452.43-20	EXTERMINATOR SVCS DEC	139.50
				\$420.95
XEROX FINANCIAL SERVICES	2995923	111-8020-431.43-05	XEROX COPIER LEASE PYMT	119.97
	2995923	285-8050-432.43-05	XEROX COPIER LEASE PYMT	119.97
	2995923	681-8030-461.43-05	XEROX COPIER LEASE PYMT	119.98
				\$359.92
				\$1,003,054.86

ITEM NO. 4



CITY OF HUNTINGTON PARK

Community Development Department
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL TO AWARD PROFESSIONAL SERVICES AGREEMENT TO PROVIDE PRELIMINARY ARCHITECTURAL SERVICES

IT IS RECOMMENDED THAT CITY COUNCIL:

1. Award a professional service agreement (PSA) as it relates to Preliminary Architectural Services for the Salt Lake Park Recreation Building, to Crane Architectural Group as a responsive and responsible proposer for a not-to-exceed amount of \$32,200;
2. Authorize the City Manager to execute the PSA.

BACKGROUND

The recreation building located adjacent to Florence Avenue in Salt Lake Park was constructed decades ago. Over the last few decades the building has undergone minor modifications to keep up with the recreational demands of the City. However, many elements such as the mechanical, electrical, plumbing, ADA compliance and structural elements have been extended well past their viable life span.

In order to be competitive in soliciting grant funds, a preliminary plan and cost estimate by a licensed architect will be needed. An RFP to solicit firms known for working with municipal agencies who understand current recreational requirements was approved by the City Council on December 7, 2021. Three (3) proposals were received on or before the prescribed date of January 13, 2022. The proposals ranged from \$32,200 to \$183,413. References for Crane Architectural Group confirm that their services for similar projects in the past have been successful. Crane Architectural Group will be tasked with developing a preliminary plan for modernizing the building to current standards and preparing a detailed cost estimate. This plan and estimate can then be utilized to articulately convey to a grantor the scope of the request for possible funding. The total fee of \$32,200 is for the complete scope of service identified in the RFP. However, only work performed will be billed should a lesser amount of service be needed.

CONSIDERATION AND APPROVAL TO AWARD PROFESSIONAL SERVICES TO AGREEMENT CRANE ARCHITECTURAL GROUP TO PROVIDE PRELIMINARY ARCHITECTURAL SERVICES – SALT LAKE PARK RECREATION BUILDING

February 15, 2022

Page 2 of 2

FISCAL IMPACT

There are sufficient monies in the Fiscal Year 2021-2022 Budget in account number 111-8080-431.56-62, General Fund Public Works Contract Engineering Services.

CONCLUSION

Upon Council's direction, staff will proceed with actions as directed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ricardo Reyes', with a stylized flourish at the end.

RICARDO REYES
City Manager

Steve Forster
Interim Community Development Director

ATTACHMENT(S):

1. Draft Professional Services Agreement for Crane Architectural Group
2. Crane Architectural Group proposal

ATTACHMENT "A"



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this **1st day of February 2022** (hereinafter, the "Effective Date"), by and between the CITY OF HUNTINGTON PARK, a municipal corporation ("CITY") and **FILL IN NAME** Hereinafter, "CONTRACTOR"). For the purposes of this Agreement CITY and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONTRACTOR agree as follows:

I. ENGAGEMENT TERMS

- 1.1 **SCOPE OF SERVICES:** Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Services**"). CONTRACTOR further agrees to furnish to CITY all labor, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Services. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally by the capitalized term "Work."
- 1.2 **TERM:** This Agreement shall commence on **February 1, 2022 to February 1, 2023**. It is the CONTRACTOR'S responsibility to request an extension at least (2) days in advance of the expiration of term of the Agreement. Nothing in this Section shall operate to prohibit or otherwise restrict the CITY's ability to terminate this Agreement at any time for convenience or for cause.
- 1.3 **COMPENSATION:**
 - A. CONTRACTOR shall perform the various services and tasks set forth in the **Scope of Services Exhibit "A"**.
 - B. Section 1.3(A) notwithstanding, CONTRACTOR'S total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum of **\$0.00** (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the CITY acting in consultation with the City Manager and the Director of Finance. In the event CONTRACTOR'S charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, CITY may suspend CONTRACTOR'S performance pending CITY approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other CITY-approved amendment to the compensation terms of this Agreement.
- 1.4 **PAYMENT OF COMPENSATION:** Following the conclusion of each calendar month, CONTRACTOR shall submit to CITY an itemized invoice indicating the services and tasks

performed during the recently concluded calendar month, including services and tasks performed. If the amount of CONTRACTOR'S monthly compensation is a function of hours worked by CONTRACTOR'S personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within **thirty (30) calendar days** of receipt of each invoice, CITY shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within **forty-five (45) calendar day** of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement during and for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities. The City shall own all accounting records maintained by the CONTRACTOR.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONTRACTOR shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONTRACTOR'S cessation or abandonment.

II. PERFORMANCE OF AGREEMENT

- 2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the City Manager and Interim Director of Community Development (hereinafter, the "CITY Representatives") to act as its representatives for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representatives or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the CITY Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE AND CONTACT INFORMATION: CONTRACTOR hereby designates or designee to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this

Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.

2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by CITY Representatives or their designees.

2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:

- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR'S profession;
- B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the CITY;
- C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code section 1090 and the Political Reform Act (Government Code section 81000 *et seq.*);
- D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
- E. All of CONTRACTOR'S employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and
- F. All of CONTRACTOR'S employees and agents (including but not limited to SUB-CONTRACTOR) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONTRACTOR shall perform, at CONTRACTOR'S own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONTRACTOR'S failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONTRACTOR'S employees, agents, and SUB-CONTRACTOR. Such effort by CONTRACTOR to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendar days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that CITY'S acceptance of any work performed by CONTRACTOR or on CONTRACTOR'S behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONTRACTOR, including but not limited to the representation that CONTRACTOR possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONTRACTOR'S profession.

2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are

material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR'S duties or obligations under this Agreement without the prior written consent of CITY. In the absence of CITY'S prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.

- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR'S strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONTRACTOR on an independent CONTRACTOR basis and not as an employee. CONTRACTOR reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR'S competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of CITY and shall at all times be under CONTRACTOR'S exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONTRACTOR 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, workers' compensation insurance and the like.
- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR'S officers, employees, agents, or SUB-CONTRACTOR is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR'S officers, employees, agents, or SUBCONTRACTOR fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, or SUB-CONTRACTOR shall be promptly removed by CONTRACTOR and shall not be reassigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, state or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR'S compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, CONTRACTOR, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.
- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent CONTRACTOR and are not officials, officers,

employees, departments or subdivisions of CITY. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, CONTRACTOR and SUB-CONTRACTOR. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, CITY, whether by CONTRACTOR or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and CONTRACTOR dual liability.
 - B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.
 - C. Workers' Compensation Insurance / Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A: VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representatives are authorized to authorize lower ratings than those set forth in this Section.

- 3.4 PRIMACY OF CONTRACTOR'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.
- 3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR officers, employees, agents, CONTRACTOR or SUB-CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against CITY.
- 3.6 VERIFICATION OF COVERAGE: CONTRACTOR acknowledges, understands and agrees, that CITY'S ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY'S financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to CITY in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf and shall be on forms provided by the CITY if requested.** All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONTRACTOR'S commencement of any work or any of the Work. Upon CITY'S written request, CONTRACTOR shall also provide CITY with certified copies of all required insurance policies and endorsements.

IV. INDEMNIFICATION

- 4.1 The Parties agree that CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that CITY would not enter into this Agreement in the absence of CONTRACTOR'S commitment to indemnify, defend and protect CITY as set forth herein.
- 4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement.
- 4.3 CITY shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due CITY from CONTRACTOR as a result of CONTRACTOR'S failure to pay CITY promptly any indemnification arising under this Article and related to CONTRACTOR'S failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to CITY and CITY'S elected and appointed officials,

officers, employees, agents and volunteers.

- 4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR'S, SUB-CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY'S choice.
- 4.6 CITY does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.

V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar day's prior written notice of CITY'S intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY'S written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY'S ability to terminate this Agreement for convenience as provided under this Section.
- 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:
- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than

the applicable cure period set forth under Sections 5.2.B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:

- i. Within three (3) business days of CITY'S issuance of a Default Notice for any failure of CONTRACTOR to timely provide CITY or CITY'S employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to CITY or CITY'S employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
- ii. Within fourteen (14) calendar days of CITY'S issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR'S refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONTRACTOR'S failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR'S and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR'S refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY'S discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY shall cure any Event of Default asserted by CONTRACTOR within forty-five (45) calendar days of CONTRACTOR'S issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY'S failure to timely pay any**

undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONTRACTOR'S Default Notice to CITY.

- D. CITY, in its sole and absolute discretion, may also immediately suspend CONTRACTOR'S performance under this Agreement pending CONTRACTOR'S cure of any Event of Default by giving CONTRACTOR written notice of CITY'S intent to suspend CONTRACTOR'S performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY'S ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - i. Upon written notice to CONTRACTOR, CITY may immediately terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONTRACTOR, CITY may extend the time of performance;
 - iii. CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR'S breach of the Agreement or to terminate the Agreement; or
 - iv. CITY may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY'S exercise of its remedies under this Agreement.

- G. In the event CITY is in breach of this Agreement, CONTRACTOR'S sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement

pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. MISCELLANEOUS PROVISIONS

- 6.1 **DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY:** All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all SUB-CONTRACTORS working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any CONTRACTOR as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.
- 6.2 **CONFIDENTIALITY:** All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONTRACTOR shall not use CITY'S name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 6.3 **FALSE CLAIMS ACT:** CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., section 3789 et seq. and the California False Claims Act, Government Code section 12650 et seq.
- 6.4 **NOTICES:** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

Name
Address
Contact info

CITY:

City of Huntington Park
Community Development Department
6550 Miles Avenue
Huntington Park, CA 90255
Attn: Ricardo Reyes, City Manager
Phone: (323) 582-6161

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service. first class postage prepaid and addressed to the

- 6.5 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.6 SUBCONTRACTING: CONTRACTOR shall not SUB-CONTRACTOR any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. SUB-CONTRACTORS (including without limitation SUB-CONTRACTORS with Sub-CONTRACTOR'S), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.7 CITY'S RIGHT TO EMPLOY OTHER CONTRACTOR: CITY reserves the right to employ other CONTRACTOR in connection with the various projects worked upon by CONTRACTOR.
- 6.8 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.9 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.10 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.
- 6.11 ATTORNEYS' FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.
- 6.12 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.
- 6.13 NO THIRD-PARTY BENEFIT: There are no intended third-party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

- 6.14 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.15 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 6.16 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 6.17 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 6.18 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 6.19 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.
- 6.20 COUNTERPARTS: This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterpart(s) shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONTRACTOR and the remaining two original counterparts shall be retained by CITY.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF HUNTINGTON PARK:

CONSULTANT, INC.:

By: Ricardo Reyes
City Manager

By:

Date: _____

Date: _____

APPROVED AS TO FORM:

By: City Attorney

Date: _____

DRAFT

EXHIBIT “A”

SCOPE OF WORK

NAME OF CONSULTANTS, INC.

DRAFT

ATTACHMENT "B"



RICHARD J. CRANE, JR., AIA
ARCHITECT

PROPOSAL
CITY OF HUNTINGTON PARK
Request for Proposals
for
Professional Services for
Preliminary Architectural Services
Recreation Center
at
Salt Lake Park

STEVE FORSTER
CITY OF HUNTINGTON PARK
6550 Miles Ave.
Huntington Park, CA 90255

Architecture
Crane Architectural Group
Principal Architect
Richard J. Crane, Jr., A.I.A.
110 E. Wilshire Ave., Suite 300
Fullerton, CA 92832
714-525-0363

Crane Architectural Group
Project Architect
Mark Blumer

Crane Architectural Group
Project Manager
Steven Kalthoff

Crane Architectural Group
CAD Drafter/Office Manager
Kristine Frith

Crane Architectural Group
CAD Drafter
Joshua Crane

Environmental Engineer
Vista Environmental Consulting
Gena Digby
1054 N. Tustin Ave.
Anaheim, CA 92807
714-289-2600

FIRM PROFILE

LEGAL NAME OF FIRM:
Crane Architectural Group

ADDRESS OF FIRM:
110 E. Wilshire Ave., Suite 300
Fullerton, CA 92832

TYPE OF OWNERSHIP:
Sole proprietorship/licensed Architect

TAXPAYER I.D. NUMBER:
33-0704448

PRINCIPAL:
Richard J. Crane, Jr. AIA Architect



PRIMARY DISCIPLINES:

Crane Architectural Group provides full service architecture and planning services which include land planning, site analysis, programming, feasibility studies, ADA Studies, construction cost estimating, building design, construction documents, administration and observation. Services provided through our consulting professionals and engineers include civil engineering, M.P.E. engineering, commercial kitchen design, structural engineering, acoustical engineering and landscape architecture.

FINANCIAL REFERENCES:
Farmers and Merchants Bank
Scott R. Dowds, Vice-President
(714) 578-1945

LIABILITY INSURANCE:
Crane Architectural Group carries professional liability insurance and general liability insurance.

CALIFORNIA REGISTRATION NUMBER:
Richard J. Crane, Jr., Architect #C 21132

NATIONAL REGISTRATION NUMBER:
The National Council of Architectural Registration Board
Richard J. Crane, Jr., Architect NCARB #40467

TYPE OF CURRENT PROJECTS:

<u>Governmental</u>	<u>Historic Preservation</u>	<u>Commercial</u>	<u>Residential</u>
40%	10%	30%	20%

FIRM INFORMATION:

CRANE ARCHITECTURAL GROUP
110 E Wilshire Ave #300 Fullerton, Ca. 92832
Phone: 714-525-0363
Fax: 714-525-9826
Richard J. Crane Jr., AIA
Principal Architect
Phone: 714-525-0363
rjcrane@cranearchitecturalgrp.com

FIRM DESCRIPTION:

Crane Architectural Group is a full-service architectural and planning firm that specializes in Park and Recreation projects. For more than a decade, Richard J. Crane, Jr., AIA, has designed projects that fully and effectively meet the needs of community and governmental agencies. At Crane Architectural Group we align that experience with a range of fresh approaches provided by a team of qualified professionals. Result: Design Excellence.

Crane Architectural Group provides full service architecture and planning services which include land planning, site analysis, programming, feasibility studies, ADA Studies, construction cost estimating, building design, construction documents, governmental processing, projects bidding & negotiation and construction contract administration & observation.

FIRM KEY PERSONNEL:**CRANE ARCHITECTURAL GROUP KEY PERSONNEL PRINCIPAL ARCHITECT**

Richard J. Crane Jr.

Number of years with firm: 25

Percentage involvement: 10%

Individual experience: Mr. Crane has designed many recreational and commercial projects; in addition, he has directed the design and planning of community centers, outdoor amphitheatres, senior centers, sports complexes, and office buildings. His comprehensive background in design and planning serves as the outstanding element in our architectural team. Committed to participating in civic and professional organizations, Crane Architectural Group is or has been active in the City of Fullerton's Planning Commission, Design Review Committee, the American Institute of Architects, the International Conference of Building Officials, and the National Trust for Historic Preservation, the American Planning Association, Fullerton Heritage, the Rotary Club of Fullerton and the Pacific Auditorium Board of Directors.

CRANE ARCHITECTURAL GROUP KEY PERSONNEL PROJECT ARCHITECT

Mark Blumer

Number of years with firm: 22

Percentage involvement: 40%

Individual experience: Following his graduation from U.C. Berkeley, Mr. Blumer entered the employment of Belair-Crane Design Group, where he was responsible for design work and construction document preparation.

Mr. Blumer has been with the firm of Crane Architectural Group since its inception. There, his duties have encompassed the spectrum of architectural practice, bringing projects from initial design to the final construction document phase. These projects have ranged from community centers, senior centers and sports complexes projects, as well as historic preservation projects.

CRANE ARCHITECTURAL GROUP KEY PERSONNEL PROJECT MANAGER

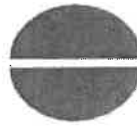
Steve Kalthoff

Number of years with firm: 21

Percentage involvement: 50%

Individual experience: After graduating from Cal Poly Pomona's Architecture Program, Mr. Kalthoff entered the employment of Crane Architectural Group. His duties have included the entire range of architectural practice, but especially the construction document phase. He has vast experience working with City personnel, construction teams, and regulatory agencies.

He has worked on many types of projects, including park and recreation, commercial and industrial; and custom residential projects.



CRANE ARCHITECTURAL GROUP

Innovations in Architecture

RICHARD J. CRANE, JR., AIA
ARCHITECT

RESUME
RICHARD J. CRANE, JR., AIA
PRINCIPAL

REGISTRATION

Registered Architect; State of California No. 21132; State of Texas No. 18270; State of Nevada No. 4964; State of Arizona No. 42293; State of Washington No. 8712 National Council of Architectural Registration Board; NCARB #40467

EXPERIENCE

After graduating from Cal Poly Pomona's Architecture Program, Mr. Crane worked with Thomas Maurer AIA & Associates. Promoted, in turn, to Project Manager, to Design Administrator, and finally to Vice President, Mr. Crane was responsible for all phases of process, including programming, budgeting, planning, design, construction document preparation, contract administration, and general office management.

When Mr. Crane left Thomas Maurer, he joined Belair-Crane Design Group as principal partner. He remained in that position for four years, and was again responsible for all phases of architectural process.

Today Mr. Crane is the principal of his own firm, *Crane Architectural Group*, where he provides architectural services for projects ranging from private developments to civic structures designed for public use.

EDUCATION

Bachelor of Architecture, California State Polytechnic University, Pomona, California
Associate of Arts in Business Management, Cerritos College, Norwalk, California

PROFESSIONAL AFFILIATION

American Institute of Architects AIA National Trust for Historic Preservation
American Planning Association APA International Conference of Building Officials

COMMUNITY INVOLVEMENT

Past Member, City of Fullerton Planning Commission
Active Member, Rotary Club of Fullerton
Past Member, City of Fullerton's Redevelopment Design Review Committee
Past Member, Fixed Guideway Review Committee - City of Fullerton
Board Member, YMCA of North Orange County
Active Member, Fullerton Heritage
Past Member, City of Fullerton Affordable Housing Review Committee
Committee Member, City of Fullerton Redevelopment PAC II Committee
Past Member, Rolling Hills Elementary School Site Council
Active Member, Fullerton Elementary School District Construction Bond Oversight Committee

RESUME
MARK THOMAS BLUMER
PROJECT ARCHITECT
LEED - AP

REGISTRATION

Registered Architect, State of California
LEED Accredited Professional (AP)

EXPERIENCE

Following his graduation from U.C. Berkeley, Mr. Blumer entered the employment of Belair-Crane Design Group, where he was responsible for design work and construction document preparation.

Mr. Blumer has been with the firm of *Crane Architectural Group* since its inception. There, his duties have encompassed the spectrum of architectural practice, bringing projects from initial design to the final construction document phase. These projects have ranged from single and multi-family residential projects, to commercial, governmental and religious projects, as well as historic preservation projects.

EDUCATION

Bachelor of Arts with a major in Architecture
University of California at Berkeley

COMMUNITY INVOLVEMENT

Past Chairman, Redevelopment Design Review Committee (City of Fullerton)
Former Member, City of Fullerton Bicycle-Users Sub-Committee
Former Member, City of La Habra Planning Commission

110 E. Wilshire Ave., Suite 300 Fullerton, CA 92832 714/525-0363 Fax 714/525-9826
Email: cranearch@cranearchitecturalgrp.com Web: <http://www.cranearchitecturalgrp.com>

Gena R. Digby

Project Manager

Experience

Ms. Digby began working in the environmental industry in 1987 as an accountant during AHERA; within no time at all she decided to obtain the necessary training to begin working in the field. By 1989, she was working as a full time technician performing contractor observation at many of the high rise buildings throughout downtown Los Angeles. Ms. Digby has been involved in a wide variety of environmental disciplines, working as both the consultant and as the health and safety representative for one of the nation's largest abatement contractors. Her diverse experience enables Ms. Digby to provide our clients with real world solutions to their environmental problems. Ms. Digby's contracting background provides firsthand experience in meeting tight timeframes and keeping projects within budget. Ms. Digby has performed hundreds of asbestos surveys and performed abatement oversight on thousands of asbestos remediation projects, including commercial, industrial, municipal, and AHERA related school facilities. Ms. Digby has also provided six-month periodic surveillances and three-year re-inspection for management planner updates at several K-12 school districts throughout the state, in accordance with AHERA guidelines.

Proposed Responsibility *Project Manager*

Education

1988/Senior Accounting, Orange County
Business College

Certifications

Cal/DOSH Certified Asbestos

Consultant #95-1631

CDPH Lead Related Construction

-Inspector/Assessor #LRC-00004845

Training

OSHA 40-Hour Hazardous Waste
Operations and Emergency
Response (HAZWOPER) Certified
with 8-hr Annual Refreshers

EPA/AHERA Asbestos Training:

- Building Inspector
- Contractor Supervisor
- Management Planner
- Project Designer

NIOSH 582-Sampling and Evaluating
Airborne Asbestos Dust Equivalency
Course

Lead Training:

- NITON XRF Spectrum Analyzer and
Radiation Safety

Other

DOJ/DOD fingerprinting clearance for
school districts airports, and military
bases

Medically-approved and fit-tested for
use of respirator
CPR & First Aid Trained

Joined Firm
2015

Year Started in the Industry
1987

City of Huntington Beach, Various Projects, Hazardous Materials Services, Huntington Beach, CA

Performed a hazardous materials survey and provided abatement monitoring during the removal of identified hazardous materials during a city-owned library modernization project. Provided abatement monitoring and clearance sampling of a fire department station for an addition to the existing structures to accommodate female firefighters' sleeping quarters and an existing kitchen area upgrade.

City of Los Angeles, General Service Division, Microwave Station, Hazardous Materials Survey, Los Angeles, CA

Performed a limited hazardous materials survey of fungal impacted materials caused by water incursion from rains at the Microwave Station at the Kenneth Hahn Recreation Area. The Microwave Station houses dispatch communication servers for both police and fire response teams throughout the city. Provided contractor observation and air monitoring services during the abatement activities. Special care and consideration was required during the containment set up and removal of mold impacted, asbestos flooring, and drywall system to ensure absolute non-stop operation of equipment. Project delay was triggered when the contractor did not have appropriate electrostatic poly for containment set up as required when working around sensitive operational equipment.

City of Anaheim, Downtown Youth Community Center and Children's Station, Asbestos Roofing Survey, Anaheim, CA

Performed an asbestos roofing survey at the Downtown Youth Community Center in preparation of the roofing renovation and replacement project.

City of Seal Beach, Various Sites, Hazardous Material Roofing Surveys, Seal Beach, CA

Performed comprehensive roofing surveys to identify hazardous materials that would be impacted during the upcoming roof replacement projects at the Mary Wilson Library and Maintenance Shop Garages. Other projects included abatement monitoring and clearance sampling services during the removal of hazardous materials at the City Hall Administrative Building and Courthouse.

OUR SERVICE METHODOLOGY HOW WE WORK

Delivery System

Every project at *Crane Architectural Group* receives the direct involvement and is the overall responsibility of the principal. To assure continuity in the delivery of services from project conception to project completion, the principal assigns an experienced Project Manager/Designer to the job. The project manager/designer's responsibilities (in conjunction with the principal) include determination of project scope, scheduling, supervision of documentation, coordination with regulatory agencies, and utilization of outside consultants where appropriate.

Client Participation

Crane Architectural Group emphasizes client input and involvement at all levels. We maintain regular communication from onset through completion of each project. *Crane Architectural Group* considers this type of involvement essential to realizing client and project objectives.

Approval Process

The ability to work with regulatory agencies has proven vital to *Crane Architectural Group*. This strength can be attributed to many years of involvement with regulatory policies and processes coupled with well cultivated working relationships with regulatory employees at all levels.

Cost/Schedule Control

A primary goal at *Crane Architectural Group* is respect for schedule and budget. Far reaching experience in a variety of projects has lead to an understanding of, and respect for, budget and time constraints. Budgeting and scheduling are undertaken at the onset and then closely monitored for the duration of each project.

Computer Aided Drafting and Design

Crane Architectural Group has been using the technology of Computer Aided Drafting and design (Auto CAD) for many years. Our highly trained staff of design professionals presently operate one of the most state-of- the-art CAD systems available. This highly sophisticated equipment enables the office to respond quickly to tight schedules and rapid changes in project scope. Our CAD expertise also gives us the drawing capability of much larger firms. Use of CAD technology expedites the design and construction document phases of many of our projects.

9. Preparation of preliminary plans consisting of site plan, floor plan, and building elevations, to describe the size, scope, components and character of the entire project, for governing agencies submittal/review.
10. Develop of probable cost estimate.
11. Refine Final Preliminary Plans & reports per client's comments.
12. Assist client in processing of Design Documents through the Governing Agency.

II EXCLUSIONS (Services Not Included)

1. Civil engineering, site surveys and availability of utilities, site and street improvements, tract maps, grading and utility plans.
2. Client requested revisions during the preparation of construction drawings upon design development approvals.
3. Acoustical analysis and environmental impact studies.
4. Geotechnical investigation report (soils).
5. Fire sprinkler design and calculations if required.
6. Exterior Signage design.
7. Providing financial feasibility or other special studies.
8. Providing detailed estimates of construction cost (by others). Detailed quantity surveys or inventories of material, equipment and labor. (will assist)
9. Making revisions in drawings, specification or other documents beyond architect's control.
10. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.
11. Printing, reproductions and photography of design documents. Billed @ Cost + 15%.
12. Governmental processing fees and permit fees.
13. Landscape design, irrigation plans, hardscape plans, planting plans, site lighting & master site planning.
14. Construction contract administration.
15. Other services not related to design processing.
16. Construction bid coordination. (will assist)
17. Governmental processing for approvals. (will assist)
18. Prefabricated building calculations and drawings if utilized (to be provided by manufacturer).
19. Fire hydrant (fire flow calculations).
20. Construction change orders.
21. 3-D renderings and/ or models.
22. LEED Design, processing, etc.
23. Existing site electrical service upgrades.
24. Site electrical design, engineering, drawings, etc.
25. Destructive Testing.
26. Environmental testing (asbestos report, lead paint reports, etc.)
27. Hazardous materials testing.
28. Concept Design & Construction Documents
29. Structural, Mechanical/Plumbing/Electrical Engineering
30. Public workshops/meetings.
31. Historical survey/etc.

RESPONSIBILITIES (Client to Provide the Following)

1. Environmental testing and processing (If required).
2. Provide copy of existing plans.
3. Provide documentation and related project data from client/city files and records.
4. Provide designated project coordinator.
5. Provide prompt review and response (in writing) to all material and information submitted.
6. Provide and pay all cost for plan reviews and required processing fees.
7. Coordination of the city review process.
8. Provide Auto CAD title sheet and design sheet border. (If required).
9. Research of available plans.
10. Processing of plans for client/city approval.
11. Management, administration, inspection & materials testing, if requested.
12. Environmental Hazard Reports. (if required)
13. Provide meeting room for progress meetings.

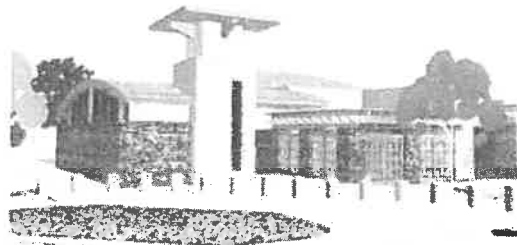
Sincerely,
Crane Architectural Group

Richard J. Crane, Jr., AIA
Architect

Chino Hills Community Center
City of Chino Hills, Community Services Department
14000 City Center Drive, Chino Hills, CA. 91709
Jonathan Marshall
(909) 364-2711

Work products included Concept Design, Construction Documents, Bidding Assistance,
Construction Administration, and Post Construction services

Budget: \$7,000,000.00



Buena Clinton Youth and Family Center
City of Garden Grove, Community Services
11222 Acacia Parkway., Garden Grove, CA. 92840
Digna De La Reyes
(714) 741-5179

Work products included Concept Design, Construction Documents, Bidding Assistance,
Construction Administration, and Post Construction services

Budget: \$2,200,000.00



REFERENCES
CRANE ARCHITECTURAL GROUP

The following references are provided to better acquaint you with
our firm. Please feel free to contact any of these listed below.

Jonathan Marshall
Parks & Recreation Director
City of Chino Hills
14000 City Center Drive
Chino Hills, CA 91709-4869
Ph. (909) 364-2711
jmarshall@chinohills.org

Margaret Riley
Director of Community Services
City of Buena Park
6688 Beach Boulevard
Buena Park, CA 90621
Ph. (714) 562-3860
mriley@buenapark.com

Michael Throne
Public Works Director/City Engineer
Acting Community Services Director
City of San Marino
2200 Huntington Drive.
San Marino, CA 91108
(626) 300-0787
mthrone@cityofsanmarino.org

Alice Loya
City of Fullerton
Deputy Director, Parks & Recreation Dept.
303 W. Commonwealth Ave.
Fullerton, CA 92832-1775
Ph. (714) 738-6587
Aloya@ci.fullerton.ca.us



RICHARD J. CRANE, JR., AIA
ARCHITECT


January 13, 2022

**City of Huntington Park
Recreation Center at Salt Lake Park**

PROPOSED FEES:

A. Phase I (Conceptual Design Phase)	\$32,200.00
	<u>\$32,200.00</u>

Sincerely,
Crane Architectural Group


Richard J. Crane, Jr., AIA
Architect

Fee Break Down

Architect.	\$24,900.00
Environmental Consultant.	\$ 6,900.00
Miscellaneous Printing	<u>\$ 400.00</u>
	<u>\$32,200.00</u>

HOURLY RATES

Architect:

Principal	\$225.00/Hour
Staff Architect	\$190.00/Hour
Project Designers	\$165.00/Hour
Project Manager	\$165.00/Hour
Cad Draftsman	\$120.00/Hour
Clerical	\$95.00/Hour
Mileage Rate	\$00.46/Mile

Environmental Consultant:

Principal	\$200.00/Hour
Project Manager	\$170.00/Hour
Clerical	\$ 95.00/Hour
Mileage Rate	\$00.46/Mile

ITEM NO. 5



CITY OF HUNTINGTON PARK

Community Development Department
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL TO AWARD PROFESSIONAL SERVICES AGREEMENT TO PROVIDE WASTE MANAGEMENT ANALYSIS SERVICES

IT IS RECOMMENDED THAT CITY COUNCIL:

1. Award a professional service agreement (PSA) as it relates to Waste Management Analysis, to Integrity Waste Management as the sole responsive and responsible proposer for a not-to-exceed amount of \$43,260;
2. Authorize the City Manager to execute the PSA.

BACKGROUND

CR&R is the City's current franchised refuse hauler. Per the City's contract with CR&R, they are responsible for implementing all of the requirements set forth by CalRecycle. During a third-party audit of CR&R, it was discovered that CR&R is not in compliance with the contract and is specifically putting the City at risk of not being in compliance with CalRecycle and State law.

Due to the implementation of SB1383, the landscape for how refuse is picked up and disposed of and ultimately reported to the State has become very complex. CalRecycle has posted a 150 page "Model Franchise Agreement" as a template to follow. At the December 7, 2021 regularly scheduled City Council meeting, the Council authorized the issuance of a RFP for a solid waste hauler at an appropriate time.

In order to be competitive in soliciting solid waste haulers, a detailed RFP must be crafted to ensure the City receives competitive proposals for service and rates. A RFQ to solicit firms known for working with municipal agencies who understand current solid waste requirements was approved by the City Council on December 7, 2021. A sole proposal was received on or before the prescribed date of January 13, 2022. The detailed proposal was under the projected cost of service (\$100,000) and submitted by Integrity Waste Management in the amount of \$43,260. References for Integrity Waste Management confirm that their services for similar projects in the past have been successful. The total

**CONSIDERATION AND APPROVAL TO AWARD PROFESSIONAL SERVICES TO
INTEGRITY WASTE MANAGEMENT TO PROVIDE WASTE MANAGEMENT
ANALYSIS SERVICES**

February 1, 2022

Page 2 of 2

fee of \$43,260 is for the complete scope of service identified in the RFQ. However, only work performed will be billed should a lesser amount of service be needed.

FISCAL IMPACT

There are sufficient monies in the Fiscal Year 2021-2022 Solid Waste Management Fund Contractual Services account number 285-8050-432.56-41 and will be reimbursed by the City's waste hauler once completed.

CONCLUSION

Upon Council's direction, staff will proceed with actions as directed.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Ricardo Reyes', with a stylized flourish at the end.

RICARDO REYES
City Manager

Steve Forster
Interim Community Development Director

ATTACHMENT(S):

1. Draft Professional Services Agreement for Integrity Waste Management
2. Integrity Waste Management proposal

ATTACHMENT "A"



PROFESSIONAL SERVICES AGREEMENT

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this **1st day of February 2022** (hereinafter, the "Effective Date"), by and between the CITY OF HUNTINGTON PARK, a municipal corporation ("CITY") and **FILL IN NAME** Hereinafter, "CONTRACTOR"). For the purposes of this Agreement CITY and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONTRACTOR agree as follows:

I. ENGAGEMENT TERMS

- 1.1 **SCOPE OF SERVICES:** Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Services**"). CONTRACTOR further agrees to furnish to CITY all labor, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Services. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally by the capitalized term "Work."
- 1.2 **TERM:** This Agreement shall commence on **February 1, 2022 to February 1, 2023**. It is the CONTRACTOR'S responsibility to request an extension at least (2) days in advance of the expiration of term of the Agreement. Nothing in this Section shall operate to prohibit or otherwise restrict the CITY's ability to terminate this Agreement at any time for convenience or for cause.
- 1.3 **COMPENSATION:**
 - A. CONTRACTOR shall perform the various services and tasks set forth in the **Scope of Services Exhibit "A"**.
 - B. Section 1.3(A) notwithstanding, CONTRACTOR'S total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum of **\$0.00** (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the CITY acting in consultation with the City Manager and the Director of Finance. In the event CONTRACTOR'S charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, CITY may suspend CONTRACTOR'S performance pending CITY approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other CITY-approved amendment to the compensation terms of this Agreement.
- 1.4 **PAYMENT OF COMPENSATION:** Following the conclusion of each calendar month, CONTRACTOR shall submit to CITY an itemized invoice indicating the services and tasks

performed during the recently concluded calendar month, including services and tasks performed. If the amount of CONTRACTOR'S monthly compensation is a function of hours worked by CONTRACTOR'S personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within **thirty (30) calendar days** of receipt of each invoice, CITY shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within **forty-five (45) calendar day** of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement during and for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities. The City shall own all accounting records maintained by the CONTRACTOR.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONTRACTOR shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONTRACTOR'S cessation or abandonment.

II. PERFORMANCE OF AGREEMENT

- 2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the City Manager and Interim Director of Community Development (hereinafter, the "CITY Representatives") to act as its representatives for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representatives or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the CITY Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE AND CONTACT INFORMATION: CONTRACTOR hereby designates or designee to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this

Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.

2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by CITY Representatives or their designees.

2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:

- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR'S profession;
- B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the CITY;
- C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code section 1090 and the Political Reform Act (Government Code section 81000 *et seq.*);
- D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
- E. All of CONTRACTOR'S employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and
- F. All of CONTRACTOR'S employees and agents (including but not limited to SUB-CONTRACTOR) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONTRACTOR shall perform, at CONTRACTOR'S own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONTRACTOR'S failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONTRACTOR'S employees, agents, and SUB-CONTRACTOR. Such effort by CONTRACTOR to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendar days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that CITY'S acceptance of any work performed by CONTRACTOR or on CONTRACTOR'S behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONTRACTOR, including but not limited to the representation that CONTRACTOR possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONTRACTOR'S profession.

2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are

material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR'S duties or obligations under this Agreement without the prior written consent of CITY. In the absence of CITY'S prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.

- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR'S strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONTRACTOR on an independent CONTRACTOR basis and not as an employee. CONTRACTOR reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR'S competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of CITY and shall at all times be under CONTRACTOR'S exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONTRACTOR 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, workers' compensation insurance and the like.
- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR'S officers, employees, agents, or SUB-CONTRACTOR is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR'S officers, employees, agents, or SUBCONTRACTOR fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, or SUB-CONTRACTOR shall be promptly removed by CONTRACTOR and shall not be reassigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, state or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR'S compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, CONTRACTOR, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.
- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent CONTRACTOR and are not officials, officers,

employees, departments or subdivisions of CITY. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, CONTRACTOR and SUB-CONTRACTOR. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, CITY, whether by CONTRACTOR or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and CONTRACTOR dual liability.
 - B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.
 - C. Workers' Compensation Insurance / Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A: VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representatives are authorized to authorize lower ratings than those set forth in this Section.

- 3.4 PRIMACY OF CONTRACTOR'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.
- 3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR officers, employees, agents, CONTRACTOR or SUB-CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against CITY.
- 3.6 VERIFICATION OF COVERAGE: CONTRACTOR acknowledges, understands and agrees, that CITY'S ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY'S financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to CITY in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf and shall be on forms provided by the CITY if requested.** All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONTRACTOR'S commencement of any work or any of the Work. Upon CITY'S written request, CONTRACTOR shall also provide CITY with certified copies of all required insurance policies and endorsements.

IV. INDEMNIFICATION

- 4.1 The Parties agree that CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that CITY would not enter into this Agreement in the absence of CONTRACTOR'S commitment to indemnify, defend and protect CITY as set forth herein.
- 4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement.
- 4.3 CITY shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due CITY from CONTRACTOR as a result of CONTRACTOR'S failure to pay CITY promptly any indemnification arising under this Article and related to CONTRACTOR'S failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to CITY and CITY'S elected and appointed officials,

officers, employees, agents and volunteers.

- 4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR'S, SUB-CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY'S choice.
- 4.6 CITY does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.

V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar day's prior written notice of CITY'S intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY'S written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY'S ability to terminate this Agreement for convenience as provided under this Section.
- 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:
- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than

the applicable cure period set forth under Sections 5.2.B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:

- i. Within three (3) business days of CITY'S issuance of a Default Notice for any failure of CONTRACTOR to timely provide CITY or CITY'S employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to CITY or CITY'S employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
- ii. Within fourteen (14) calendar days of CITY'S issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR'S refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONTRACTOR'S failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR'S and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR'S refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vi) CITY'S discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

C. CITY shall cure any Event of Default asserted by CONTRACTOR within forty-five (45) calendar days of CONTRACTOR'S issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY'S failure to timely pay any

undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONTRACTOR'S Default Notice to CITY.

- D. CITY, in its sole and absolute discretion, may also immediately suspend CONTRACTOR'S performance under this Agreement pending CONTRACTOR'S cure of any Event of Default by giving CONTRACTOR written notice of CITY'S intent to suspend CONTRACTOR'S performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY'S ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - i. Upon written notice to CONTRACTOR, CITY may immediately terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONTRACTOR, CITY may extend the time of performance;
 - iii. CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR'S breach of the Agreement or to terminate the Agreement; or
 - iv. CITY may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY'S exercise of its remedies under this Agreement.

- G. In the event CITY is in breach of this Agreement, CONTRACTOR'S sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement

pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. MISCELLANEOUS PROVISIONS

- 6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all SUB-CONTRACTORS working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any CONTRACTOR as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.
- 6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONTRACTOR shall not use CITY'S name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 6.3 FALSE CLAIMS ACT: CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., section 3789 et seq. and the California False Claims Act, Government Code section 12650 et seq.
- 6.4 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

Name
Address
Contact info

CITY:

City of Huntington Park
Community Development Department
6550 Miles Avenue
Huntington Park, CA 90255
Attn: Ricardo Reyes, City Manager
Phone: (323) 582-6161

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the

- 6.5 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.6 SUBCONTRACTING: CONTRACTOR shall not SUB-CONTRACT any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. SUB-CONTRACTORS (including without limitation SUB-CONTRACTORS with Sub-CONTRACTOR'S), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.7 CITY'S RIGHT TO EMPLOY OTHER CONTRACTOR: CITY reserves the right to employ other CONTRACTOR in connection with the various projects worked upon by CONTRACTOR.
- 6.8 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.9 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.10 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.
- 6.11 ATTORNEYS' FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.
- 6.12 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.
- 6.13 NO THIRD-PARTY BENEFIT: There are no intended third-party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

- 6.14 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.15 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 6.16 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 6.17 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 6.18 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 6.19 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.
- 6.20 COUNTERPARTS: This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterpart(s) shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONTRACTOR and the remaining two original counterparts shall be retained by CITY.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF HUNTINGTON PARK:

CONSULTANT, INC.:

By: Ricardo Reyes
City Manager

By:

Date: _____

Date: _____

APPROVED AS TO FORM:

By: City Attorney

Date: _____

DRAFT

EXHIBIT "A"

SCOPE OF WORK

NAME OF CONSULTANTS, INC.

DRAFT

ATTACHMENT "B"

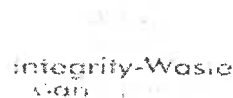


**“Response to Request for Qualifications for Professional
Services for Waste Management Analysis”**

prepared for the

City of Huntington Park

submitted by



8405 Loch Lomond Drive,
Pico Rivera, California 90660
Phone 909-289-4321

January 13, 2022



8405 Loch Lomond Dr
Pico Rivera, Ca. 90660
Tel: 909-289-4321 – integritywaste@yahoo.com

January 13, 2022

Steve Forster
6550 Miles Avenue
Huntington Park, CA 90255

Subject: "Request for Qualifications for Professional Services for Waste Management Analysis"

Mr. Forster;

Thank you for allowing Integrity Waste Management (IWM) the opportunity to submit this Proposal for solid waste consulting services as outlined in the City of Huntington Park (City) "Request for Qualifications for Professional Services for Waste Management Analysis" (hereinafter referred to as Proposal). The Proposal from IWM will be complemented by Municipal Waste Solutions (MWS) in order to provide the City with a consulting group knowledgeable of the current and previous solid waste franchise history. IWM and MWS (Consultant), each have over 30 years experience in solid waste and recycling consulting with 6 (six) years of actual solid waste consulting, auditing, reporting, proposal request and diversion program implementation history in the City of Huntington Park. The Consultant is current and up to date on the City's existing compliance situation with the solid waste franchisee (Franchisee) giving the City and Consultant an advantage in what may become a shortened timeline for securing a replacement for the Franchisee. In addition, a recent RFP process developed, managed and directed in the similar City of Lynwood by the Consultant, may be used to accelerate the RFP process for the City.

The RFQ Response developed by the Consultant will be concise, relevant, time sensitive and comprehensive to the City's need for solid waste compliance with AB 939, AB 341, AB 1826 and SB 1383 with strict adherence from the SB 32 California Global Warming Solutions Act.

I have read, understood, and agreed to all statements in this request for proposal and acknowledge receipt of all addendums/amendments as well as to the terms, conditions, and attachments referenced. LCD

Looking forward to serving the City,

Louis C. Ippolito, IWM


Susan Contreras, MWS

I Qualifications and Experience of Consultant's Personnel:

The Consultant has developed a team that can and will meet the City's timeline, expectations, timely RFP development and CalRecycle compliance issues. The Consultant is very experienced in working with the City and similar municipalities that include the Lynwood Unified School District and the cities of Lynwood and Maywood most recently. The City of Lynwood has similar characteristics to the City of Huntington Park that lend themselves to an expedited process to develop, distribute, manage, oversee, review and evaluate responses to the RFP. The experience in managing the RFP process for the cities of Lynwood and Maywood will be critical in forwarding the City's goal in the RFP process and its acceleration to avoid non-compliance issues and fines with CalRecycle.

In the City of Lynwood, the Consultant worked closely with the City Attorney's office and legal counsel, Patrick Munoz to develop an RFP that met Lynwood's compliance with CalRecycle, maintained low rates for residents, increased recycling for Lynwood businesses, and increased the franchise fee contributions to the city of Lynwood.

Experience and Proposed Personnel

Louis C. Ippolito ***Senior Consultant***

Mr. Ippolito has been involved in recycling and solid waste management in New Jersey, New York and California since 1969. At age 18 he attended University of Miami's Engineering School and finished with a B.S. in Mechanical Engineering at California State University Long Beach. Mr. Ippolito, has been involved in assisting municipalities with solid waste operations and compliance issues since 1991 after a two (2) year stint with Emcon Associates to characterize the waste streams for more than 35 municipalities including the City of Huntington Park. The waste characterizations managed by Mr. Ippolito were a crucial element in the development of municipal Source Reduction and Recycling Elements required by Sher, Assembly Bill 939. Upon completion of this 2 year project, Mr. Ippolito left Emcon to assist municipalities in the implementation and execution of all programs identified in the Source Reduction and Recycling Elements (SRREs) of over thirty-five (35) California municipalities which include:

<i>Hawthorne</i>	<i>Gardena</i>	<i>Lynwood</i>	<i>El Monte</i>	<i>Bell Gardens</i>
<i>Pomona</i>	<i>Bellflower</i>	<i>Torrance</i>	<i>Covina</i>	<i>Costa Mesa</i>
<i>Carson</i>	<i>South El Monte</i>	<i>South Gate</i>	<i>La Mirada</i>	<i>Downey</i>

These and other cities required the management of existing permitted haulers to ensure their compliance with municipal codes as well as the prospective city's SRRE, implementation of all SRRE programs, reporting requires the haulers as well as those required by the State. Since that time, Mr. Ippolito has been consulting for the cities of Lynwood and Maywood in their respect RFPs for solid waste hauling franchisees that can meet their requirements and comply with impending penalties from CalRecycle.

Mr. Ippolito is well known for his role in conducting comprehensive financial audits for municipalities. He has led forensic accounting audits in the cities of Carson, South Gate, Lynwood, Gardena, El Monte, Costa Mesa, Newport Beach, Pomona, Huntington Park and other communities. Mr. Ippolito has also written, developed and managed over \$300 million in solid waste franchise systems for municipalities. Mr. Ippolito has uncovered over \$30 million dollars in unpaid fees due client cities in the form of franchise, AB 939 and contract fees. He has developed and maintained six (6) non-exclusive franchise systems and conducted nine (9) municipal compliance evaluations that saved cities millions of dollars in fees, customer rates, and contributions to municipal general funds.

Role in the RFP Process

Mr. Ippolito will lead the tasks identified in the RFQ Response and move to quickly develop the Draft RFP in concert with Susan Contreras and the City staff dedicated to the RFP process. Mr. Ippolito has already developed a sample Franchise Agreement for the City to review and revise for inclusion into the RFP. Mr. Ippolito will present recent RFP drafts to the City for review and revision including the final RFP for the City of Lynwood, which may have similar characteristics as the City of Huntington Park. The Draft RFP will be finalized by Mr. Ippolito with the help of Susan Contreras and approved/revised by the City for distribution to pre-qualified haulers wishing to bid on the City's solid waste collection and recycling system. Mr. Ippolito will direct the execution of each task and oversee progress towards a final resolution and hauler selection for the City of Huntington Park.

SUSAN CONTRERAS

Senior Consultant

Ms. Susan Contreras has been intimately involved in recycling, composting and solid waste management in California since 1991 and the inception of the California Integrated Waste Management Act working for Emcon Associates, Inc. and assisting in the Recycling Plan development for over 32 municipalities. She also assisted RIS and Huls Environmental the preparation of waste characterizations, research and analysis to finalize the development of Recycling Plans required by AB 939. Susan has worked with many jurisdictions on compliance implementation and oversight to meet CalRecycle AB 341 (MCR), AB 1826 (MORe) and SB 1383 requirements. She assists Cities in environmental compliance, solid waste management and recycling, acquisition of grant funds, contract negotiations with solid waste contractors, and conducting competitive bidding processes to ensure California jurisdictions get the best deal available for all legislated environmental. Most recently, Susan developed and managed the Request for Proposal process for the Lynwood Unified School District as well as the City of Maywood which both resulted in selecting a qualified solid waste and recycling company to implement the recycling programs.

Ms. Contreras is currently providing continued consulting services to the cities of Huntington Park, Maywood, El Monte, and La Puente to ensure their compliance with State Legislation. In addition, Ms. Contreras oversees her client cities SRRE; Hauler Financial and Contract Compliance and Performance Reviews; Development and Implementation of the C&D, Recycling and Organic Programs; Develop and Manage the Request for Proposal process; Hauler Contract Negotiations; Transition Oversight and the Administration of Beverage Container and Used Oil Grants.

Role in the RFP Process

Ms. Contreras' role will be tailoring the Franchise Agreement to include AB 1826 and SB 1383 as well as compliance oversight for inclusions into the RFP that will ensure the City of Huntington Park will reach CalRecycle compliance upon execution of the selection of a qualified hauler. Susan will assist Mr. Ippolito in receiving RFP responses, developing true calculations of collections, diversion, disposal and composting as well as implementing SB 1383 program

KELLY TRIMMER

Recycling Coordinator /SB 1383 Food Recovery Specialist

Ms. Trimmer is a highly motivated Recycling Coordinator with background in recycling outreach, marketing and meeting customer needs efficiently with respect to AB 939, AB 341, AB 1826 and SB1383. She has excellent relationship-building, communication, and project management skills to garner attention for recycling, procurement, food donation projects. She is also well versed as the Food Recovery Specialist and flawlessly obtains information necessary to ascertain compliance and assist Food Generators with setting up successful Food Donation Programs. In addition, Ms. Trimmer is instrumental in Operations Support, Project Management, Contract Compliance, Recordkeeping, Public Education and Special Events.

Currently working with Municipal Waste Solutions, Ms. Trimmer oversees Public Education and Outreach, SB 1383 Food Recovery Programs; Food Generator Donation Compliance; SB 1383 Recordkeeping as well as Used Oil and Beverage Container Grants for client cities of Huntington Park, Maywood, El Monte, and La Puente.

Role in the RFP Process

Ms. Trimmer's role in the RFP process will be to organize the Consultant's tasks, ensure they are executed on time and contribute to the key legislation of SB 1383 and its inclusion in the final draft of the RFP. Ms. Trimmer will also be critical in organizing hauler responses to the RFP and summarizing key aspects of the responses for further investigation, review and stratification by Susan and Mr. Ippolito.

II IWM Project Approach and Commitment to Tasks

The Consultant is particularly familiar with the City's current position and standing with the solid waste franchisee as well as CalRecycle. Using our intimate knowledge of the City, its franchised hauler's compliance and operational issues, its previous franchised hauler, its standing with CalRecycle and the environmental and financial obligations of its franchisee, the following Scope of Work has been specifically designed for the City of Huntington Park for development, management and direction of a Request for Proposal for Integrated Waste Management Collection Services (RFP) satisfying ALL of the City's requirements:

Task I Consolidate Existing Data – The Consultant will consolidate existing data necessary to draft an inclusive and comprehensive RFP for distribution to qualified haulers. This data includes but is not limited to the following subtasks which the Consultant is acutely familiar with:

- a) Disposal, diversion, composting and transformation quantities of existing franchisee
- b) Operational composition of existing franchisee's residential, commercial and temporary collection services and equipment utilized
- c) Presentation of residential, multi-family, commercial and temporary customer data for RFP
- d) Quantity, type and model of the collection vehicles for all collection services in City
- e) Franchise agreement components required by the City and necessary for inclusion into the RFP
- f) Specific requirements of SB 1383 and the commitment by the prospective hauler in the RFP
- g) Select programs for residential, commercial and organic waste collection for diversion/disposal
- h) Customer database development, update and review for inclusion in the RFP
- i) Service area data and approved City service requirements for the RFP
- j) Status of environmental compliance with CalRecycle
- k) Organic waste collection pricing, reporting and education

The Consultant will design and distribute a qualified RFP that will protect, indemnify, and stabilize collection costs to the City and its residential and business community. The RFP will be drafted for ease of execution to accelerate the selection of a new franchisee for solid waste and recycling.

Within the first 30 (thirty) days, a Draft RFP will be ready for City review and approval. The Consultant is fortunate to understand the City's position and need for a replacement franchisee and intends to fast-track development of the RFP.

To accelerate the RFP process, the Consultant will email discrete portions of the RFP upon completion to the City for review and approval and will not wait for the entire Draft RFP to be ready before City review. It is noted and important that a prospective hauler has the ability to develop an appropriate and timely RFP response and perform and properly execute the RFP requirements.

The following items are necessary for the RFP and the resulting response from the hauling community:

- a) Comprehensive Insurance guarantees, bonds, and other fiduciary documents
- b) Fair and accurate accounting methodology for the Franchise and AB 939 Fees and Rate Increases
- c) Declaration and approval of required diversion programs needed and their collection feasibility
- d) Identification and adherence to a set of permitted recycling, diversion and disposal facilities
- e) Insertion of Draft Franchise Agreement approved by City for review by the RFP respondent
- f) Guaranteed diversion program implementation and compliance with AB 939, AB 341, AB 1826/SB 1383
- g) Executed Pro Forma cost analysis and spreadsheet for inclusion into the RFP (see Exhibit I)

Task 2 Evaluation of True Cost of Collection Services - The Consultant has recently received a verifiable account of the City's current vehicle collection system while performing an audit update that will help in the development of a true and accurate cost of services provided by the City's franchised hauler. This information will also be important in the development of the RFP as addressed herein.

The City of Huntington Park is currently served by four (4) front loaders for commercial and multi-family service, four (4) sideloaders for single family residential collection and carts and one (1) rolloff vehicle for the collection of temporary and permanent waste service accounts. The following data and specific information from the haulers' response to the RFP is critical for the determination of the true cost of collection:

- Vehicle trips per day for collection of residential, commercial and temporary services
- Trip miles throughout the residential and commercial collection corridors of the City
- Hours for vehicle trips required for full collection of all City waste streams
- Operations staff and compensation for collection supervisor, drivers, helpers, and field reps
- Administrative staff and compensation for dispatch, recycling educators, and customer service reps
- Payroll taxes and benefits for all employees proposed by prospective hauler
- Monthly maintenance estimates and cost of fuel
- Preferred and secondary facility costs for diversion, disposal, organics recycling and composting

The Consultant shall develop an RFP that provides **ALL** of the costs of collection, service, recycling and disposal from each prospective hauler. This task will give the City an exact picture of the cost of servicing the City and implementing the required programs while keeping the bidders honest in their pricing to the City. In doing so, the City will have the opportunity to monitor the cost of service to residents, minimize the impact on the business community and ensure that the programs identified by the prospective hauler(s) are fair and balanced. A sample of the cost and service analysis is attached in Exhibit I.

The Consultant will also design and include rate calculation sheets in the RFP for the prospective hauler to fill out with pricing, extra services, locking lids, recycling programs and rates for the collection of recyclables, solid waste and organics. This gives the City the edge in calculating true collection costs which can be spread over the required City services by the prospective hauler. The Consultant will also provide a Cost Table for the prospective hauler to fill out. A sample of the Cost Table is inserted below:

Primary Bin / Once per Week									
Perceptible Aspects	Professional \$/year	75	100	125	150	175	200	225	250
0.55 \$	0.55 \$	1.04 \$	2.39 \$	3.28 \$	4.38 \$	5.53 \$	6.77 \$	8.15 \$	17.54 \$
47.00 \$	47.00 \$	47.00 \$	47.00 \$	47.00 \$	47.00 \$	47.00 \$	47.00 \$	47.00 \$	47.00 \$
6.00 \$	6.00 \$	6.00 \$	6.00 \$	6.00 \$	6.00 \$	6.00 \$	6.00 \$	6.00 \$	6.00 \$
1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$
13.16 \$	13.16 \$	13.16 \$	13.16 \$	13.16 \$	13.16 \$	13.16 \$	13.16 \$	13.16 \$	13.16 \$
64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$
70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$
Hide Additional Bin/Days									
Additional Bin / Once per Week									
0.55 \$	0.55 \$	1.04 \$	2.39 \$	3.28 \$	4.38 \$	5.53 \$	6.77 \$	8.15 \$	17.54 \$
9.40 \$	9.40 \$	9.40 \$	9.40 \$	9.40 \$	9.40 \$	9.40 \$	9.40 \$	9.40 \$	9.40 \$
1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$	1.30 \$
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64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$	64.39 \$
70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$
Hide Additional Bin/Days									
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70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$
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70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$	70.85 \$
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Task 3 Identification of Required Diversion Programs - The City of Huntington Park has not reached compliance with the mandates of CalRecycle. The Consultant will ensure that all programs required by CalRecycle are included in the RFP as indicated in the summary below:

1. Residential recycling of green waste, commingled recyclables, organics and possibly transformation
2. Commercial recycling of green waste, commingled recyclables, organics and possibly transformation
3. Diversion program for construction and demolition (C&D) debris and mechanism for tracking diversion
4. Bulky waste recycling of junk and cleanout materials from the residential and commercial sector

Pursuant to AB 341, the RFP needs to address the requirements of AB 341, mandatory recycling for the business community. The Consultant shall ensure that the RFP accurately defines what the City needs to comply with this legislation while maximizing the program's overall diversion.

Task 4 Assemble RFP in Discrete Sections for City Review – The Consultant will assemble all City requirements in the RFP and develop draft discrete sections for review by the City as they are completed. This will allow the Consultant to meet the timeline developed in this Proposal. The Consultant will be careful to include all required components for collection, diversion, and CalRecycle compliance including SB 1383 specific requirements of the type of Container Collection Service for each waste stream; the type of Approach (Standard Compliance or Performance-Based Compliance); Material Streams allowed in each color container; Jurisdiction Services; Special Event Collection; Transfer, Processing and Disposal; Contamination Monitoring; Education and Outreach Plan; Provision of Recovered Organic Waste Products; Vehicles to be Utilized (CNG/RNG); Assistance with Edible Food Recovery Programs and Capacity Planning. The outline of the RFP will be developed by the Consultant as follows:

- Introduction to the RFP
- Recitals of the RFP
- Table of Contents
- Administrative Requirements for Submittal
- Instructions for RFP Response
- Identification of Required Solid Waste Programs
- Insertion of Respondents Qualifications
- Previous Experience and History
- Legal Acknowledgements of the RFP
- Calculation of Collection Rates for All Services
- Proof of All Solid Waste Handling Costs
- Instruction for Separate Submittal of Solid Waste Collection Fees
- Review of RFP Responses by City
- Timeline for City Action and Hauler Selection
- Final Contract Development and Approval

This is a summary of the tasks associated with the public distribution of a qualified RFP for solid waste collection and handling. The Consultant will handle all aspects of the RFP submittal, response and selection with strict guidance from City management and legal.

In order to expedite this process, the Consultant has developed a comprehensive sample of a Solid Waste Franchise Agreement ready for review, revision and refinement to the City's needs. This document is attached to this Proposal in Exhibit II Sample Solid Waste Franchise Agreement.

It should be noted that the Consultant does not have a heavy workload at this time and our office is only nine (9) miles from the City for easy access, meetings on short notice, collaboration and strategy with City staff and overall efficiency of the management of the RFP process for the City of Huntington Park.

III Quality Assurance and Quality Control

The Consultant will implement measures to ensure the quality of the RFP and implement the following measures during the development process:

1. Develop list of measures to ensure quality of the RFP process and control of the distribution and response
2. Submit Draft RFP to City after inclusion of all required programs and options for initial review
3. Revise Draft RFP with identified quality measures and timelines for efficiency and RFP acceleration
4. Implement proof-reading of the Final Draft RFP by each of the Consultant's personnel
5. Develop qualified list of prospective bidders that can meet the City's timeline and needs

All tasks developed by the Consultant will be initially developed or review by Mr. Ippolito. Ms. Contreras will review and recommend revisions thereafter and Ms. Kelly Trimmer will be the final point of review for all tasks, deliverables, and submissions to the City for review and consideration.

Prior to submission of any deliverable to the City of Huntington Park, the Consultant team will also ensure that the following controls are executed:

- Destination is confirmed for deliverable(s) and appropriate carbon copies distribution
- Spelling is checked and syntax review is performed prior to distribution to City members
- Content and wording are concise to avoid confusion of industry words, terms and concepts
- Format is consistent with all deliverables to the City members

These are the measures the Consultant shall put in place to ensure the professionalism of all transmission are consistent, accurate and concise to convey a consistent and precise message to City members and RFP respondents.

The final quality control measure will be initiated and executed upon review of the RFP responses and stratifying the responses in a quality matrix based on weighted factors of the respondent's proposal.

IV Consultant References

Integrity Waste Management References

Arnoldo Beltran
Former City Attorney, City of Lynwood
Phone (213) 210-6008

Patrick Munoz
Special Counsel, Lynwood Solid Waste RFP
Phone (714) 662-4628

Ed Del La Riva
Mayor, City of Maywood
Phone (323) 238-9801

Rene Bobadilla
City Manager
City of Montebello
Phone (626) 329-2339

Municipal Waste Solutions References

David Mango
Former Administrator, City of Maywood
Phone (323) 562-5721

Dr. Gudiel Crosthwaite
Superintendent of Lynwood School District
Phone (310) 886-1600

V Consultant Schedule of Fees and Proposed Timeline

The Consultant has identified subcontractors Susan Contreras and Kelly Trimmer to provide critical services in the execution of the RFP process for the City of Huntington Park. Mr. Ippolito, Senior Consultant 1, Susan Contreras, Senior Consultant 2 and Kelly Trimmer, Consultant and their hours and hourly rates are itemized in the table below:

Consultant's Cost Estimate Response to RFQ Is Submitted Under Separate Cover

The estimated, accelerated timeline to conduct the tasks in this RFQ is contained in the following table:

Tasks and Subtasks of the RFQ	Month 1	Month 2	Month 3	Month 4	Month 5	Month 6
Compile existing data for RFP development						
Develop Draft Franchise Agreement for RFP						
Develop Draft RFP for City review						
Review City RFP response and revise						
Finalize Draft RFP for distribution to bidders						
Compile list of approved bidders for City						
Distribute RFP and respond to questions						
Receive, review and qualify RFP responses						
Conduct cost and pricing evaluation for services						
Meet with City staff to review proposals/pricing						
Develop and stratify responses in matrix						
Finalize and submit matrix to City for review						
Assist City in review of responses/matrix						
Conduct interviews with top tier haulers						
Make final recommendations to City						
Attend various meetings including Council						
Assist City in final programs and contract						
Develop final franchise agreement and submit						
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It is the Consultants goal and commitment to initiate, manage and finalize the RFP process and select a qualified hauler within six (6) months, an accelerated timeline, to avoid fines, penalties and demands from CalRecycle for compliance with AB 341 and SB 1383.

Exhibit I

Performance Metric Input and Service Calculations

Performance Metric Input: City of Huntington Park Exclusive Franchise System

Year	2022
Solid Waste Collection Performance Data	
Assumed trips per route per day to the disposal facility	
Average hours per route for solid waste collection	
Commingled Recycling Collection Performance Data	
Assumed trips per route per day to the recycling facility	
Average hours per route for recycling collection	
Food Waste Only Collection Performance Data (if applicable)	
Assumed trips per route per day to the transfer/organics dropoff facility	
Average hours per route for food waste only collection	
Yard Waste Only Collection Performance Data (if applicable)	
Assumed trips per route per day to the transfer/organics dropoff facility	
Average hours per route for yard waste only collection	
Combined Food/Yard Waste Collection Performance Data (if applicable)	
Assumed trips per route per day to the transfer/organics dropoff facility	
Average hours per route for food/yard waste collection	
SW to Transfer or Landfill (1,2)	
Preferred Facility	
Preferred Facility Tipping Fee per Ton	
2021 Tons to Preferred Facility	
Secondary Facility (if applicable)	
Secondary Facility Tipping Fee per Ton	
2021 Tons to Secondary Facility	
SW to Processing (1,2)	
Preferred Facility	
Preferred Facility Tipping Fee per Ton	
2021 Tons to Preferred Facility	
Secondary Facility (if applicable)	
Secondary Facility Tipping Fee per Ton	
2021 Tons to Secondary Facility	
Commingled Recycling to MRF (1,2)	
Preferred Facility	
Preferred Facility Tipping Fee per Ton	
2021 Tons to Preferred Facility	
Secondary Facility (if applicable)	
Secondary Facility Tipping Fee per Ton	
2021 Tons to Secondary Facility	
Food Waste Only to Transfer/Processing (1,2)	
Preferred Facility	
Preferred Facility Tipping Fee per Ton	
2021 Tons to Preferred Facility	
Secondary Facility (if applicable)	
Secondary Facility Tipping Fee per Ton	
2021 Tons to Secondary Facility	
Yard Waste Only to Transfer/Processing (1,2)	
Preferred Facility	
Preferred Facility Tipping Fee per Ton	
2021 Tons to Preferred Facility	
Secondary Facility (if applicable)	
Secondary Facility Tipping Fee per Ton	
2021 Tons to Secondary Facility	
Combined Food/Yard to Transfer/Processing (1,2)	
Preferred Facility	
Preferred Facility Tipping Fee per Ton	
2021 Tons to Preferred Facility	
Secondary Facility (if applicable)	
Secondary Facility Tipping Fee per Ton	
2021 Tons to Secondary Facility	
Average Hourly Wage by Labor Category	
Operations Staff	
Collection Supervisor	
Driver	
Helper	
Field Representatives (auditor, education, outreach, customer service)	
Dispatcher	
Other (footnote below)	
General and Administrative (Office) Staff	
General Manager	
Office Supervisor	
Customer Service Staff	
Customer Service Management	
Other (footnote below)	
Payroll Taxes and Benefit Burden Percentage	
Average Hours Worked per Year by Collection Drivers	
Truck Purchase Prices (provide for truck types you plan to use)	
Front Load truck	
Automated Side Load truck	
Side Load truck	
Rear Load / Side Load truck	
Roll-off truck	
Other collection truck (footnote type below)	
5-Year Average Annual Maintenance Cost per Truck	
Front Load truck	
Automated Side Load truck	
Side Load truck	
Rear Load / Side Load truck	
Roll-off truck	
Other collection truck (footnote type below)	
Final Costs for All Services =	

Exhibit II Sample Solid Waste Franchise Agreement

EXCLUSIVE FRANCHISE AGREEMENT FOR PROVISION OF SOLID WASTE HANDLING SERVICES

THIS EXCLUSIVE FRANCHISE AGREEMENT FOR PROVISION OF SOLID WASTE HANDLING SERVICES ("Agreement") is made and entered into this ____ day _____ of 2022 by and between _____ ("Franchisee") and THE CITY OF HUNTINGTON PARK, a municipal corporation of the State of California ("City"). City and Franchisee are occasionally herein referred to each as a "Party" and collectively as the "Parties".

RECITALS

A. The Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939") declares that a City may determine all aspects of solid waste handling which are of local concern, including, but not limited to, frequency of Collection, means of Collection and transportation, level of services, charges and fees and the nature, location and extent of providing solid waste handling services;

B. The passage of AB 32, the California Global Warming Solutions Act of 2006, ("AB 32") required by law a sharp reduction of greenhouse gas (GHG) emissions. AB 32 requires California to reduce its GHG emissions to 1990 levels by 2020 — a reduction of approximately 15% below emissions expected under a "business as usual" scenario. Local governments will play a vital role in the implementation of AB 32 by identifying opportunities and best practices to increase waste reduction and recycling, thereby reducing carbon emissions. Franchisee's hauling operations shall aim to reduce GHG emissions by maximizing diversion to reduce gas-producing landfill deposits and utilizing latest fuel and vehicular technologies to reduce carbon emissions produced by waste hauling vehicles in performing waste Collection and diversion activities for the City and by recovering and recycling commodities in the waste stream;

C. In 2011, the State of California enacted Assembly Bill 341 ("AB 341"), which provides further procedures for complying with the statute under AB 32 which requires a reduction in greenhouse gas (GHG) emissions. The purpose of AB 341 is to achieve the reduction in GHG by increasing the amount of commercial waste recycled in California, specifically, by requiring businesses and public entities that generate 4 cubic yards or more of solid waste per week, and multifamily residences with 5 or more units, to recycle. Such commercial recycling shall be required by this Agreement;

D. AB 939, AB 32 and AB 341 and related laws pertaining to the environmental impacts of solid waste, as may be enacted or amended in the future, are collectively referred to herein as the "Refuse Impact Reduction Laws". Pursuant to California Public Resources Code Section 40059(a)(1), the City Council of the City of Huntington Park has determined that the public health, safety, and welfare require that an exclusive franchise be awarded to a qualified solid waste enterprise for solid waste handling in residential, commercial, and industrial areas in the City;

E. The successful implementation of solid waste handling in residential, commercial, and industrial areas in the City will entail the expenditure of large sums of capital by the Franchisee, for which the Franchisee is, subject to the terms of Proposition 218, entitled to be compensated. City intends that this Agreement will contribute to safeguarding public health by providing the most cost-effective, efficient, reliable, and environmentally appropriate solid waste services to its citizens.

NOW THEREFORE, in consideration of the promises and covenants contained herein, the above recitals, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE I

ARTICLE I DEFINITIONS; DELEGATION OF AUTHORITY.

1.1. **General.** Whenever any term used in this Agreement has been defined by the provisions of Division 30, Part I of the California Public Resources Code, the definitions in the Public Resources Code shall apply unless the term is otherwise defined in this Agreement, in which case this Agreement shall control.

1.2. **Definitions.** Except as provided in Section 1.1, words beginning with lower case letters are being used with their common ordinary meanings, not as defined terms. Otherwise, the following capitalized words and terms shall have the following respective meanings:

1.2.1 AB 939. "AB 939" means the California Integrated Waste Management Act of 1989, Public Resources Code Section 40000 *et seq.* and regulations promulgated thereunder, as amended from time to time.

1.2.2 AB 341. "AB 341" means Assembly Bill 341 from the 2011-2012 Regular Session of the California Legislature (Chapter 476, Statutes 2011).

1.2.3 AB 32. Assembly Bill 32, the Global Warming Solutions Act of 2006.

1.2.4 Affiliate. "Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Franchisee by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" Franchisee and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which Franchisee owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in Franchisee and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Franchisee. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than ten percent (10%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater. Being an Affiliate does not exempt a business from the application of assignment requirements under Article X hereof.

1.2.5 Agreed Upon Procedure. "Agreed Upon Procedure" shall mean the procedures and methodology approved by the City's Finance Department for review and audit of Franchisee's financial records in connection with this Agreement.

1.2.6 Agreement or Haul Agreement. "Agreement" or "Haul Agreement" means this Agreement for Provision of Solid Waste Handling Services.

1.2.7 Annual Diversion Report. "Annual Diversion Report" means the annual report submitted by the Contractor to the City describing the previous year's diversion activities, diversion percentages and associated calculations and the description of the diversion activity planned for the upcoming year, if applicable. The Annual Diversion Report shall be prepared in a manner that directly corresponds to the reporting requirements of the California Department of Resources Recycling and Recovery (CalRecycle) and the California Integrated Waste Management Act, as amended.

1.2.8 Bin. "Bin" means any Solid Waste container of a capacity exceeding ____ gallons and generally unmovable by just one individual (i.e., a "dumpster") and provided to customers by Franchisee.

1.2.9 Bulky Waste. "Bulky Waste" means an item too large to fit in the container on the premises, including but not limited to household appliances (including refrigerators with and without Freon, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances, and other similar items commonly known as "white goods"); furniture (including chairs, sofas, mattresses, and rugs); Electronic Waste (including discarded electronic equipment such as, but not limited to, television sets, computer monitors, central processing units (CPUs), laptop computers, and peripherals (e.g., external computer hard drives, computer keyboards, computer mice, and computer printers), and other similar items commonly known as "brown goods" and "e-waste"); residential wastes (green waste larger than four (4) inches in diameter or four (4) feet in length, such as tree stumps, trunks or branches not exceeding one cubic yard per Collection); clothing; and tires. Bulky Waste does not include car bodies, Construction and Demolition Debris or items requiring more than two persons to remove. In the event a question ever arises as to whether a specific item or category of items meets the definition of Bulky Waste, City shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties. Bulky Waste does not include items herein defined as Exempt Waste. Bulky Waste must have been generated on the Customer's Premises in order to qualify for removal.

1.2.10 Board or CIWMB. "Board" or "CIWMB" means the California Integrated Waste Management Board, as established pursuant to the Act (Public Resources Code §§ 40000 *et seq.*) or such successor entity to which the duties of the California Integrated Waste Management Board are assigned, including without limitation the Department of Resources Recycling and Recovery ("CALRECYCLE").

1.2.11 CalRecycle. "CalRecycle" means the California Department of Resources Recycling and Recovery.

1.2.12 Cart. "Cart" means any molded container provided by Franchisee of a size not to exceed [95/96] gallons with two or more wheels for easy carting by an individual.

1.2.13 City. "City" means the City of Huntington Park, a municipal corporation organized under the laws of the State of California, and all of the territory lying within the municipal boundaries of the City as presently existing and, subject to the provisions of Section 3.1.3, all geographic areas which may be added or annexed thereto during the term of this Agreement.

1.2.14 City Facility. "City Facility" means any building, park, central avenue or other site owned, leased or used by the City. A list of City Facilities, and their typical services needs, is attached hereto as Exhibit C. Sites may be added or removed from the scope of "City Facilities" by mutual written acknowledgement signed by Franchisee and City Manager.

1.2.15 City Manager. "City Manager" means the Manager of the City or his or her designee(s).

1.2.16 Collection. "Collection" means the process whereby Solid Waste is removed and transported from within the City.

1.2.17 Commercial and Industrial Units. "Commercial and Industrial Units" shall mean the Premises of a business that is not a City Facility, Single-Family Residential Unit or Multi-Family Residential Unit.

1.2.18 Complaint. "Complaint" means any complaint received by mail, email, in writing, verbally, by telephone or in person.

1.2.19 Construction and Demolition Debris or C&D Material. "Construction and Demolition Material" or "C&D Material," means any combination of inert building materials and Solid Waste resulting from construction, remodeling, repair, cleanup, or demolition operations as defined in California Code of Regulations, Title 22 Section 66261.3 *et seq.* This term includes, but is not limited to, asphalt, concrete, cement, brick, lumber, gypsum wallboard, cardboard, and other associated packaging, roofing material, ceramic tile, carpeting, plastic pipe and steel. The material may be commingled with rock, soil, tree stumps; and other vegetative matter resulting from land clearing and landscaping for construction or land development projects.

1.2.20 County. "County" means the County of Los Angeles.

1.2.21 CPI. "CPI" means the Consumer Price Index for All Urban Consumers (CPI-U), Los Angeles, CA, all items index.

1.2.22 Day. "Day" means calendar day, unless otherwise stated in this Agreement.

1.2.23 Disposal Fee. "Disposal Fee" means those costs imposed at a Disposal Site for the handling or dumping of Solid Waste collected by Franchisee.

1.2.24 Disposal Site. "Disposal Site" means a final end-point or permanent site for the disposal of Solid Waste, such as a landfill, incineration facility or final processing facility for Recyclables. The _____ facilities are the designated Disposal Sites as of the effective date of this Agreement. Any changes to the designated Disposal Site(s) shall be subject to the City's written approval (which approval shall not be unreasonably withheld).

1.2.25 Divert or Diversion. "Divert" or "Diversion" means to divert from disposal facilities or transformation facilities (including incineration, pyrolysis, distillation, gasification or biological conversion) through source reduction, Recycling and composting, as provided in Section 41780 of the Act as such act may be hereafter amended or superseded provided that Divert or Diversion shall include delivery to transformation facilities if the overall Diversion achieved by the City is at a level where delivery to such facilities shall be considered Diversion pursuant to the Act.

1.2.26 Effective Date. Generally, the term "Effective Date" means the date that this Agreement has been fully executed by both parties and approved by the City Council, whichever is latest.

1.2.27 Electronic Waste. "Electronic Waste" means "Covered Electronic Waste" as defined in Section 42463 of the Public Resources Code and other discarded electronic equipment commonly known as "brown goods" such as, but not limited to, CD players and recorders, DVD players and recorders, stereos, computers, printers, keyboards, and peripherals. Revenues from the recycling of Electronic Waste shall be accounted for separately from revenues from other Recyclable Materials.

1.2.28 Food Waste. "Food Waste" means solid waste comprised of animal, fruit or vegetable matter that attends the preparation, consumption, decay, dealing in or storage of meats, fish, fowls, fruits or vegetables, and compostable paper used with food service.

1.2.29 Franchisee. "Franchisee" means _____.

1.2.30 Franchise Documents. "Franchise Documents" means the same exists or may be amended in the future of the Municipal Code of the City of Huntington Park and this Agreement.

1.2.31 Franchise Fee. "Franchise Fee" means that consideration paid by Franchisee to the City as consideration for the grant of exclusive franchise effected by the Agreement and as described in Section 3.3.1 hereof.

1.2.32 Franchisee Provided Container or Container. "Franchisee Provided Container" or "Container" refers to either a Bin or a Cart provided by Franchisee to customers receiving Franchisee's automated Collection service. Such Containers shall be

constructed of a minimum of twenty percent (20%) post-consumer recycled content once Franchisee has exhausted its existing inventory of Containers (i.e., Franchisee's existing inventory may not meet the 20% requirement but all Containers acquired by Franchisee following this Agreement shall meet such requirement). Franchisee shall not be required to replace its existing Containers to meet the requirements of this Section unless or until they are in need of replacement as reasonably determined by Franchisee or as otherwise provided in this Agreement. Containers not meeting the 20% requirement and replaced under a manufacturer's warranty shall be exempt from the 20% requirement.

1.2.33 Green Waste. "Green Waste" means any and all forms of biodegradable plant material which can be placed in a covered Container, such as wastes generated from the maintenance or alteration of public, commercial or residential landscapes including, but not limited to, yard clippings, leaves, tree trimmings, prunings, brush, and weeds as well as green waste. Tree stumps and limbs greater than three (3) inches in diameter are excluded unless they are reduced to a chipped form; otherwise, such large portions of Green Waste shall be considered Bulky Waste.

1.2.34 Gross Receipts. "Gross Receipts" means any and all revenue received from billings by Franchisee, and compensation in any form, of Franchisee or subsidiaries, parent companies or other Affiliates of Franchisee, for the Collection and transportation of Solid Waste pursuant to this Agreement, in accordance with generally accepted accounting principles, including, but not limited to, monthly customer fees for Collection of Solid Waste, without subtracting Franchise Fees or any other cost of doing business. Franchisee's Net Recycling Revenues are included in Gross Receipts for purposes of calculating Franchise Fees.

1.2.35 Hazardous Waste. "Hazardous Waste" means any hazardous or toxic substance, material or waste which is or becomes regulated by any local governmental authority, the State of California or the United States Government. The term "Hazardous Material" includes, without limitation, any material or substance which is: (i) petroleum or oil or gas or any direct or derivate product or byproduct thereof; (ii) defined as a "hazardous waste," "extremely hazardous waste" or "restricted hazardous waste" under Sections 25115, 25117 or 25122.7, or listed pursuant to Section 25140, of the California Health and Safety Code, Division 20, Chapter 6.5 (Hazardous Waste Control Law); (iii) defined as a "hazardous substance" under Section 25316 of the California Health and Safety Code, Division 20, Chapter 6.8 (Carpenter-Presley-Tanner Hazardous Substance Account Act); (iv) defined as a "hazardous material," "hazardous substance," or "hazardous waste" under Sections 25501(j) and (k) and 25501.1 of the California Health and Safety Code, Division 20, Chapter 6.95 (Hazardous Materials Release Response Plans and Inventory); (v) defined as a "hazardous substance" under Section 25281 of the California Health and Safety Code, Division 20, Chapter 6.7 (Underground Storage of Hazardous Substances); (vi) "used oil" as defined under Section 25250.1 of the California Health and Safety Code; (vii) asbestos; (viii) listed under Chapter 11 of Division 4.5 of Title 22 of the California Code of Regulations, or defined as hazardous or extremely hazardous pursuant to Chapter 10 of Division 4.5 of Title 22 of the California Code of Regulations; (ix) defined as waste or a hazardous substance pursuant to the Porter-Cologne Act, Section 13050 of the California Water Code; (x) designated as a "toxic pollutant" pursuant to the Federal Water Pollution Control Act, 33 U.S.C. Section 1317; (xi) defined as a "hazardous waste" pursuant to the Federal Resource Conservation and Recovery Act, 42 U.S.C. Section 6901, *et seq.* (42 U.S.C. § 6903); (xii) defined as a "hazardous substance" pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.* (42 U.S.C. § 9601); (xiii) defined as "Hazardous Material" pursuant to the Hazardous Materials Transportation Act, 49 U.S.C. Section 5101, *et seq.*; or (xiv) defined as such or regulated by any "Superfund" or "Superfund" law, or any other federal, state or local law, statute, ordinance, code, rule, regulation, order or decree regulating, relating to, or imposing liability or standards of conduct concerning Hazardous Materials and/or oil wells and/or underground storage tanks and/or pipelines, as now, or at any time hereafter, in effect.

1.2.36 Household Hazardous Waste or HHW. "Household Hazardous Waste" or "HHW" shall mean that waste resulting from products purchased by the general public for household use which, because of their quantity, concentration, or physical, chemical, or infectious characteristics, may pose a substantial known or potential hazard to human health or the environment when improperly treated, disposed, or otherwise managed.

1.2.37 Household Waste. "Household Waste" shall mean that waste normally generated by a Single-Family Residential Unit or a Multi-Family Residential Unit.

1.2.38 Infectious Waste. "Infectious Waste" means waste capable of producing an infection or pertaining to or characterized by the presence of pathogens including, but not limited to, certain wastes generated by medical practitioners, hospitals, nursing homes, medical testing labs, mortuaries, taxidermists, veterinarians, veterinary hospitals and medical testing labs.

1.2.39 Materials Recovery Facility or MRF/TS. "Material Recovery Facility or MRF/TS" shall mean a fully permitted facility where Solid Waste, Recyclable Materials, and other materials are processed, sorted or separated for the purposes of recovering reusable or Recyclable Materials, processing or composting, which facility may or may not include a transfer station that receives Solid Waste from collection vehicles and transfers the material to larger vehicles for transport to landfills and other destinations.

1.2.40 Maximum Rate Schedule. "Maximum Rate Schedule" means that schedule of rates charged to Residential Units and Commercial and Industrial customers located in the City by Franchisee for Franchisee's solid waste handling services, which Maximum Rates are effective as of the Effective Date of this Agreement and attached hereto at Exhibit A.

1.2.41 Multi-Family. "Multi-Family" means a development of three (3) or more Residential Units, including a condominium project, townhouse project, apartment house, or mobilehome park, irrespective of whether residence therein is transient, temporary or permanent, such that all Residential Units dispose of Solid Waste and/or Recyclable Materials in a communal Bin(s) at centralized locations, except in certain circumstances whereby Multi-Family Residents may request Cart service as otherwise specified herein.

1.2.42 Net Recycling Revenues. "Net Recycling Revenues" means the gross recycling revenues received by Franchisee from the sale of all Recyclable Materials handled by Franchisee as a whole (including the recycling of Electronic Waste, HHW, U-Waste and White Goods) that are generated in the City, less all processing costs incurred by Franchisee for such Recyclable Materials.

1.2.43 Oil Waste. "Oil Waste" means used motor oil and used oil filters.

1.2.44 On-call service. "On-call service" means Collection service provided by Franchisee or by appointment that is not regularly scheduled. On-call service is initiated by a Customer by calling, emailing, or requesting the service in person at Franchisee's office.

1.2.45 Organics Waste. "Organics Waste" means Food Waste and Green Waste, whether Collected separately or commingled into the same Bin, Cart or Roll-Off.

1.2.46 Owner. "Owner" means the person, organization or corporation holding the legal title to the real property constituting the Premises to which solid waste management services are provided or required to be provided. For the purposes of provisions in this Agreement pertaining to the sending of notices, billings or other communications by Franchisee to an Owner, Franchisee may regard as the Owner the person, organization, corporation or other entity shown in the records of the Assessor of the County or as may be indicated by documents recorded in the Office of the Recorder of the County.

1.2.47 Premises. "Premises" means any parcel of land, building(s) and/or structure(s), or portion thereof, in the City where Solid Waste and/or Recyclable Materials are produced, generated or accumulated and which is billed as one customer or one Multi-Family complex.

1.2.48 Proposition 218. "Proposition 218" means Articles XIII C and XIII D of the California Constitution and any implementing legislation promulgated thereunder, as may be amended from time to time.

1.2.49 Reasonable Business Efforts. "Reasonable Business Efforts" means those efforts a reasonably prudent business person would expend under the same or similar circumstances in the exercise of such Person's business judgment, intending in good faith to take steps calculated to satisfy the obligation which such Person has undertaken to satisfy.

1.2.50 Recyclable Materials or Recyclables. "Recyclable Materials" or "Recyclables" interchangeably mean any product salvaged or collected for the purpose of reprocessing or remanufacturing including, but not limited to, Electronic Waste, glass, newsprint, aluminum, cardboard, paper, Green Waste, wood, plastics or metal. Recyclable Materials discarded or self-hauled by the Owner (including where the owner pays a fee or other consideration to have Recyclable Materials collected by another party) are Solid Waste.

1.2.51 Remodel. The term "Remodel" or "Remodeling" shall refer to any construction or demolition project (other than mere repair work) requiring the issuance of a building permit or such construction and demolition project that generates for disposal bulky structural items, appliances (household or commercial) like showers, tubs, toilets, ovens, stoves, cabinetry and built-in units, roofing materials, etc., and other C&D Material.

1.2.52 Residential Unit. "Residential Unit" shall mean any individual dwelling unit used for or designated as a single-family residential as either (i) a Single-Family Unit or (ii) a single unit in a Multi-Family Unit.

1.2.53 Roll-Off. The term "Roll-Off" applies to a Bin and means a metal container with a capacity of ____ or more cubic yards that is normally loaded onto a motor vehicle and transported to an appropriate facility.

1.2.54 Solid Waste or Refuse. "Solid Waste" is synonymous with "Refuse" and means all solid wastes generated by residential, commercial, and industrial sources, and all solid waste generated at construction and demolition sites, which are collected and transported under the authorization of the City or are self-hauled by residents or contractors. Municipal Solid Waste does not include Hazardous Waste or any waste which is not permitted to be disposed of at a Class III landfill and which fall within the definition of "Nonhazardous Solid Waste" set forth in Title 23, Chapter 15, Section 2523(a) of the California Code of Regulations as amended or designated Class II wastes. Materials shall be deemed "Solid Waste" consistent with the meaning of California Public Resources Code Section 40191, and for purposes of this Agreement shall be regulated as such, whether or not they may be potentially recyclable, if (i) the material is mixed or commingled with other types of Solid Waste, or (ii) the payment of a fee, charge, or other consideration, in any form

or amount, is directly or indirectly solicited or received from the generator by any person or combination of persons in exchange for Collection, removal, transportation, storage, processing, conversion, consulting, container rental or disposal services ("fee for service" recycling), whether or not arranged by or through a subcontractor, broker, agent or affiliate of the service provider.

1.2.55 Solid Waste Enterprise. "Solid Waste Enterprise" means "solid waste enterprise" as defined in Public Resources Code Section 40193 (i.e., any individual, partnerships, joint venture, unincorporated private organization, or private corporation, which is regularly engaged in the business of providing solid waste handling services).

1.2.56 Solid Waste Handling. "Solid waste handling" or "handling" (or other form thereof) means: (i) "Solid Waste Handling" or "Handling" as defined in Public Resources Code Section 40195 (i.e., the Collection, transportation, storage, transfer, or processing of solid wastes) and Solid Waste disposal by a Solid Waste Enterprise defined in Section 40193 of the Public Resources Code, such as residential or commercial refuse Collection in packer-type vehicles by haulers whose core business is refuse Collection or the small-scale Collection and disposal of residential or commercial solid waste in any type of truck, trailer or vehicle; and (ii) the development and operation of Solid Waste facilities.

1.2.57 Single-Family. "Single-Family" means Premises used or designated for residential use and consisting of no more than one (1) Residential Unit, such that the Single-Family Residential Unit receives its own set of Carts and individual curbside Collection services therefor.

1.2.58 Source Reduction. "Source Reduction" means the process of reducing the amount of waste produced by the person or organization generating such waste. Source Reduction occurs through the use of alternative goods and products and/or the reuse of goods and products.

1.2.59 Source Separated. "Source Separated" describes the segregation, by the generator, of materials designated for separate Collection for some form of materials recovery or special handling.

1.2.60 U-Waste. "Universal Waste" or "U-Waste" means all waste defined by Title 22, Subsections 66273.1 through 66273.9 of the California Code of Regulations. These include, but are not limited to, batteries, fluorescent light bulbs, mercury switches, and Electronic Waste.

1.2.61 Waste Diversion or Diversion. "Waste Diversion" or "Diversion" means to divert from Disposal Sites or Transformation facilities (as "Transformation" is described in Section 40201 of the Act, as may be amended) through source reduction, Recycling and composting, as provided in Section 41780 of the Act, provided that "Divert" or "Diversion" shall include delivery to Transformation facilities if the overall Diversion achieved by the City is at a level where delivery to such facilities shall be considered Diversion pursuant to the Act.

1.2.62 White Goods. "White Goods" means inoperative and discarded refrigerators, microwave ovens, ranges, water heaters, freezers, and other similar household appliances, which are a subset of Bulky Wastes.

1.3. Delegation of Authority. The administration of this Agreement by the City shall be under the supervision and direction of the City Manager and the actions specified in this Agreement shall be taken by the City Manager or his/her designee.

ARTICLE II GENERAL REPRESENTATIONS & TERM

2.1. Documents. All of the provisions of the Franchise Documents are incorporated and made a part of this Agreement as though set forth in full. Nothing shall prevent the City from amending the Municipal Code or from adopting such other and further legislation as the City deems necessary or appropriate; provided, however, that the City shall give Franchisee thirty (30) days' notice prior to considering any amendment to Chapter 2 if such amendment would affect costs or revenue under this Agreement the parties shall meet and confer in good faith to determine whether the planned amendment will materially increase Franchisee's costs and whether a Proposition 218 hearing process is warranted for purposes of allowing Franchisee to adjust service rates pursuant to Section 7.2 hereof.

2.2. Effective Date; Commencement of Services. This Agreement shall become effective at the "Effective Date. However, except where specified, the provision of Solid Waste Collection and other services by Franchisee, shall commence on July 1, 2018 (the "Commencement Date"). Franchisee understands and agrees that the time between the Effective Date and the Commencement Date, is intended to provide Franchisee with ample and sufficient time to, among other things, order equipment, prepare necessary routing schedules and route maps, obtain any permits and licenses, establish/build facilities, obtain required service agreements, begin the public awareness campaign as part of Franchisee's transition program as specified in this Agreement, and undertake a Proposition 218 hearing process for purposes of adopting the initial Maximum Rates at Exhibit A.

2.3. Term & Extended Term. Unless earlier terminated in accordance with Article IX of this Agreement, this Agreement shall continue in full force and effect until from and after the Effective Date for a period of ten (15) years. City reserves the right, in its sole and unfettered discretion, to extend the term of this Agreement, under its then-existing terms and conditions, for a maximum of one 24-month extension at its option. This means that service would commence July 1, 2018 and end on June 30, 2033 (if no extension is granted), or end June 30, 2035 (if the extension is granted). City shall give notice of intention to extend the term of this Agreement in writing not later than six (6) calendar months prior to expiration of the term of the Agreement.

2.4. Representations and Warranties of Franchisee.

2.4.1 Corporate Status. Franchisee is doing business as _____, a company duly organized, validly existing and in good standing under the laws of the State of California. Franchisee is qualified to transact business in the State of California and has the corporate power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

2.4.2 Corporate Authorization. Franchisee has the authority to enter into and perform its obligations under this Agreement. The Board of Directors of Franchisee (or the shareholders if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise, to authorize the execution of this Agreement. The persons signing this Agreement on behalf of Franchisee have authority to do so. Entering into this Agreement does not violate any provision of any other Agreement to which Franchisee is bound.

2.4.3 Accuracy of Representations. The representations and warranties made by Franchisee in this Section 2.4 are true and correct on and as of the Effective Date of this Agreement.

2.5. Ownership of Solid Waste. City and Franchisee understand and agree that it is Franchisee, and not City, who will arrange to collect Solid Waste, that City has not, and, by this Agreement does not, instruct Franchisee on its Collection methods, nor supervise the Collection process; nor do the Parties intend to place title to Solid Waste collected by Franchisee in City. Rather, the Parties intend that whatever, if any, title in and to the Solid Waste that is collected by Franchisee that otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Franchisee; and further that if Franchisee gains title to such Solid Waste it is by operation of law and agreement with its customers and is not the result of this Agreement. At no time does City obtain any right of ownership or possession of Solid Waste or Recyclable Materials placed for Collection, and nothing in this Agreement shall be construed as giving rise to any inference that City has any such rights. City and Franchisee agree that, for the purposes of the Uniform Commercial Code and all other laws imposing liability for defective products, it is Franchisee, and not City which is to be considered the merchant of goods recycled pursuant to this Agreement. Subject to the provisions of this Agreement, and unless City exercises its rights to direct the location for disposal and processing of Solid Waste, Franchisee shall have the right to retain, Recycle, process, dispose of, and otherwise use Solid Waste collected pursuant to the terms hereof in any lawful fashion or for any lawful purpose; and, further, shall have the right to retain any benefit resulting from its right to retain, Recycle, process, dispose of, or reuse the Solid Waste which it collects.

**ARTICLE III
GRANT OF FRANCHISE; SCOPE OF FRANCHISE; EXCLUSIONS**

3.1. Grant of Franchise.

3.1.1 General Grant. The City grants to Franchisee, and Franchisee shall have during the Term of this Agreement, the exclusive franchise, right, license and privilege (except as provided in Section 3.2 below) to engage in, the business of collecting, transporting, transferring, processing, recycling, treating, diverting, converting, and collecting for disposal all Solid Waste and Recyclable Materials generated by Residential, Commercial and Industrial establishments within the City of Huntington Park. Franchisee's exclusive franchise shall include the exclusive right to rent Containers for Solid Waste disposal and Collection of Recyclables. It is expressly understood that the Solid Waste management business is conducted by Franchisee and not City, and while City grants the right to conduct the business within the terms of this Agreement, the Franchisee must determine what personnel to employ, terms and conditions of employment, what equipment to utilize and all methods, costs, obligations and mechanisms to undertake the terms of the franchise.

3.1.2 Duty. To the extent that the franchise granted hereby is exclusive, it shall be so only if Franchisee is and shall be at all times ready, willing and able to perform its obligations under this Agreement, including but not limited to, collecting, transporting and disposing of all Solid Waste and Recyclables generated within the City in accordance with the provisions of this Agreement and all applicable law, rules and regulations.

3.1.3 Annexations. This Agreement shall extend to any territory annexed to the City during the Term that is not covered by an existing Solid Waste permit, license, agreement or franchise granted by another public entity shall be added hereto, except to the extent that Collection by Franchisee within that annexed territory would violate the provisions of Public Resources Code Section 49520. In such event, this Agreement shall become effective as to such area at the earliest possible date permitted by law, and City

agrees that it shall cooperate with Franchisee to fulfill any requirement necessary for Franchisee to serve the annexed area consistent with this Section 3.1.3.

3.2. Scope of Franchise: Mandatory Service And Exclusions. The franchise granted to Franchisee shall be exclusive within City limits such that Franchisee shall be the sole provider of general Solid Waste and Recyclable Materials hauling services to City residents and businesses. To this end, at all times during the Term of this Agreement the City shall require the Owner of each Single-Family Residential Unit, Multi-Family Residential Unit or complex, Commercial Unit and Industrial Unit where Solid Waste is produced to subscribe to the Collection service provided for in this Agreement. The hauling services franchise herein granted shall be subject to the following exclusions:

3.2.1 Intergovernmental Immunity. All (i) universities, (ii) school districts, (iii) other state agencies, (iv) any other governmental entity that is not subject to the City's police powers, and (v) the exclusivity provisions of any ordinance to be adopted by the City;

3.2.2 Self Hauling. Self-hauling by City residents, Owners, or occupants of Premises. To qualify as a "self-hauler" for purposes of this exemption, an Owner or occupant must remove and personally transport from his/her own Premises using his/her own equipment for the purpose of lawfully delivering same to a Disposal Site or MRF/TS authorized to receive and handle Solid Waste or Recyclables. The use of a subcontractor is not "self haul" within the meaning of this exception. Self-hauling of Solid Waste or Recyclables does not exempt the property owner from subscribing to franchise Collection service;

3.2.3 Gardner/Landscaper Green Waste. Green Waste and other compostables removed from a Premises by an Owner or resident of Premises or by a gardening, landscaping or tree trimming contractor as an incidental part of a total service offered by that contractor rather than as a hauling service. To qualify for this exemption, a gardener or landscaper must not be a hauling service or Solid Waste Enterprise, must not separately or additionally charge for the incidental service of removing, transporting or disposing (except for tipping fee) of the Green Waste, and must utilize only his or her own employees and equipment to collect, transport and dispose of said Green Waste;

3.2.4 C&D Material. The Collection, transportation and disposal by a construction contractor of C&D Material from Remodel jobs which are generated as an incidental part of providing such Remodeling services, provided that the construction contractor is not a hauling service or Solid Waste Enterprise, does not separately or additionally charge for the incidental service of removing, transporting or disposing (except for tipping fee) of the C&D Material, and utilizes only his/her own employees and equipment to collect, transport and dispose of the C&D Material.

3.2.5 Automotive Dismantling. The Collection, transportation and disposal of vehicles or machine parts and waste generated by an automotive/vehicle dismantler or Owner of a vehicular salvage or disposal yard.

3.2.6 Asphalt/Concrete/Dirt Materials. Franchisee's franchise does not preclude the Collection, processing and/or transport of asphalt, concrete and dirt, and the Parties hereto acknowledged that other entities in the City are, and shall continue to be permitted to collect, process and transport asphalt, concrete and dirt materials;

3.2.7 Hazardous Waste. Franchisee's franchise does not preclude the Collection, processing and/or transport of Hazardous Waste and non-spadeable wastewater or sewage sludge by third-party entities duly licensed to handle such Hazardous Waste and/or non-spadeable wastewater or sewage sludge materials;

3.2.8 Recyclable Materials. Recyclable Materials not "discarded" (but rather sold or donated) directly by an Owner of Premises which are disposed of at legally-mandated public redemption centers that comply with all reporting and other requirements imposed by any political entity having jurisdiction over those redemption centers. A mere discount or reduction in price of third-party charges for the handling of Recyclables is not a sale or donation within the meaning of this Agreement and is thus precluded by Franchisee's exclusive franchise;

3.2.9 Emergency Collections by City. The casual or emergency Collection, removal, disposal or Diversion of Solid Waste or Recyclables by the City through City officers or employees in the normal course of their employment;

3.2.10 Legally-Required Exemptions. Other Collection, removal or disposal activities required to be exempt from mandatory franchise services pursuant to law, or entities exempt from such franchise pursuant to State or Federal law, including but not limited to Non-City governmental entities located within City boundaries;

3.2.11 Unoccupied Units. Premises which have been unoccupied by any human habitation and upon which no refuse has been produced or accumulated for three (3) consecutive months may be exempted from this Agreement by the City until such Premises become occupied. The granting of an exemption shall be conditioned upon completion of an application for exemption by Franchisee and its approval. Exemptions shall expire on December 31 of each calendar year. An exemption may be renewed, provided

that during three (3) consecutive months prior to the application for renewal, the Premises have been unoccupied by any human habitation and no refuse has been produced or accumulated. Notwithstanding anything in this Section 3.2.11 to the contrary, all exemptions in existence on the Effective Date of this Agreement shall remain valid. For purposes of this Section, a unit shall be deemed "unoccupied" if the structure is both unoccupied and unused (such as, without limitation, foreclosed or abandoned structures). Structures that are presently unoccupied by virtue of their continuing use as a vacation home or a seasonal business shall not be considered as "unoccupied". Residential rental units, such as those rented as vacation rentals or seasonal rentals (e.g., Residential Units under an Airbnb account or similar such program) shall not be exempted from service unless Franchisee obtains a written acknowledgement from the Premises Owner that such premises will be unoccupied for a period of at least three (3) upcoming consecutive months, in which case the Owner shall arrange for immediate reinstatement of Solid Waste and Recycling services upon re-occupation of the Premises;

3.2.12 City Hauls. The Collection, removal, disposal or Diversion of Solid Waste or Recyclables by the City through City officers or employees in the normal course of their City employment;

3.2.13 Oil Waste. Franchisee's franchise does not preclude the Collection, processing and/or transport of oil/used oil by third-party entities duly licensed to handle such waste, such as licensed automotive shops and mechanic businesses;

3.2.14 Tires. Franchisee's franchise does not preclude the Collection, processing and/or transport of tires by third-party entities duly licensed to handle such waste;

3.2.15 Infectious Waste. Franchisee's franchise does not preclude the Collection, processing and/or transport of Infection Waste by third-party entities duly licensed to handle such Infectious Waste;

3.2.16 HHW, White Goods and U-Waste. Franchisee's franchise does not preclude the Collection, processing and/or transport of HHW, White Goods and U-Waste by third-party entities duly licensed to handle such Waste.

3.3. Compensation To City for Grant of Franchise

3.3.1 Franchise Fee. In consideration for the grant of the franchise provided herein, Franchisee agrees to pay the City a franchise fee equaling fifteen percent (15%) of the Gross Receipts derived by Franchisee from the services provided in City pursuant to this Agreement. Concurrent with each Franchise Fee payment, Franchisee shall provide an accounting worksheet showing the (i) the number of accounts billed at each billing rate to arrive at Gross Receipts; (ii) amount, if any, of delinquent customer accounts, (iii) an accounting worksheet showing the discrepancy, if any, between Gross Receipts as calculated for purposes of the Franchise Fee versus the Franchisee's gross receipts actually collected, and (iv) an accounting of Net Recycling Revenues, including collection and sale records for City-generated Recyclables. The City has found that the Franchise Fee stated herein bears a reasonable relationship to the value of the exclusive franchise rights herein granted, and is comparable or equivalent to franchise fees found in the Los Angeles County region.

3.3.2 Administrative Costs to be Paid by Franchisee. In addition, Franchisee agrees to pay certain administrative costs associated with the administrative costs and costs of preparation of this Agreement, which administrative costs have been estimated by the City for reasonable nexus to the actual costs of such administrative functions incurred by City. The administrative costs to be paid by Franchisee are as follows:

(a) Administrative Costs. Franchisee shall pay to City a one-time administrative fee, to be paid no later than the Effective Date hereof, equaling the total amount of the City's legal fees (attorneys' fees and costs) and staff/administrative costs incurred in the negotiation, research and drafting of this Agreement, which amount shall be Fifty-Thousand Dollars Even (\$50,000). Furthermore, this Agreement is subject to Franchisee's satisfaction of each and all of the conditions set forth herein, each of which may be waived in whole or in part by the City.

(b) Annual Public Education Fee. Franchisee shall pay to City annual a fee for (i) preparation and distribution of public education materials and community newsletters by the City, (ii) production and broadcast of public service announcements promoting resources conservation by City, and (iii) internal City staff training and education on Solid Waste and Recyclables issues and enforcement. This fee shall be in an annual amount of One Hundred Thousand Dollars Even (\$110,000.00).

(c) Annual Inspection Fees. Franchisee shall pay to the City an annual "Inspection Fee" for City to monitor and enforce anti-dumping and anti-scavenging regulations (a total of three (3) City inspectors hired for this purpose).

3.3.3 Payment Protocol.

(a) *Administrative Fees:* Annual administrative fees set forth in Section 3.3.3 shall also be paid quarterly, with equal installments due each quarter.

(b) *Franchise Fees:* Franchise Fees paid to the City pursuant to this Section 3.3 shall be made to City within thirty (30) days of the conclusion of each calendar quarter during the Term hereof, including any extension thereof. Upon the expiration of any such thirty (30) day period, a delinquent assessment of twenty-five percent (25%) per month shall be levied against any unpaid balance. All remittances by Franchisee shall be accompanied by a report setting forth the basis and calculations used for computing the amount due. Each payment of the Franchisee Fee shall be accompanied by a statement separately setting forth the Gross Revenues, including the Net Recycling Revenues collected by Franchisee, and the computation of the total Franchise Fee due. Each statement shall include the following certification executed by an officer of the Franchisee: "I hereby certify that the foregoing statement of Franchise Fee payments as based on Gross Receipts, including Net Recycling Revenues collected by Franchisee, is made by me, that I am authorized to make such statement, and that, to the best of my knowledge and belief, it is true, correct and complete."

(c) *No Waiver:* No acceptance by City of any payment shall be construed as an accord that the amount is the correct amount, nor shall such acceptance of payment be construed as a release of any claim City may have against Franchisee for any additional sums payable under the provisions of this Agreement. All amounts paid shall be subject to independent audit and recompilation by City.

(d) *Pro-rating:* Payments over partial years or partial quarters shall be pro-rated by quarter, month or day, as applicable.

ARTICLE IV SERVICES OF FRANCHISEE

4.1. General Standards.

4.1.1 *Furnishing of Services.* The work to be performed pursuant to this Agreement shall include the furnishing of all labor, materials and equipment necessary for, and the Collection of all Solid Waste and Recyclables from, Residential Units and Commercial and Industrial Units within the City according to the terms of this Agreement, and the disposal, recycling and/or Diversion of such materials. Franchisee shall own or lease and maintain at its expense all equipment necessary to perform its duties as provided for under the Agreement, including sufficient radio equipment for office to field equipment communication. All work shall be accomplished in a courteous, thorough and workmanlike manner and adhere to the highest standards consistent with the best practice in the industry. As of the Effective Date of this Agreement, Franchisee shall not be required to collect materials unless they have been properly placed in Franchisee-Provided Containers unless otherwise specifically stated herein (including but not limited to mandated services for Bulky Waste, holiday trees, and HHW/E-Waste/U-Waste stated herein). Notwithstanding the foregoing, the Parties hereto acknowledge that a need may arise for Franchisee to collect materials that are either placed in alternative, non-Franchisee-Provided Containers or that are placed directly for Collection without containment; to this end, the Parties may meet and confer in good faith in order to reach an accord as to how such needs may be met. Any program specifically requiring Franchisee to collect materials from alternative containers or to collect uncontained materials shall be memorialized in writing executed by each Party.

4.1.2 Oversight of City Manager.

(a) Performance of each of the provisions of this Agreement shall be under the direction of the City Manager or designee and the work hereunder shall be done in a thorough and workmanlike manner under the direction, and to the satisfactions, of the City Manager or designee. To this end, the City Manager shall have the power to establish rules and regulations relating to the accumulation, Collection, Recycling, disposal, and management of Solid Waste not inconsistent herewith and/or as necessary to ensure compliance with laws, ordinances and regulations, and which the City Manager finds are reasonably necessary for enforcement hereof or of applicable laws, ordinances and regulations, or for preservation of the public peace, health, and safety.

(b) The Parties may negotiate a means of recompensing Franchisee for material increases in Franchisee's costs as a result of either (i) new or changed rules and regulations by the City Manager, or (ii) other services required by the City that are in excess of those contemplated by this Agreement. If any such changes cause an increase or decrease in the cost of, or the time required for performance of the Agreement, an equitable adjustment shall be made in the Agreement price or schedule, or both, subject to the requirements of Section 7.2.3 hereof (Proposition 218).

4.1.3 *Designated Disposal Site.* Franchisee shall dispose of all collected Refuse, at Franchisee's expense, at an authorized point of final deposit at a Disposal Site as directed by the City. As of the Effective Date, the _____ is the designated Disposal Site for ultimate disposal of material that cannot be recycled. Franchisee may request the City to designate

additional or other Disposal Sites for Franchisee's use, and any changes to the designated Disposal Sites shall be subject to the City's written approval (which approval shall not be unreasonably withheld).

4.1.4 Hazardous Materials.

(a) The scope of this Agreement and franchise excludes the handling of Hazardous Materials, and no right to provide Hazardous Materials handling services is conferred on Franchisee as a result of this Agreement. Franchisee shall ensure that only persons duly-licensed to handle Hazardous Materials shall be engaged when such services become necessary.

(h) Franchisee shall implement a system of Hazardous Waste and Prohibited Material (as defined by CCR Title 22, Chapter 11, Sections 66261.1 through 66261.126) screening, identification, and prevention protocol reasonably designed to screen-out Hazardous Waste and prohibited materials that Franchisee is not permitted to handle pursuant to applicable law prior to Franchisee accepting such materials. If Franchisee inadvertently collects Hazardous Waste or other materials that Franchisee is not qualified or permitted to handle (under any applicable permit conditions or applicable laws), the Franchisee shall arrange, at no cost and without liability to City, for the proper disposal of the such materials in accordance with applicable laws and regulations; provided however, that Franchisee shall be entitled to return any such Hazardous Waste, if the customer can be identified, or at its own expense pursue all legal rights and remedies it may have against the customer(s) who generated such materials. The City shall be indemnified by Franchisee from liability for any disposal of Hazardous Waste or other materials that Franchisee is not qualified or permitted to handle pursuant to Section 11.2 hereof.

4.2. Standards of Performance.

4.2.1 Availability of Franchisee. Franchisee has established, and shall continue to maintain a local office for the purpose of receiving customer payments and handling customer inquiries, orders and complaints. The "local" office must remain in a location within _____ miles of the City boundary and having the same telephone area code as that existing in the City. The local office shall be open to the public between the hours of 8:00 a.m. to 5:00 p.m., five (5) days per week, Monday through Friday, except Holidays. A representative of Franchisee shall be available during office hours for communication with the public at such local office. Additionally, the Franchisee shall continue to employ the services of a telephone representative, answering exchange or message system for calls during non-business hours and provide a telephone system sufficient and adequate to handle calls during peak periods.

4.2.2 Franchisee Liaison to City . Franchisee shall be reasonably available to the City. The Franchisee shall provide the City Manager and the Police and Fire Departments with an emergency telephone number for effectively reaching Franchisee in the case of off-hour emergencies. Franchisee shall also provide the City Manager with the cellular phone number of a Franchisee representative(s) with day-to-day managerial responsibility over Franchisee services provided within the City. One or more of the Franchisee's representatives described in this Section shall visit City offices at such reasonable times as the City Manager shall designate for the purpose of discussing any matters relating to this Agreement or the Franchisee's performance thereof. Any representative appointed by Franchisee shall occupy a position of sufficient managerial authority and knowledge of day-to-day Franchisee operations as to be able to meaningfully discuss performance issues with the City Manager.

4.2.3 Citizen Complaints. The Franchisee shall commence response to all complaints within eight (8) business hours, shall return all customer phone calls within eight (8) business hours, and shall exercise Reasonable Business Efforts to resolve all complaints. The City may, but is not obligated to, respond to complaints that have not been addressed within two (2) business days and may charge the Franchisee for the actual costs incurred therefor. In connection herewith, Franchisee shall adequately staff its telephone system so that it is capable of handling all calls during peak business hours.

4.2.4 Record of Complaints. Franchisee shall maintain a record of all complaints received by mail, by telephone or in person (including date, time, name, address of complainant and nature of complaint) for a period of three (3) years. Franchisee will maintain records listing the date of consumer complaints, the customer, describing the nature of the complaint or request, and when and what action was taken by the Franchisee to resolve the complaint. Copies of all complaints and records described in this section shall be submitted to the City Manager on a monthly basis, no later than two (2) business days following month's end.

4.2.5 Disputes. Disputes between the Franchisee and its customers regarding the services provided in accordance with this Agreement may be resolved by the City; provided, however, the City shall not be obligated to resolve any such disputes. The City Council by resolution or ordinance may prescribe the procedures for processing customer complaints. The City's decision shall be final and binding unless challenged in a court of competent jurisdiction.

4.2.6 Tags & Record of Non-Collected Material. The Franchisee shall notify customers in the event any item left for disposal is not picked up. Said notification shall be in the form of a written tag placed upon the customer's container or entry door if identifiable, stating Franchisee's telephone, address and the reason for non-collection. Reasons for non-collection may include, but are not limited to the following: containers inaccessible to Franchisee (after Franchisee has made a reasonable effort to secure access); improper container or use of a non-Franchisee Provided Container; container overfilled; heavy container; or, the container includes

Hazardous Waste. The Franchisee shall maintain a record of all items not collected. Should Franchisee fail to collect and dispose of materials set out or placed for Collection at times required, after notification by City and a reasonable time thereafter, City may collect and dispose of uncollected materials and Franchisee shall be liable to the City for the expenses incurred, plus overhead charges equal to ten (10%) of the City's expenses in Collection.

4.2.7 Property Damage Caused by Franchisee. The Franchisee shall be responsible for the cost of repairing any property damaged by the negligent or intentional conduct of its employees or agents. The City may, but is not obligated to, respond to complaints that have not been addressed in accordance with Section 4.2.3 hereof and may charge the Franchisee for the actual costs incurred by the City therefor.

4.2.8 Quality of Service Surveys. The City may, at its own expense, conduct periodic quality of service surveys of Franchisee's customers. Prior to finalizing the survey form, the City shall review the survey with the Franchisee. Results of the quality of service survey shall be reviewed with the Franchisee and used to discuss improvements in service delivery.

4.2.9 Annual Route Audit. At least once annually, Franchisee shall conduct an audit of its Collection routes. The annual route audit shall include the truck identity servicing each route, number of accounts serviced per route (residential, commercial, industrial and municipal), frequency of pick-ups, size of container for each account on the route, frequency of service for each account on the route, as well as the weight of the truck and refuse delivered to the applicable Disposal Site. Results of the annual route audit shall be available for review by the City.

4.2.10 "On-Call" Equipment and Personnel. During normal business hours, the Franchisee shall have "on-call" at least one (1) truck to handle duly-appointed or noticed pick-ups or missed Collections. After normal business hours, the Franchisee shall have "on-call" the necessary manpower and equipment (including without limitation an emergency service vehicle to attend to complaints or emergency calls) to respond to customer emergencies that are an immediate threat to life or property. Franchisee's on-call equipment and personnel shall also be available to assist the City with debris Collection and removal within a reasonable time resulting from emergencies and natural disasters, excepting that nothing in this Section shall require Franchisee to collect, haul or dispose of waste that Franchisee is not permitted to handle.

4.3. Hours & Dates of Collection. Franchisee shall so conduct its operations so as to offer the least possible obstruction and inconvenience to public traffic or disruption to the peace or quiet of the area within which Collections are effected. In accordance therewith, Collection services by Franchisee shall not be made in the City between the hours of ____ p.m. through ____ a.m. (standard and daylight savings time) of any day; Franchisee's trucks shall not leave Franchisee's yard or operate in City streets before the ____ a.m. hour. City may, from time to time, revise the Collection hours specified in this Section by duly-adopted resolution. Further, Franchisee shall observe the following holidays annually (whereby there will be no Collection services and Collection shall occur one day late following the holiday):

- 1 - New Year's Day
- July 4 - Independence Day
- Labor Day
- Memorial Day
- November - Thanksgiving Day
- December 25 - Christmas Day

Franchisee shall also observe any additional holidays coinciding with the holiday schedule observed by the County to the extent such County-observed holiday results in the closure of the County's Disposal Sites. In any week in which one of these holidays falls on a Collection day, Collection will be delayed to the next business day. Any changes to the holiday collection schedule may only be made as approved by the City in advance in writing.

4.4. Single-Family Residential Customers: Source-Separated Three-Stream Collection For Refuse, Recyclable Materials and Organic Waste. All Three Containers For Each Stream To Be Collected Weekly.

4.4.1 Single-Family Residential Unit Refuse Collection. Franchisee shall collect and remove Refuse from all Single-Family Residential Units once per week from Franchisee Provided Carts. Franchisee shall provide each customer with at least one 96 gallon Cart specially for the purpose of Refuse as the default service level for Refuse Collection.

(a) Collection Location; Roll-Out Service. Franchisee shall collect from Single-Family Carts curbside unless the customer has requested Cart "roll-out" service (described below) and has agreed to pay the applicable premium service rate (as reflected in the Exhibit A Maximum Rate Schedule), or has completed and signed an annual application for disabled persons service with the City. Roll-out services shall be provided free of charge to disabled Single-Family Residents. In the case of roll-out service, Franchisee shall collect Carts from and return Carts to the alternative service location (such as the side yard or back yard) specified by the customer and agreed-to by Franchisee. Also, where paved alleys exist in the rear of a Single-Family Residential Unit, Collections may be made by Franchisee from alleys (provided, however, that this requirement cannot apply to a blind alley). Absent a roll-out service

arrangement, Franchisee shall not be under any obligation to enter private courts or places, or other private property, to make Collections from Single-Family Premises.

(b) *Rates on Per-Cart Basis; Smaller Cart Option.* The basic, default rate for Refuse service (i.e., one Refuse Cart) is set forth in the Maximum Rate Schedule. Single-Family customers that regularly require more than _____ gallons of Refuse Cart capacity may request additional Refuse Carts for an additional charge per Cart in accordance with the Maximum Rate Schedule. Single-Family Residential Units shall be permitted the option of electing smaller Refuse Carts [in the range of 60- to 65-gallons]; however the smaller Cart option shall be serviced at the same rates as the default 65 gallon Carts.

(c) *Refuse Overages.* Single-Family Residential Units are entitled to one annual overage pickup per year of material not-to-exceed three 30-gallon bags of Refuse that did not otherwise fit in the Refuse Cart(s) at no additional cost. Any additional Refuse overage pickups may be charged per pickup in accordance with the Maximum Rate Schedule (**Exhibit A**).

4.4.2 Single-Family Residential Unit Recyclable Materials Collection. Franchisee shall collect and remove source-separated Recyclable Materials from all Single-Family Residential Units once per week from Franchisee-Provided Carts. Franchisee shall provide each Single-Family Residential Unit with a 96 gallon Cart dedicated to Recyclable Materials as the default service at no additional cost.

(a) *Manner of Collection.* Collection of Recyclable Materials shall be made from the same location and in the same manner as Refuse from the Single-Family Residential Units, and shall occur on the same day each week as Refuse Collection.

(b) *Smaller Cart Option.* Single-Family Residential Units shall be permitted the option of electing smaller Recycling Carts [in the range of 60- to 65-gallons].

(c) *Recycling Overages.* Single-Family Residential Cart customers are entitled to one annual overage pickup per year of material not-to-exceed three 30-gallon bags of Recyclables that did not otherwise fit in the provided Recyclable Cart(s) at no additional cost. Any additional Recycling overage pickups may be charged per pickup in accordance with the Maximum Rate Schedule (**Exhibit A**).

4.4.3 Single-Family Residential Unit Organic Waste Collection. Franchisee shall collect and remove source-separated Organic Waste from all Single-Family Residential Units once per week from Franchisee Provided Carts. Franchisee shall provide each Single-Family Residential Unit with at least one 32 gallon Cart dedicated to Organic Waste as the default service, at no charge.

(a) *Manner of Collection.* Collection of Recyclable Materials shall be made from the same location and in the same manner as Refuse from the Single-Family Residential Units, and shall occur on the same day each week as Refuse Collection.

(b) *Rates on Per-Cart Basis; Smaller Cart Option.* Single-Family Residential Units shall be permitted the option of electing smaller Organic Waste Carts [in the range of 60- to 65-gallons].

(c) *Organic Waste Overages.* Single-Family Residential Cart customers are entitled to one annual overage pickup per year of material not-to-exceed three 30-gallon bags of Organic Waste that did not otherwise fit in the provided Organic Waste Cart(s) at no additional cost. Any additional Organic Waste overage pickups may be charged per pickup in accordance with the Maximum Rate Schedule (**Exhibit A**).

4.4.4 Containers & Changes to Collection Schedules. All Carts and Containers shall be the property of Franchisee, and shall be placed by Franchisee, following Collection therefrom, in an upright position where found; provided, Franchisee shall not place any Cart or other Container in a manner interfering with a public street or public right-of-way.

(a) *Notice of Residential Collection Schedule.* Franchisee shall post and maintain up-to-date written route schedules and maps of the routes on a publicly-accessible and easy-to-find website maintained by Franchisee for purposes of its hauling services and/or other waste management operations in the City.

(b) *Changes in Residential Collection Schedule.* City may require changes in the route schedule for among other things, to improve service or resolve complaints. Prior to the change of a route schedule, Franchisee shall provide written notice of the change to affected customers thirty (30) days in advance and shall post the changes on a publicly accessible website maintained by the Franchisee for purposes of its hauling services and/or other waste management operations in the City.

4.5. Multi-Family and Commercial/Industrial Customers: Shared Container or Individual Containers: Voluntary Recycling.

4.5.1 Multi-Family and Commercial and Industrial Units Refuse Collection. Franchisee shall collect Refuse from Multi-Family, Commercial and Industrial Units and Premises not less than once per week and more frequently if required to handle the Refuse generated at the Premises/Unit where the Containers are located. The Franchisee shall provide Containers as part of the Multi-Family, Commercial and Industrial Collection services at rates set forth in the Maximum Rate Schedule (Exhibit A). At a minimum, the Franchisee shall offer the following Refuse Collection service methodologies to Multi-Family, Commercial and Industrial customers:

(a) *Centralized Service on Premises.* Multi-Family, Commercial and Industrial Units may share Containers with neighboring Multi-Family, Commercial and Industrial Units provided that all sharing units are on the same Premises and so long as the sharing of Containers does not result in the overfilling of, or overflow from, the Containers. In such case, Franchisee shall provide the Premises with a choice of Container capacities including ten (10), twenty (20), thirty (30) and forty (40) cubic yards, provided that capacity shall be sufficient to provide that no Refuse need be placed outside the Container(s).

(b) *Commercial and Industrial Units with individual Containers.* Commercial and Industrial Units may elect to have their own Bin that is not shared with other Commercial and Industrial Units on the Premises, so long as such Unit's Containers can be properly stored out of public view in a location that reasonably maximizes discreet Container storage and reasonable ease of Collection by Franchisee (either by direct automated collection or roll-out/scout services).

(c) *Multi-Family and Commercial Cart Service.* Company shall offer Cart Collection to Commercial and Industrial Units that do not have space for a Bin or larger Container at the service rate for such Cart identified in the Maximum Rate Schedule. Collection frequency for Commercial and Industrial Carts may occur either on the same regular times and routes as for Commercial and Industrial Collections in the area, or on the same regular schedule/route as for Residential Unit Cart Collections in the area.

Multi-Family Units, to the extent their unit is able to accommodate curbside pickup and Cart storage, may elect to obtain residential Cart service at the same rates as Single-Family Cart customers. Collection frequency for Multi-Family Carts may occur either on the same regular times and routes as for Commercial and Industrial Collections in the area, or on the same regular schedule/route as for other Residential Unit Cart Collections in the area. This program is intended to benefit Multi-Family Units with hauling and collection needs analogous to Single-Family needs (i.e., condominiums, townhouses and mobilehome units). Franchisee shall notify any Owner of mobilehome park Premises and the City in writing of individual mobilehome Units receiving such Cart service to facilitate the City's mobilehome park rent control program.

(d) *Temporary Bin and Roll-Off Box Service and Processing.* Franchisee shall be the exclusive provider of temporary Bin service and permanent and temporary Roll-Off box service, at the rates identified the Maximum Rate Schedule.

4.5.2 Multi-Family, Commercial and Industrial Recyclables Collection (Not Including Organics Waste). Franchisee shall conduct a waste audit of all Commercial and Industrial customer accounts to determine their Recyclable Collection needs within the first year following the Effective Date hereof. The process used to conduct this Recyclables audit shall be shared with the City to ensure permit compliance and acceptance. Those accounts that demonstrate a significant Recyclable content shall have their level of services for Recyclables Collection adjusted (i.e., by changes in Container size, number or Collection frequency) such that the level of services provided meets actual Recycling demand. Multi-Family, Commercial and Industrial customer accounts that demonstrate lower Recyclables Collection needs may have their level of services downsized accordingly. Such audits and service adjustments shall be repeated by Franchisee at least every four (4) years or as required by law.

(a) *Commercial and Industrial.* Commercial and Industrial Units and Premises shall subscribe to source-separated Recyclable Materials Collection service and shall pay Franchisee for such service based on the number of Franchisee Provided Containers dedicated to Recyclables Collection, in accordance with the Maximum Rate Schedule. Franchisee shall offer Recycling Containers and Recycling service choices to Commercial and Industrial customers that are similar or equivalent to those service options offered for Commercial and Industrial Refuse Collection per Section 4.5.1. Franchisee shall collect source-separated Recyclable Materials from Commercial and Industrial customers not less than once per week. Commercial and Industrial Recyclable Containers shall be serviced on the same day as Commercial and Industrial Refuse Collection.

(b) *Multi-Family.* Multi-Family customers receiving Refuse Collection service (including individual Cart service per Section 4.5.1(c)) shall be provided one (1) Container designated for Recyclables Collection for every Refuse Container serving the Premises or Unit; Recycling Containers shall be of a size commensurate with the Refuse Container(s) servicing the Premises of sufficient capacity that does not regularly result in the overfilling of, or overflow from, the Recycling Container(s). Multi-Family Recycling Containers shall be serviced on the same day as the Premises' Refuse Container(s) at a rate identified in the Maximum Rate Schedule (Exhibit A).

4.5.3 Multi-Family, Commercial and Industrial Organic Waste Collection: AB 1826 Program. Franchisee shall provide all customers required to participate in an Organic Waste Diversion program under Assembly Bill 1826 with a compliant program.

Mandatory Collection of Organic Waste shall be provided at rates equal to the Refuse rates for the same size Container and frequency of service (Exhibit A).

(a) *Commercial and Industrial Food Waste Generators.* Those Commercial and Industrial Units consisting of food processing operations subject to AB 1826 shall utilize their own Container for the disposal of Organic Waste (i.e., a Container not shared with other Commercial and Industrial Units unless such Units sharing the Container are also food processing operations disposing of Organic Wastes).

(b) *Multi-Family Organics.* Under Public Resources Code Section 42649.81 (AB 1826), certain Multi-Family Premises are required to arrange for collection of Organics Waste. For those Multi-Family Premises subject to AB 1826, Organics Waste Collection shall be provided using Container(s) (in numbers and sizes as appropriate to the needs of the Multi-Family Premises) dedicated to the Collection of Organic Wastes generated on the Premises.

(c) *Organics Waste Disposal.* Franchisee shall direct applicable Organic Wastes to a disposal facility, as approved by the City Manager, capable of meeting the requirements AB 1826 and any applicable law. Initially the approved site will be the _____ in the City of _____. Such site may be modified by mutual agreement by Franchisee and the City Manager.

(d) *Audit and Level of Service Adjustments.* Franchisee shall conduct a waste audit of all Multi-Family, Commercial and Industrial customer accounts to determine their Organics Waste Collection needs within the first year following the Effective Date hereof. The process used to conduct Organics audits shall be shared with the City to ensure permit compliance and acceptance. Those accounts that demonstrate a significant Organic Waste content shall have their level of services for Organics Collection adjusted (i.e., by changes in Container size, number or Collection frequency) such that the level of services provided meets actual Organics Waste demand. Multi-Family, Commercial and Industrial customer accounts that demonstrate lower Organics Waste Collection needs may have their level of services downsized accordingly. Such audits and service adjustments shall be repeated by Franchisee at least every four (4) years or as required by law.

4.5.4 Commercial Container Storage, Roll-Out Services & Collection Schedules.

(a) *Appropriate Collection/Storage Locations.* Unless expressly instructed by the City in writing, Franchisee shall provide Franchisee Provided Containers only to those Multi-Family, Commercial or Industrial customers that provide an appropriate location for such Container(s) in accordance with the City of Huntington Park Municipal Code, but in no event shall such Containers be maintained in the street or plain public view. Storage of Multi-Family, Commercial or Industrial Containers must utilize any Container shelters located on the Premises.

(b) *Multi-Family, Commercial and Industrial Roll-out Services.* For Multi-Family, Commercial and Industrial Premises, Franchisee shall be required to service Containers stored within the public right-of-way if egress to the Bins or Carts is paved and the slope is less than ten percent (10%). Otherwise, Multi-Family, Commercial and Industrial Premises operators may put Containers out for access, or subscribe to roll-out service. Franchisee shall provide retrieval or "roll-out" services as requested by Multi-Family, Commercial and Industrial customers at such rate as identified in the Maximum Rate Schedule. Roll-out services shall include, but not be limited to moving manually or by a specialized "scout" truck the Containers from their storage location for Collection and returning the Containers to their storage location.

(c) *Collection Schedules; Changes.* Collection schedules for Multi-Family, Commercial and Industrial customers shall be subject to the same terms as for Single-Family Residential routes as described in Section 4.4.4 above.

4.6. Specialized Collection Services and Events.

4.6.1 Bulky Waste Collection.

(a) *Single-Family Bulky Waste Pickup.* Franchisee shall provide Bulky Waste pickup service to all Residential Unit Refuse customers on the regularly-scheduled Collection day or by appointment with Franchisee. Each Residential Unit customer is entitled to two Bulky Waste pickups per calendar year at no charge. Each Bulky Waste pickup includes Collection of up to four Bulky Wastes. Residential customers that exceed the number of free Bulky Waste pickups may receive additional curbside Bulky Waste Collection at the rate set forth in Exhibit A. Residents shall provide Franchisee with at least 24 hours notice of Bulky Waste pickup service requests and must have ability to request the service by phone, online, or through the City website. Bulky Wastes must be placed within three (3) feet of the curb, swale, paved surface of the public roadway, closest accessible roadway, or other such location agreed to by the Franchisee and customer, that will provide safe and efficient accessibility to the Franchisee's Collection crew and vehicle.

(b) *Multi-Family Bulky Waste Pickup.* Customers in Multi-Family Premises shall be entitled to a number of annual Bulky Waste pickups at no additional charge equal to the number of Residential Units in the Multi-Family building or

complex. Excessive Bulky Wastes deposited in Multi-Family complexes may be subject to an additional charge to the Owner in accordance with the Maximum Rate Schedule (Exhibit A).

(c) **Commercial/Industrial Bulky Waste.** Commercial and Industrial Premises may receive Bulky Waste Collection for a fee set in the Maximum Rate Schedule. Commercial/Industrial Bulky Waste pickup service shall be made curbside on the regularly scheduled Collection day, or by appointment with the Company, in which case the business shall notify Company of the Bulky Waste pickup service request at least ____ hours in advance by phone, online, or through the City website.

(d) **Bulky Waste Collection Restrictions.** The following applies to items Collected under this Section:

- i. No single item that cannot be handled by two workers will be accepted.
- ii. The following items will not be picked up: Hazardous Substances and Hazardous Waste, waste oil, antifreeze, HHW, U-Waste and E-Waste (which shall be collected and disposed of in accordance with subsection 4.6.7).
- iii. Vehicles used for Collection of Bulky Waste shall not use compactor mechanisms or mechanical handling equipment that may damage reusable goods or release Freon or other gases from pressurized appliances.
- iv. **Bulky Waste Containing Freon.** In the event Franchisee Collects Bulky Waste that contains Freon, Franchisee shall handle such Bulky Waste in a manner such that the Bulky Waste is not subject to regulation as Hazardous Waste under applicable state and federal laws or regulations.

4.6.2 **Holiday Tree Collection and Recycling.** Franchisee will Collect and Divert holiday trees placed curbside (or within the Container area in the case of Multi-Family Premises) from all Residential customers following Christmas through second week in January. Franchisee will Divert all holiday trees from landfilling, with the exception of trees that cannot be Diverted due to flocking, tinsel or ornaments.

4.6.3 **Locking Commercial Containers.** Franchisee shall provide locking Containers (Bins or Roll-Offs) charged in accordance with the Maximum Rate Schedule as an option for Industrial and Commercial Premises.

4.6.4 **Oil Waste Collection Center Inspections.** Franchisee will perform certified collection center inspections within the City.

4.6.5 **Residential Sharps Collection Program.** Franchisee shall provide Residential Unit customers (both Single- and Multi-Family) with pre-paid postage mail-back sharps containers at no additional charge.

4.6.6 **Clean Environment Weeks.** Franchisee will provide special Collection services during two one-week cleanup campaigns known as the "Clean Environment Weeks."

(a) **Time.** The Clean Environment Weeks shall occur as one week in the Spring and one week in the Fall of each year. The City and Franchisee shall mutually agree in writing upon the exact dates of each Clean Environment Week at least 60 days prior to such Week to allow for adequate public notice and advertising.

(b) **Services.** Free services provided during each Clean Environment Week shall include the following:

<u>Spring Clean Week</u>	<u>Fall Clean Week</u>
1. Curbside pickup of extra Refuse bags of up-to three 30-gallon bags per Single-Family Residential Unit.	1. Curbside pickup of extra Refuse bags of up-to three 30-gallon bags per Single-Family Residential Unit.
2. Curbside pickup of extra Recycling bags of up-to three 30-gallon bags per Single-Family Residential Unit.	2. Curbside pickup of extra Recycling bags of up-to three 30-gallon bags per Single-Family Residential Unit.
3. Curbside pickup of extra Organic Waste bags of up-to three 30-gallon bags per Single-Family Residential Unit.	3. Curbside pickup of extra Organic Waste bags of up-to three 30-gallon bags per Single-Family Residential Unit.
3. Curbside pickup of up-to four Bulky Waste items per Single-Family	3. Curbside pickup of up-to four Bulky Waste items per Single-Family

<u>Spring Clean Week</u>	<u>Fall Clean Week</u>
Residential Unit.	Residential Unit.
5. HHW, E-Waste and U-Waste "drop-off event" during which each Single-Family Unit, Multi-Family Unit, and Commercial and Industrial Units may deliver up-to 100 pounds of HHW, E-Waste or U-waste to a central location.	5. HHW, E-Waste and U-Waste "drop-off event" during which each Single-Family Unit, Multi-Family Unit, and Commercial and Industrial Units may deliver up-to 100 pounds of HHW, E-Waste or U-waste to a central location.

(c) *Curbside Pickup Process.* Huntington Park Clean Environment Week pickups for Single Family Residential Units will be made curbside on the regularly-scheduled pickup day for that week, or by appointment with the Franchisee. In the case of by-appointment pickups, residents shall provide Franchisee at least 48 hours prior notice to inform Franchisee of the types and numbers of extra Refuse, Recyclables, Organic Waste, Bulky Waste or other items to be serviced during a Clean Environment Week.

(d) *Event Coordination.* The exact dates and locations for paper shredding events and HHW/E-Waste/U-Waste events held during a Huntington Park Clean Environment Week will be coordinated with City of Huntington Park Staff in writing with ample time provided to notice and advertise the events prior to the start of Huntington Park Clean Environment Week. These events may be undertaken directly by Franchisee, if Franchisee is duly-licensed to provide such services, or through a City-approved subcontractor.

(e) *On-Call Pickups for E-Waste, U-Waste and HHW.* Beyond the free drop-off events for HHW, U-Waste and E-Waste during Huntington Park Clean Environment Weeks, Franchisee will provide, either directly, or through a City-approved subcontractor, an on-call E-Waste, HHW or U-Waste Collection service to all customers at the rates set forth the Maximum Rate Schedule, and to City Facilities at no charge.

4.7. Free Service to City Facilities. The Franchisee shall collect not less than once per week, at no cost to the City, all Solid Waste, Recyclables, Organic Waste and C&D Materials from all City Facilities that are existing on or after the Effective Date of this Agreement. In addition, Franchisee shall, upon 24-hours following a request by the City, collect all abandoned Bulky Waste within a City right-of-way or easement without any additional cost to the City. Where locking lids are available for a Container type serving a City Facility, the City may request use of locking lids at no charge.

Franchisee shall provide the City with a Cart or small Bin for HHW, U-Waste and E-Waste at City Facilities where such items are generated. Franchisee shall Collect HHW, U-Waste and E-Waste from City Facilities on-call (but in no event more often than once per month) at no charge. These services may be provided by Franchisee directly, or through a City-approved subcontractor.

City Facilities that are under construction are not eligible for free service. However, if the City is constructing a new City Facility that is intended to be certified by the Leadership in Energy and Environmental Design ("LEED") program, then Franchisee shall provide at no charge any Solid Waste Handling services that exceed the standards for non-LEED buildings, along with all required reporting to obtain LEED certification.

4.8. Free Service to City Events. Franchisee shall provide Solid Waste, Organic Waste and Recycling Collection and disposal/processing service for all City-sponsored events at no additional charge. Customers will be provided Solid Waste, Recycling and Organic Waste capacity at the appropriate service levels for each venue or event, as determined by City. When requested by event organizers, Solid Waste, Organic Waste and Recycling Collection service, special event boxes and liners will be provided for each venue or event. Available Container sizes shall include 32 and 64 gallons. Available Container sizes shall include 3 and 40 cubic yards. Available Roll-Off box sizes include 10, 20, 30 and 40 cubic yards. Collection frequency will be provided as needed by the event. Removal of Bulky Waste, C&D Materials, HHW, U-Waste and E-Waste deposited at, and in the course of, City-sponsored events shall be Collected by Franchisee upon 12-hours following a request by the City at no charge. The list of some City-sponsored events for which services will be provided is attached hereto at **Exhibit D**.

4.8.1 Large Venue & Event Assistance, Event Recycling . Franchisee will assist City planners of large venue events with reporting and planning needs to provide Recycling and Organics Diversion as may be useful in meeting the requirements of AB 2176, and in lowering Disposal quantities generated at such events at no additional charge.

ARTICLE V
WASTE DIVERSION.

5.1. State Mandate. The Refuse Impact Reduction Laws currently set the directive of Diverting fifty percent (50%) of the City's Solid Waste, with a requirement to Divert 75% by the year 2020. If the City fails to implement its required plans to achieve the aforementioned directive under the Refuse Impact Reduction Laws, CalRecycle may impose administrative civil penalties of up to TEN THOUSAND DOLLARS (\$10,000.00) per day until the City implements its plans. Furthermore, City anticipates that the State Legislature will adopt new legislation that will increase the minimum Diversion requirement. Upon the effective date of any new legislation that affects the Diversion requirements currently imposed by the current the Refuse Impact Reduction Laws, Franchisee agrees, subject to the provisions of Section 7.2, to implement a revised or new Diversion program meeting such amended legislative requirements. Failure to implement an amended Diversion program based upon new State legislation mandating Waste Diversion levels shall constitute a default of this Agreement.

5.2. Joint Responsibilities; Development of Diversion Program. The City and Franchisee shall meet and confer in good faith to jointly develop Solid Waste Diversion strategies and develop a program adequate to meet the requirements established by the State. In the event of any change to State or regional laws, regulations or mandates setting new Diversion requirements applicable to the City, the Parties shall promptly meet and confer to negotiate in good faith the implementation of such amendments to law through the City's Solid Waste Diversion program. City and Franchisee shall reasonably cooperate in good faith with all effort by each other to meet statutory Diversion requirements and otherwise to ensure compliance with the Act including, without limitation, requests to CalRecycle pursuant to Public Resources Code §§ 41785 and/or 41820. If the City and Franchisee cannot agree on a program within thirty (30) days after initially commencing any meet and confer process, City shall be entitled to specify the program to be implemented, subject to the provisions of Section 7.2. Programs negotiated, prepared and implemented by Franchisee shall include the a Waste Diversion Plan for City of Huntington Park and proposed "Zero Waste Plan" for the City.

5.3. Franchisee Waste Diversion Responsibilities.

5.3.1 Cooperation and Education. The Franchisee shall cooperate with the Solid Waste Diversion activities of the City and shall coordinate Diversion activities and programs to the extent possible. The Franchisee shall cooperate with the City's efforts to develop and implement public education and information programs designed to promote Source Reduction, Recycling and composting in general as well as specific Waste Diversion strategies. Franchisee shall have a public education program in place by which it will distribute free educational information about Solid Waste management and Recycling to customers in their regular bills.

(a) **Organics Waste Diversion Education.** Both City and Franchisee shall immediately undertake public outreach as approved by the City in writing to encourage customers to include all types of Organics Wastes within Franchisee Provided Containers dedicated to such Organics Waste; education programs shall encourage a public perception of Organics Waste that understands the re-use value of such Organic Waste in the production of clean-burning fuels and alternative energy. Said education shall be, but not limited to, Organics Waste informational tags, education fliers, community broadcasts, community newsletters, billing inserts, etc., sent to every Single-Family Unit, and every Multi-Family Unit, Commercial and Industrial Unit subject to the mandates of AB 1826. Public education shall further endeavor to instill upon the public an understanding that Food Wastes and Green Wastes can be commingled to maximize Diversion.

5.3.2 Implementation of Strategies and Penalties. The Franchisee shall implement the Diversion strategies jointly developed and agreed to by the Parties. If Franchisee's failure to perform its obligations under this Section 5.3 results in the imposition of penalties against the City pursuant to the provisions of any Refuse Impact Reduction Laws, Franchisee shall protect, defend with counsel approved by City, indemnify, and reimburse the City (including its officers, directors, employees and agents) for such fine or penalty within thirty (30) days of its imposition, subject to any limitations on such indemnification contained in Public Resources Code § 40059.1.

5.3.3 Waste Diversion Reporting Requirements. The Franchisee shall comply with the Waste Diversion reporting requirements established by the City. Franchisee shall provide City with regular written reports in a form acceptable to the City and adequate to meet City's reporting requirements to the CalRecycle on compliance with all Refuse Impact Reduction Laws, including a breakdown of the type and quantity of waste (by weight and volume) hauled by Franchisee, generator type and program area, the type and quantity of Recyclable Materials, HHW/U-Waste/E-Waste (as may be inadvertently received by Franchisee), Organic Waste and Bulky Waste, and including a discussion of the quarterly Waste Diversion percentages achieved during the year. Franchisee shall report such information on a monthly basis. Monthly records will allow for reporting of seasonal variation in waste quantities and will assists in program operation, improvement and expansion.

5.3.4 Meet and Confer Process. If Franchisee fails to Divert the required amount of the City's Solid Waste, as described in this Agreement, Franchisee and City shall meet and confer to develop a revised or new Diversion program. If the City and Franchisee fail to agree on a revised or new Diversion program within ninety (90) days of commencing the meet and confer process (which date may be extended by mutual written agreement), notwithstanding anything to the contrary contained herein, City may elect,

in its sole discretion, to terminate this Agreement on thirty (30) days written notice. Franchisee agrees to continue performance under this Agreement until City hires a new contractor.

5.4. Recycling Program.

5.4.1 Ownership of Solid Waste and Recyclable Materials. Except as otherwise provided by law, once Solid Waste, Refuse, Recyclable Materials and/or Organic Waste have been actually discarded by an Owner or Solid Waste generator in a Container, ownership transfers to Franchisee. Franchisee is thereby granted the right to retain, recycle, compost, dispose of and otherwise use such waste, or any part thereof, in any lawful fashion or for any lawful purpose desired by Franchisee. Subject to the Recycling Fee and provisions of this Agreement, and excepting any material which is not a Solid Waste and which was inadvertently or improperly discarded, Franchisee shall have the right to retain any benefit or profit resulting from its right to retain, recycle, compost, convert, dispose of or use the refuse which it collects, including, without limitation, the market value of all greenhouse gas (GHG) emissions, reduction, carbon, or renewable energy credits, offsets or similar benefits arising from the Solid Waste Handling activities undertaken by Franchisee pursuant to this Agreement. City shall have the right to report any such benefits as part of City's Climate Action Plan or similar plan, and Franchisee shall provide information requested by City for such reporting. Solid Waste and any other material which is disposed of at a Disposal Site or sites (whether landfill, transformation facility, transfer station or material recovery facility) shall, as between the City and Franchisee, remain the responsibility of the Franchisee, and Franchisee shall retain ownership of the same.

5.4.2 Franchisee As Sole Authorized Recycling Agent. City hereby designates Franchisee as the sole authorized Recycling agent for the purposes of conducting Recycling activities within the City for those Recyclables actually discarded by the generator. This designation is made pursuant to the terms of Public Resources Code § 40105. Notwithstanding the foregoing, Franchisee at all times shall be and remain independent from the City.

ARTICLE VI VEHICLES, EQUIPMENT AND PERSONNEL

6.1. Vehicles.

6.1.1 General. Franchisee shall continue to provide a fleet of Collection vehicles sufficient in number and capacity to perform efficiently the work required by this Agreement in strict accordance with its terms. Franchisee agrees to maintain each piece of equipment used by it in good order and repair, and not more than seven (7) years of age. All vehicles shall be uniformly painted and fully equipped for efficient automated Collection. All vehicles shall be registered with the California Department of Motor Vehicles and shall meet or exceed all applicable State and local requirements. Each vehicle shall also carry a fire extinguisher, first aid kit and a broom and shovel to be used for the immediate removal of any spilled material. All spilled material shall be immediately removed by Franchisee. Franchisee shall be responsible for the cost of repairing all damage to driveway approaches caused by Franchisee's vehicles.

Collection trucks shall operate on natural gas fuels or such other alternative fuel and vehicular technologies as are in-use in the Solid Waste and Recyclable hauling industry with the goal of reducing carbon emissions produced by waste hauling vehicles. The City may require Franchisee to improve or upgrade Collection vehicles to incorporate the latest technology available to control environmental impacts of the services provided hereunder; provided, however, that Franchisee shall not be required to perform any substantial upgrade relative to the original cost of the subject vehicle unless a reasonable period of time and fee structure is available under the Agreements to recover such investment.

6.1.2 Truck Bodies. All truck bodies used by Franchisee shall be constructed of metal, shall be watertight and leak-proof and shall be so constructed as to prevent odors or the falling, leaking or spilling of Solid Waste, Recyclables, or other materials. Franchisee shall maintain all trucks and equipment used within City in good mechanical condition and the same shall be clean and uniformly painted and numbered. All trucks and equipment shall have painted thereon, or affixed thereto, in letters and numbers at least six (6) inches in height, the name and telephone number of Franchisee, which name and telephone shall be clearly visible at all times. Each vehicle utilized by Franchisee shall be identified by numerals at least six (6) inches in height in a location or locations on such vehicles to be specified by City. A list showing each vehicle so identified shall be made available to City and maintained in the current status by Franchisee and, upon notice given by City, Franchisee shall make the equipment available for inspection. If City finds that any truck or equipment being used by Franchisee is not in satisfactory condition then the truck or equipment requiring correction of defects shall not be used by Franchisee in the performance of the Agreement until corrected to the reasonable satisfaction of City. In addition, if Franchisee's trucks are inspected by any other public agencies, copies of any inspection report shall be made available to the City upon request.

6.1.3 Backup Alarm. Each vehicle used for collecting, hauling or disposing of Solid Waste and/or Recyclables shall be equipped with an audible warning device that is activated when the vehicle is backing up.

6.1.4 Gross Vehicle-Weight Limit. No vehicle used for collecting, hauling or disposing of Solid Waste and/or Recyclables shall be loaded in excess of the manufacturer's gross vehicle weight rating or in excess of the maximum weight specified by the California Vehicle Code, whichever is less. Evidence of the manufacturer's name and gross vehicle weight rating shall be maintained in, or upon, every vehicle.

6.1.5 Preventive Maintenance and Repair Program. Within thirty (30) days of the Effective Date of this Agreement, Franchisee shall have implemented a complete and comprehensive preventive maintenance and repair program, or if such repair program has already been implemented, Franchisee shall continue its performance thereof. Franchisee shall provide a copy of its preventative maintenance program to City for its review and approval, or if such a program has already been approved by the City, Franchisee shall notify the City of any updates to the program for City approval. Franchisee shall perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule and shall inspect each vehicle daily to ensure that all equipment is in good working order. Franchisee shall keep accurate records of all vehicle maintenance and repairs, recorded according to date and mileage, nature of maintenance or repair and the signature of a maintenance supervisor or mechanic that the maintenance or repair has been properly performed. Franchisee shall make such maintenance records available to City on request.

6.1.6 Vehicle Cleaning. Each vehicle used within the City shall be cleaned thoroughly by washing with water after each day's use. Vehicles shall be washed completely at least once a week and steam-cleaned on a regular basis so as to present a clean appearance and minimize odors, but in no event less than once a month.

6.1.7 Vehicle Storage. No vehicle used by Franchisee in performance of this Agreement shall be stored on any public street or other public property in the City. All Franchisee's vehicles if kept within the boundaries of the City shall at all times when not in use be kept on property of the proper zone either within a building or fenced yard, or at _____.

6.2. Container Condition. Franchisee at its sole cost and expense shall maintain all Franchisee Provided Containers in good condition and repair as needed and shall clean and/or paint (for Bins or Roll-Offs) each Container annually. More frequent cleaning and painting shall be conducted by Franchisee if needed. Franchisee shall, at no charge, replace any Franchisee Provided Containers which become unusable by reason of normal conditions of wear and tear. If damages occur to a Franchisee Provided Container necessitating repairs or replacement of the Container, and if said damages were incurred as a direct result of customer negligence, the customer may be liable for such repair costs and/or replacement costs for the Container. During all times that a Franchisee Provided Container is in the custody and control of Franchisee, Franchisee shall not store such Container in or on public streets or rights-of-way.

6.2.1 Franchisee Provided Containers that have graffiti on them must be (i) removed and replaced, or (ii) cleaned of all graffiti, or (iii) repainted to a like-new appearance within 24 hours of Franchisee reasonably becoming aware of such graffiti.

6.2.2 Any addresses, name, company or other identifiers on Franchisee Provided Containers shall be neatly stenciled on, or adhered to, the Containers.

6.2.3 If new laws or regulations relating to composting are enacted such that additional receptacles are required to be provided to customers for purposes of complying with the composting program, Franchisee will supply appropriate Franchisee-Provided Containers at no additional cost to meet new State mandates.

6.2.4 Upon request by a Residential Cart customer, Franchisee shall provide steam cleaning services of Franchisee Provided Carts once per year at no cost to the City or Resident. Franchisee shall provide additional steam cleaning services for Residential Carts at such charge as adopted in Franchisee's Maximum Rate Schedule.

6.3. Inspection.

6.3.1 City Inspections. Franchisee shall give the City at least fifteen (15) days prior written notice of any vehicle inspection to be performed by the California Highway Patrol ("CHP") and the City may elect to observe the CHP inspection. Without limiting the City's right to observe the CHP inspections, City reserves the right to cause any vehicle used in performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the provisions of the State Vehicle Code, including but not limited to California Vehicle Code §§ 27000(b), 23114, 23115, 42030, 42032, and all Vehicle Code Sections regarding smog equipment requirements. City may direct the removal of any vehicle from service if that vehicle is found to be in nonconformance with applicable codes. No vehicle directed to be removed from service shall be returned to service until it conforms with applicable codes and such conformance has been acknowledged by City. The City may elect in its sole discretion to hire an independent contractor to perform a comprehensive inspection of Franchisee's vehicles. If the City hires an independent contractor to perform the inspection on behalf of the City the Franchisee shall pay for the cost of such inspection. City shall act prudently in requesting any such inspection.

6.3.2 Brake Inspections. The brake system of each vehicle used in performance of this Agreement shall be inspected bi-annually by the CHP and shall comply with State law. Notice of certification shall be filed with the City within thirty (30) days after each such certification. Failure to submit the required certification shall be grounds for terminating this Agreement.

6.3.3 Correction of Defects. Following any inspection, the City Manager shall have the right to reasonably require Franchisee to take out of service any vehicles and equipment not in good working order and cause Franchisee to recondition or replace any vehicle or equipment found to be unsafe, unsanitary or unsightly within thirty (30) days of notification of defect in such vehicle or equipment. The City Manager's determination may be appealed to the City Council.

6.4. Personnel.

6.4.1 General. Franchisee shall furnish such qualified drivers, mechanical, supervisory, clerical and other personnel as may be necessary to provide the services required by this Agreement in a courteous, safe and efficient manner. Franchisee shall keep itself fully informed of existing and future State and Federal laws, rules and regulations rules and orders in any manner affecting those engaged and employed in or on the work contemplated herein or in any way affecting the conduct of that work and of all orders or decrees of bodies of officials having jurisdiction or authority over the same, and shall, at all times, observe and comply with and cause any and all persons employed by Franchisee or under Franchisee cause to observe and comply with all such laws, ordinances, rules, regulations, orders and decrees. Franchisee and any subcontractors and/or employees under Franchisee shall comply with and be governed by the law of the State of California having to do with working hours as set forth in the Labor Code of the State of California, as the same may be amended from time to time.

6.4.2 Driver Qualifications. All drivers shall be trained and qualified in the operation of Collection vehicles and must have in effect a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

6.4.3 Uniforms and Identification Badges. Franchisee shall require its drivers and all other Collection personnel to wear a suitable and appropriate uniform as a means of identifying the employee. All other employees of Franchisee who come into contact with the public shall carry suitable identification badges or cards upon their person.

6.4.4 Employee Appearance and Conduct. All employees, while engaged in the Collection of Solid Waste and/or Recyclables within the City or otherwise engaged in services described in this Agreement, shall be attired in uniform. At least one member of every Collection truck crew shall be able to read and speak English. Franchisee shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. Franchisee shall regularly train its employees in customer courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work as quietly as possible. If any employee is found not to be courteous or not to be performing services in the manner required by this Agreement, Franchisee shall take all appropriate corrective measures.

6.4.5 Safety Training. Franchisee shall provide suitable operational and safety training for all its employees who use or operate vehicles or equipment for Collection of Solid Waste or who are otherwise directly involved in such Collection. Franchisee shall train its employees involved in Solid Waste and/or Recycling Collection to identify, and not to collect, Hazardous Wastes. Franchisee and its employees shall comply with the terms of all contracts between the Los Angeles County Department of Public Works and any Disposal Site that is used by Franchisee.

6.4.6 Safety. All work performed pursuant to this Agreement shall be performed in a manner that provides safety to the public and meets or exceeds safety standards outlined by the California Construction Safety Orders under the State of California Code of Regulations ("CAL-OSHA"). City reserves the right to issue restraint or cease and desist orders to Franchisee when unsafe or harmful acts are observed or reported to City. Franchisee shall instruct its employees to report immediately any hazardous conditions or Hazardous Wastes they observe within the City during the course of their work to the City.

6.4.7 No Gratuities. Franchisee shall not permit its employees or subcontractors to demand or solicit, directly or indirectly, any additional compensation or gratuity from members of the public for the work performed by those employees or subcontractors pursuant to this Agreement.

6.4.8 Notice of Labor Disputes. Franchisee shall advise City in writing at the time any negotiations are undertaken between Franchisee and its employees relating to the wages and benefits and Franchisee shall report the status of said negotiations from time to time including any pending strike, lock out, walkout, boycott or other labor dispute.

ARTICLE VII FRANCHISEE'S COMPENSATION

7.1. Maximum Rate Schedule. In the attached Exhibit A, which is incorporated herein by this reference ("Maximum Rate Schedule"), the City has established the maximum service rates which may be charged by Franchisee to its customers in the City. The

Maximum Rate Schedule went into effect on _____ and shall be the Maximum Rate Schedule in effect at the time of the Effective Date. Franchisee may establish such rates and charges Franchisee believes are appropriate in the marketplace, provided such rates and charges do not exceed the maximum rates set forth in the Maximum Rate Schedule. Franchisee shall not receive any other fees or compensation for the services to be performed pursuant to this Agreement in excess of those provided in the Maximum Rate Schedule unless until such additional fees or compensation have been duly noticed and subjected to a public hearing process in accordance with Proposition 218.

7.2. Adjustments to Maximum Rate Schedule.

7.2.1 General. Franchisee acknowledges that under current law, increases in the Maximum Rate Schedule are subject to the substantive and procedural requirements of Proposition 218. During the Term of this Agreement, the City and Franchisee may mutually agree to adjustments or increases to the Maximum Rate Schedule, subject to the provisions and requirements of Proposition 218. Any increases in the Maximum Rate Schedule are strictly subject to the assent of the City and compliance with Proposition 218 as provided in Section 7.3.

7.2.2 COLA Adjustments; Government Code § 53756. Subject to adoption in accordance with Proposition 218 and this Agreement, the Maximum Rate Schedule may be adjusted to account for annual inflationary increases to all regular, weekly service rates for both Residential Units and Commercial/Industrial customers in an amount equal to the annual percent change in the Consumer Price Index ("CPI"). This annual Cost of Living Adjustment (the "COLA Adjustment") shall be equal to one hundred percent (100%) multiplied by the average of the month to month change in the CPI (from the first index dates of September to August of the following year), for the 12-month period ending nearest, but at least sixty (60) days prior to the date the COLA Adjustment is to take effect. Such annual CPI adjustments to the Maximum Rate Schedule shall be subject to the following requirements:

(a) The COLA Adjustment may take effect only after it has been adopted and passed pursuant to a Proposition 218 hearing and/or protest process. In this vein, the COLA Adjustment shall be enacted consistent with Government Code § 53756, such that the COLA Adjustment may not exceed a period of five (5) years.

(b) Commencing from the date of adoption for any COLA Adjustment, such adjustments shall continue automatically on a year-to-year basis for a period not to exceed five (5) years after the date such adjustments were adopted in accordance with Proposition 218.

(c) At the end of the five-year period, there shall be no further CPI escalations or other automatic adjustments to the Maximum Rate Schedule unless or until further automatic adjustments are adopted through a subsequent Proposition 218 process as required by Government Code § 53756.

7.2.3 Increases for Cost Pass-Throughs. Subject to adoption in accordance with Proposition 218 and this Agreement, the Maximum Rate Schedule shall be adjusted to account for Franchisee's increased costs during the Term of this Agreement such that cost increases shall be "passed-through" to Franchisee's customers in the form of service rate adjustments ("Pass-Through Adjustments"). Such costs that shall be passed-through include, without limitation:

- The cost of paying the Franchise Fee;
- Cost increases (i.e., on any direct or indirect cost, whether fixed or variable) associated with an increase in the level of Franchisee's Solid Waste or Recyclables handling services, including increases in tipping fees, which may be required of, or agreed to by, Franchisee, or;
- Increased actual costs due to changes in law or legal requirements imposed upon Franchisee.

These Pass-Through Adjustments may be adopted through a Proposition 218 process any time after the Effective Date hereof. Pass-Through Adjustments, however, may not be increased automatically each year, but shall remain at *status quo* unless and until another Proposition 218 process is undertaken to increase Pass-Throughs again as needed to cover actual cost increases to be incurred by Franchisee. (See, Government Code § 53756, which only extends automatic increases for inflationary adjustments.) Franchisee agrees to notify City in writing of any expected cost increases that could result in a Pass-Through Adjustment, and Franchisee shall use its best efforts to utilize any alternate action (including, as appropriate, a change to using a Disposal Site with lower Disposal Fees) to the extent reasonably feasible to avoid passing-on cost increases to Franchisee's customers.

7.2.4 Purpose of Adjustments. The rates and rate adjustment provisions contemplated by this Agreement are calculated (1) to provide Franchisee with the means to fund Diversion efforts, (2) to pay certain other costs and expenses, including fuel costs, that are of a contingent and uncertain nature, along with a commercially reasonable profit and (3) assume, to a limited degree, a certain amount of revenue from the recovery of Recyclable Materials. The parties recognize further that recycling markets, along with fuel costs, will likely fluctuate throughout the Term of this Agreement. Accordingly, the parties understand and agree that while Franchisee will remain obligated to maximize Waste Diversion and identify and pursue opportunities to market the Recyclable Materials it recovers, Franchisee cannot influence or dictate fuel prices or the availability or adequacy of markets for Recyclable Materials, including beverage containers, and that a future fuel cost increase, or decline in revenue from the sale of recyclable materials may, depending upon the scale of that increase or decline, justify a cost pass-through in accordance with this Paragraph 7.2.3.

7.3. Proposition 218 Process for Adjustments to Maximum Rate Schedule.

7.3.1 Compliance with Proposition 218 Required: Timeframes. Further adjustments and/or increases to the Maximum Rate Schedule in addition to those identified in Section 7.2, above, are strictly subject to the assent of the City and compliance with Proposition 218. The City intends to comply with all applicable laws, including without limitation Proposition 218, concerning the setting of adjustments to the Maximum Rate Schedule under this Agreement. Franchisee shall pay for the administration of Proposition 218 compliance, including the costs of public noticing.

(a) *Preliminary Meeting Re Proposed Rate Adjustments.* At a minimum, the City and Franchisee will meet at least once per year in March to discuss potential rate adjustments (increases or decreases) and the justifications therefor. Such meetings will be conducted between Franchisee and the City Manager or his/her designee. Franchisee guarantees that upon the Effective Date of this Agreement that the customer rates and/or the Maximum Rates shall be competitive with the rates charged for similar services to Residential and Commercial and Industrial customers in the local area.

(b) *Timing/Notice to City of Rate Adjustment Requests.* For any rate adjustment subject to a Proposition 218 majority hearing process, Franchisee hereby acknowledges that it typically takes 75-90 days to process an adjustment through Proposition 218. Therefore, Franchisee shall provide the City written notice of a requested rate adjustment, with the specific proposed new rates, at least 120 days the date such adjusted rates are contemplated to take effect.

7.3.2 Indemnification. Franchisee shall indemnify, defend and hold harmless the City, their officers, employees, agents and volunteers, (collectively, Indemnitees) from and against all claims, damages, injuries, losses, costs, including demands, debts, liens, liabilities, causes of action, suits, legal or administrative proceedings, interest fines, charges, penalties and expenses (including attorneys' and expert witness fees, expenditures for investigation, and administration) and costs or losses of any kind whatsoever paid, imposed upon, endured or suffered by or assessed against Franchisee or any of the indemnitees resulting in any form from the City's establishing maximum rates for service under this Agreement or in connection with the application of California Constitution Article XIII C and Article XIII D to the imposition, payment or Collection of rates and fees for services provided by Franchisee under this Agreement. Notwithstanding the foregoing, this indemnity shall not extend to any portion of the rates that is not associated with Franchisee's costs in providing service, such as governmental fees, franchise fees or charges, nor shall it apply to any loss arising directly from the negligence of City, its officers and employees. Nothing herein is intended to imply that California Constitution Articles XIII C or XIII D, apply to the setting of rates for the services provided under this Agreement; rather this Section is provided merely to allocate risk of loss as between the Parties.

7.3.3 Notice of Increases to Ratepayers. Franchisee shall give prompt written notice of any duly-adopted rate increases to all customers, which notice shall inform customers of the exact date on which the increase becomes effective. These notices shall be provided on the Franchisee's publicly-accessible website and shall also be included in those billing invoices mailed out at a time in conformance with Government Code § 53756.

7.3.4 Rate Increase Not Automatic. While City reserves all powers afforded to cities generally under the provisions of applicable law, this Agreement, including the rate adjustment elements hereof, has been agreed to by the parties following arms-length negotiations and upon advice of counsel, for the dual purposes of safeguarding public health and facilitating the performance of obligations undertaken by Franchisee on City's behalf and for its benefit. Accordingly, while this Agreement does not require City's approval of a Maximum Rate Schedule adjustment in every case, it does contemplate that City will exercise its powers reasonably and in good faith, and shall favorably consider and shall accord proper weight to a Maximum Rate Schedule proposal if accompanied by substantial supporting evidence. In no case will City's failure to approve any specific Maximum Rate Schedule adjustment be a default hereunder, and City bears no liability to Franchisee for any damages suffered by Franchisee as a result of the failure to pass new Maximum Rate Schedules or adjustments thereto. Accordingly, the City Council is completely free within its police powers to exercise its discretion in considering such matters, and the City has not contracted away any of its police powers or duties to protect the public health, safety or general welfare of its citizens pursuant to State and Federal law.

7.4. Billing. All Multi-Family, Commercial and Industrial Unit accounts shall be directly billed by Franchisee monthly. Billing and Collection for service may be done on a monthly basis in advance of service, providing the due date of said bill is not more than sixty-five (65) days prior to the end of the billing cycle where service is being provided. Franchisee shall refund any portion of charge for service which is not provided within ten (10) days of cancellation of service.

7.4.1 Default service levels for Single-Family Residential accounts shall be billed via enrollment on annual property tax rolls. In accordance with County property tax protocols, all account bills to be enrolled onto property taxes are due to the County by August 1 each year. Such enrollment also requires City Council action. Therefore, in order to ensure the timely enrollment of Single-Family account bills onto tax rolls, Franchisee shall annually provide the City all Single-Family bills for the prior-year's services to the City no later than June 15.

7.4.2 Enrollment upon the tax rolls only applies to "default" or basic level Collection services to Single-Family accounts. Additional Carts, Bins, temporary Containers, and special, non-regular services that vary from month-to-month may be directly billed to Single-Family accounts by Franchisee on a monthly basis.

7.4.3 Franchisee shall provide monthly statements to residential and commercial customers upon request by the customers. Franchisee is responsible for bad debt.

7.5. Delinquent Accounts.

7.5.1 Residential Units. Franchisee shall provide at least three (3) monthly, written notices of delinquency/past-due account status to the occupants and/or owner of any Residential Unit with a delinquent account for items that are directly billed to the Residence (as opposed to bills enrolled on property tax rolls). Franchisee shall otherwise make diligent efforts to resolve said account delinquencies, including but not limited to the reasonable use of a Collection agency. Further, Franchisee shall be entitled to collect late charges at the rate of 1.5% per month and, in addition, to charge a reasonable rate for the redelivery of Franchisee Provided Containers. After three (3) months of delinquency on any account, Franchisee will take prompt action in the exercise of all Reasonable Business Efforts to collect on the account in a manner that does not unreasonably prolong the Collection process. Franchisee shall also be entitled to utilize any remedies or lien procedures available to it for the Collection of delinquent accounts as provided in the City of Huntington Park Municipal Code, as such may be amended from time to time.

7.5.2 Industrial and Multi-Family Residential Unit Accounts. City may permit Franchisee to discontinue service to Commercial, Industrial and Multi-Family Residential Units whose accounts are more than ninety (90) days past due. Franchisee shall be entitled to collect late charges at the rate of 1.5% per month and, in addition, to charge a reasonable rate for the redelivery of Franchisee Provided Containers. Franchisee shall also be entitled to utilize any remedies or lien procedures available to it for the Collection of delinquent accounts as provided in the City of Huntington Park Municipal Code, as such may be amended from time to time.

7.5.3 No Waiver of City Remedies to Address Public Nuisance. Should Franchisee terminate service to any customer in the City, nothing herein waives or supersedes the City's rights to initiate code enforcement action(s) in response to the build-up, long-term stagnation, or misplacement of Solid Waste as a result of said termination of Franchisee's service. In addition, the City and Franchisee shall, at the option of either party, meet and confer in good faith to resolve any matters of public nuisance or Solid Waste build-up that resulted from a termination of service by Franchisee.

ARTICLE VIII ACCOUNTING AND RECORDS.

8.1. Recordkeeping. Franchisee shall maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City in the conduct of City business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up. All records shall be maintained for five (5) years, and shall continue to be available for five (5) years after the expiration of this Agreement. After minimum holding periods are met, Franchisee will notify City 90 days before destroying records.

(a) Related Operations and Account Histories. Franchisee agrees that the records of any and all companies conducting operations addressed in the Agreement shall be provided or made available to City and its official representatives during normal business hours. Account histories shall be accessible to the City by computer for a minimum of five (5) years. City may review or utilize any of the records described in this Section for any purpose whatsoever.

(b) Contract-Related Records. Franchisee understands and agrees that it shall keep full and complete books, records and accounts of all financial transactions with respect to this Agreement. All such books, records and accounts shall be maintained for a minimum of five (5) years from and after the end of the fiscal year in which any such books, records and accounts are created. Records subject to this Section shall include paper, electronic, magnetic or other media including, but not limited to, records of recovered materials, marketing records, cash register records of purchases of source separated Recyclables, and video tape recordings of Franchisee operations, vehicular registration and maintenance records, complaint logs, the log of uncollected materials, personnel files, customer correspondence and other correspondence, etc.

(c) Financial Records. Financial records shall be maintained and expense and revenue information for City shall be segregated from other areas served by Franchisee. Where the allocation of expenses or revenues to various categories of customers is required to develop equitable rates that reflect the cost of service, Franchisee shall segregate such expenses and revenues. Franchisee shall maintain at least the following records:

- (1) Audited financial statements for Franchisee or, if a guarantee was provided, for the parent company guarantor as a whole;

- (2) Financial statements (compiled, reviewed or audited) of revenue and expense for this Agreement segregated from the other operations of Franchisee (including without limitation those operations of Franchisee in City and surrounding jurisdictions which are not covered by this Agreement), including a description of segregation methodology; and
 - (3) Complete descriptions of related party transactions (corporate and/or regional management fees, inter-company profits from transfer, processing or Disposal operations).
- (d) **Solid Waste Records.** Records shall be maintained by franchisee for City relating to:
- (1) Customer services and billing;
 - (2) Tons Collected, processed, diverted and disposed by waste stream (Refuse, Recycling, Organic Waste), by customer type (Cart, Bin, Roll-Off, etc.) and Facilities (Transfer Station, MRF, Transformation Facility, landfill or others) where such material was taken;
 - (3) Quantity of Recyclable Materials recovered by material type;
 - (4) Bulky Waste results including tons disposed and Diverted;
 - (5) Annual cleanup event results, including tons disposed and Diverted;
 - (6) Routes;
 - (7) Facilities, equipment and personnel used;
 - (8) Facilities and equipment operations, maintenance and repair;
 - (9) Number of Refuse, Recycling and Organic Waste Franchisee Provided Containers in service;
 - (10) Complaints; and,
 - (11) Missed pickups.

Franchisee shall maintain copies of billings and receipts relating to Franchisee's services under this Agreement, each in chronological order, for a period of five (5) years after the date of service for inspection by City upon request. Franchisee may, at its option, maintain those records in computer form, on microfiche, or in any other manner, provided that the records can be preserved and retrieved for inspection and verification in a timely manner, are sufficient to verify accuracy of Franchise Fees owed to the City, and may be produced in a form and manner sufficient to establish the existence of customer obligations in a court of competent jurisdiction.

8.2. Right to Annually Conduct Generally Accepted Procedures Audit. The City may annually, at City's option, request the Franchisee's audited financial reports/statements (or parent company, if parent company submits Corporate Guaranty of Performance), and Franchisee's internally prepared supplemental statement of income and expenses related specifically to City of Huntington Park operations, for up to the most recently completed last two fiscal years not previously reviewed by the City in connection with a proposed rate adjustment, rate audit, billing audit, Franchise Fee audit, or verification of other information required under this Agreement.

8.2.1 City Audit of Records. The financial statements and footnotes shall be prepared in accordance with Generally Accepted Accounting Principles (GAAP) and audited, in accordance with Generally Accepted Auditing Standards (GAAS) by a certified public accountant (CPA) licensed (in good standing) to practice public accounting in the State of California as determined by the State of California Department of Consumer Affairs Board of Accountancy. In addition to any records to be retained and available for inspection under this Article 8, the audit may request review or copying of financial statements maintained by Franchisee, which may include, without limitation, comparative balance sheets, comparative operating statements, statements of changes in investments in property and equipment, statements of source and application of funds, and a statement of any changes in Franchisee's equity, in which shall be set forth the names of principal officers and stockholders of the corporation, income statements for local hauling operations, profit/loss statements for local hauling operations, any other documents that may reasonably be requested by a certified public accountant acting in accordance with GAAP accounting principles, consistently applied.

(a) **Cost of Audit.** The cost for preparation of the financial statements and audit shall be borne by Franchisee as a direct cost of service. In addition, Franchisee shall provide to City the supplemental schedule on a compiled basis showing Franchisee's results of operations, including the specific revenues and expenses in connection with the operations provided for in this Agreement, separated from others included in such financial statements.

(b) **Working Papers.** At City's request, Franchisee shall provide City with copies of working papers or other documentation deemed relevant to the audit by City or relating to information shown in the disclosure letter. The disclosure letter shall be provided to City.

(c) **Payments and Refunds.** Should the performance of a GAAP audit by the City disclose that the Franchise Fees payable by the Franchisee was underpaid or that customers were overcharged for the period under review, Franchisee shall pay to City any underpayments of the Franchise Fee and/or refund to Franchisee's customers any overcharges. Should the

performance of an audit by the City disclose that Franchise Fees were overpaid, City shall promptly refund to Franchisee the amount of the overpayment.

8.3. CERCLA Defense Records. City views the ability to defend against the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for disposal, as well as where it was not taken, to be matters of concern. Franchisee shall maintain data retention and preservation systems which can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) and provide a copy or summary of the reports required in Section 8.3 for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement, or to provide copies of such records to City. Franchisee agrees to notify City's Risk Manager and City Attorney before destroying such records and to offer records to the City. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement.

ARTICLE IX ENFORCEMENT OF AGREEMENT.

9.1. City Right to Terminate. The City shall have the right to terminate Franchisee's franchise and this Agreement upon Franchisee's material breach of this Agreement. The City's right to terminate shall be in addition to any other remedy provided in this Agreement or provided by law and shall include, but not be limited to, any of the events of default set forth in this Article IX. In addition, specific events of default by Franchisee include, without limitation, the following:

- (a) If Franchisee practices, or attempts to practice, any fraud or deceit upon the City.
- (b) Should the Franchisee or any of its officers, directors, shareholders (who have been active in the business of Franchisee), or employees be found guilty of felonious conduct, illegal transport or disposal of Hazardous Waste, or bribery of public officials, the City reserves the unilateral right to terminate this Agreement, should they not be removed from their position upon conviction, or to impose such other sanctions (which may include financial sanctions, temporary suspensions or any other condition deemed appropriate short of termination) as it shall deem proper under the circumstances. The term "felonious conduct" shall mean a felony that in the City's determination has the potential of endangering the public or affecting Franchisee's ability to perform this Agreement (e.g., identity theft). The term "found guilty" shall be deemed to include any judicial determination of guilt including, but not limited to, pleas of "guilty", "nolo contendere", "no contest" or "guilty to a lesser charge" entered as part of a plea bargain. This Section is not intended, and shall not be interpreted, to require that Franchisee terminate any current employee who may, at the Effective Date of this Agreement, have a criminal record.
- (c) If Franchisee fails to provide or maintain in full force and effect the workers' compensation or any other insurance coverage or performance bond required by this Agreement.
- (d) If Franchisee willfully violates any orders or rulings of any regulatory body having jurisdiction over Franchisee, provided that Franchisee may reasonably contest any such orders or rulings by appropriate proceeding conducted in good faith, in which case no breach of this Agreement shall be deemed to have occurred.
- (e) If Franchisee fails to make any payments or to pay any penalties required to be made or paid by Franchisee pursuant to this Agreement. This includes the failure to pay the administrative fee set forth in Section 3.3.3 hereof.
- (f) If Franchisee for any reason ceases to provide Solid Waste and/or Recycling management services required under this Agreement over all or a substantial portion of its franchise area for a period of thirty (30) days.
- (g) If Franchisee violates the terms, conditions or requirements of the City of Huntington Park Municipal Code or Refuse Impact Reduction Laws or successor legislation, as they may be amended from time to time or violates any order, directive, rule or regulation issued pursuant to the foregoing legislation, where the violation is not remedied within the time set in the written notice of the violation.
- (h) If Franchisee refuses to provide City with required information, financial statements, report or test results in a timely manner as required by this Agreement.
- (i) If Franchisee becomes insolvent, unable or unwilling to pay its debts, or upon the appointment of a receiver to take possession of all or substantially all of the assets of Franchisee, or upon a general assignment by Franchisee for the benefit of creditors, or upon any action taken by or suffered by Franchisee under any insolvency or bankruptcy act.
- (j) If Franchisee fails to meet the Waste Diversion requirements of this Agreement or Refuse Impact Reduction Laws.

(k) If Franchisee should persistently and repeatedly refuse or should fail to supply enough properly skilled workers or proper materials or equipment for the Collection and disposal of Solid Waste from City in a good and workmanlike manner, or fail to make prompt payment for materials, equipment or labor, or fail to make any payment to City when due, or persistently disregard laws, ordinances, or the instructions of City or its duly authorized representatives, or otherwise to be in substantial violation of any provision of the Agreement.

(l) If Franchisee should persistently and repeatedly fail to perform its services hereunder in a professional and workmanlike manner as required by the performance standards set forth herein, or if Franchisee's conduct of its services under this Agreement should result in a recurrent or persistent condition of public nuisance or threat to public health and safety.

(m) If Franchisee fails to make reasonable efforts to process, market and sell Recyclables.

9.2. Rights of Nondefaulting Party after Default. The Parties acknowledge that both Parties shall have hereunder all legal and equitable remedies as provided by law following the occurrence of a default or to enforce any covenant or agreement herein. Before this Agreement may be terminated or action may be taken to obtain judicial relief the Party seeking relief for a default ("Nondefaulting Party") shall comply with the notice and cure provisions below.

9.3. Notice of Default and Opportunity to Cure. A Nondefaulting Party in its discretion may elect to declare a default under this Agreement in accordance with the procedures hereinafter set forth for any failure or breach of the other Party ("Defaulting Party") in its performance of a material duty or obligation of said Defaulting Party under the terms of this Agreement. However, the Nondefaulting Party must provide written notice to the Defaulting Party setting forth the nature of the breach or failure and the actions, if any, required by Defaulting Party to cure such breach or failure ("Default Notice"). The Defaulting Party shall be deemed in "default" under this Agreement, where: (i) said breach or failure can be cured, but the Defaulting Party has failed to fully cure within thirty (30) days after the date of the Default Notice (subject to the provisions below), or (ii) a monetary default remains uncured for ten (10) days (or such lesser time as may be specifically provided in this Agreement).

9.4. Non-Monetary Defaults; Longer Cure Period. The Defaulting Party on a non-monetary default shall not be deemed in breach of this Agreement, and such default shall be waived, if such non-monetary default cannot reasonably be cured within the above-prescribed thirty-day period, and as long as the Defaulting Party does each of the following:

(a) Notifies the Nondefaulting Party in writing with a reasonable explanation as to the reasons the asserted default is not curable within the thirty (30) day period;

(b) Notifies the Nondefaulting Party of the Defaulting Party's proposed cause of action to cure the default;

(c) Promptly commences to cure the default within the thirty (30) day period;

(d) Makes periodic reports to the Nondefaulting Party as to the progress of the program of cure; and

(e) Diligently prosecutes such cure to completion.

9.5. Termination Upon Default. Upon receiving a Default Notice, should the Defaulting Party fail to timely cure any default, or fail to diligently pursue such cure as prescribed above, the Nondefaulting Party may, in its discretion, provide the Defaulting Party with a written notice of intent to terminate this Agreement and other Agreements ("Termination Notice"). The Termination Notice shall state that the Nondefaulting Party will elect to terminate this Agreement and will describe the evidence upon which the decision to terminate is based. Once the Termination Notice has been issued, the Nondefaulting Party's election to terminate this Agreement will only be waived if (i) the Defaulting Party fully and completely cures all defaults prior to the date of termination.

9.6. Franchisee Hearing Opportunity Prior to Termination. If Franchisee is the Defaulting Party, then the City's Termination Notice to Franchisee shall additionally specify that Franchisee has the right to a hearing prior to the City's termination of any Agreements ("Termination Hearing"). The Termination Hearing shall be scheduled as an open public hearing item at a regularly-scheduled City Council meeting within thirty (30) days of the Termination Notice, subject to any legal requirements including but not limited to the Ralph M. Brown Act, Government Code Sections 54950-54963. At said Termination Hearing, Franchisee shall have the right to present evidence to demonstrate that it is not in default and to rebut any evidence presented in favor of termination. Based upon substantial evidence presented at the Termination Hearing, the Council may, by adopted resolution, act as follow:

(a) Decide to terminate this Agreement; or

(b) Determine that Franchisee is innocent of a default and, accordingly, dismiss the Termination Notice and any charges of default; or

(c) Impose conditions on a finding of default and a time for cure, such that Franchisee's fulfillment of said conditions will waive or cure any default.

Findings of a default or a conditional default must be based upon substantial evidence supporting the following two findings: (i) that a default in fact occurred and has continued to exist without timely cure, and (ii) that such default has, or will, cause a material breach of this Agreement and/or a substantial negative impact upon public health, safety and welfare, the environment, the City or the financial terms established in this Agreement.

9.7. Interest on Monetary Default. In the event Franchisee fails to perform any monetary obligation under this Agreement, Franchisee shall pay interest thereon at the rate of ten percent (12.5%) per annum from and after the due date of said monetary obligation until payment is actually received by City.

9.8. City's Right to Perform Service.

9.8.1 City Rights. In addition to any and all other legal or equitable remedies, in the event that Franchisee, for any reason whatsoever, fails, refuses or is unable to collect, transport or process any or all Solid Waste or Recyclables which it is required by this Agreement to collect and transport, at the time and in the manner provided in this Agreement, for a period of more than five (5) days, and if, as a result thereof, Solid Waste should accumulate in the City to such an extent, in such a manner, or for such a time that the City Manager in his or her sole discretion should find that such accumulation endangers or menaces the public health, safety or welfare, then the City Manager shall have the right, but not the obligation, without payment to Franchisee, to (i) cause to be performed, such services itself with its own personnel or employ Franchisee's personnel, without liability to Franchisee; and/or (ii) to take possession of any or all of Franchisee's equipment and other property used or useful in the Collection and transportation of Solid Waste and to use such property at the expense of Franchisee to collect and transport any Solid Waste which Franchisee would otherwise be obligated to collect and transport pursuant to this Agreement.

9.8.2 Franchisee and City Responsibilities. Franchisee further agrees that in such event:

(a) It will fully cooperate with City to effect the transfer of possession or property to the City for City's use;

(b) It will, if City Manager so requests, and to the extent feasible, keep in good repair and condition all of such property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition; and

(c) The City agrees to assume complete responsibility for the proper and normal use of such equipment and facilities while in its possession.

9.8.3 Franchise Waivers. Franchisee agrees that the City's exercise of its rights under this Article IX:

(a) Does not constitute a taking of private property for which compensation must be paid, but is rather an exercise of the City's police power;

(b) Will not create any liability on the part of City to Franchisee, including but not limited to, any right to compensation for use of Franchisee's equipment;

(c) Does not exempt Franchisee from the indemnity provisions of Article XI, which are meant to extend to circumstances arising under this Section 9.8, provided that Franchisee is not required to indemnify City against claims and damages arising from the negligence of City, its officers, employees, agents, or volunteers acting under this Section 9.8; and

(d) Does not terminate this Agreement, unless termination occurs under other provisions of this Agreement.

9.9. Duration of City's Possession. City has no obligation to maintain possession of Franchisee's property and/or continue its use in collecting and transporting Solid Waste for any period of time and may, at any time, in its sole discretion, relinquish possession to the Franchisee. Should the City desire to retain possession of Franchisee's property, the City's right to retain temporary possession, and to provide Solid Waste Collection services, shall continue until Franchisee can demonstrate to the City Manager's reasonable satisfaction that it is ready, willing and able to resume such services.

9.10. Forfeiture of Performance Bond. In the event Franchisee shall for any reason become unable to, or fail in any way to, perform as required by this Agreement, City may declare that portion of the performance bond or other security established pursuant to Section 11.3 which is necessary to recompense and make whole the City, forfeited to the City. Upon partial forfeiture of the performance

bond or other security, Franchisee shall promptly take all steps necessary to restore the performance bond or other security to its face amount.

9.11. City's Right to Lease Franchisee's Equipment Following Termination. If City terminates this Agreement for cause, the City shall have the right to lease Franchisee's equipment from Franchisee at its fair market value for a period not to exceed six (6) months in order to allow City to perform the services required under this Agreement.

9.12. Cooperation Following Termination. At the end of the Term or Franchise Term or in the event this Agreement is terminated for cause prior to the end of the Term or Franchise Term, Franchisee shall cooperate fully with City and any subsequent contractor to assure a smooth transition of Solid Waste management services. Franchisee's cooperation shall include, but not be limited to, providing operating records needed to service all properties covered by this Agreement.

9.13. Remedies for Nuisance Violations.

9.13.1 Liquidated Damages. The provision of poor public service or the production of any nuisance condition will subject Franchisee to administrative procedures, potential liquidated damages and, ultimately, termination, for severe and repeated violations.

9.13.2 Complaints. Public complaints (whether received by the City regarding Franchisee's performance or received directly by Franchisee) will be handled as prescribed in Sections 4.2.3 and 4.2.4 hereof.

9.13.3 Nuisance Conditions. Repeated, substantiated complaints of, or continued conditions of, poor service quality and/or nuisance conditions may be handled in the manner prescribed below. For purposes of this Section, the term "nuisance conditions" shall include, but is not limited to, the following:

- (a) Failure to duly collect Solid Waste and/or Recyclables that have been properly set-out for Collection through the willful or negligent conduct of Franchisee employees;
- (b) Uncured damage to the property of third parties or customers through the willful or negligent conduct of Franchisee employees;
- (c) Legitimate complaints of rude or unprofessional behavior or conduct by Franchisee's employees in the course of their duties;
- (d) Failure to perform service surveys and route audits as required by Sections 4.2.8 and 4.2.9, respectively, hereof;
- (e) Unreasonable leakage or spillage of Solid Waste or other collected materials from Franchisee's vehicles;
- (f) Failure to immediately or promptly collect Solid Waste or other materials that spilled or fell from Franchisee's vehicles onto public streets or third-party property;
- (g) Poor maintenance of Franchisee's vehicles, containers and equipment in violation of Sections 6.1 through 6.3 hereof;
- (h) Violations of personnel standards and qualifications in contravention of Section 6.4 hereof;
- (i) Any other failure to meet performance standards in such a manner as to give rise to a condition of public nuisance or threat to public health and safety.

9.13.4 Notice of Violation. Initially, when the City Manager or a designated enforcement officer observes a violation, a verbal warning shall be given to the Franchisee. If the violation is thereafter repeated and, in the opinion of the City Manager or designated enforcement officer, Franchisee has not taken timely, effective action to correct the violation and prevent its repetition, then the City Manager or designated enforcement officer may issue a written notice of violation (the "Notice of Violation") describing the violation, the period in which Franchisee is required to cure the violation (if such violation is curable) and a warning that continued violations can be subject to liquidated damages.

9.13.5 Franchisee's Right To Contest. Within five (5) business days after receiving the Notice of Violation, Franchisee may submit a written response (the "Response") to the Notice of Violation to the City Manager. The City Manager shall review Franchisee's Response and may further investigate the claimed violation. The City Manager shall make a final determination

regarding the Notice of Violation and the City Manager shall deliver to Franchisee a written conclusion concerning the Notice of Violation. Additionally, at the election of either Party, the Parties may meet to develop a written corrective action plan ("Correction Plan") to prevent further occurrence of the problematic conditions established in the Notice of Violation. The Correction Plan shall be finally prepared by the City (or, at the election of the City, by Franchisee) within ten (10) business days after the meeting between the City Manager (or designee) and Franchisee. The Correction Plan may include additional procedures, as deemed necessary by the City Manager, to assure that in the future Franchisee will be able to perform its services in compliance with this Agreement.

9.13.6 Liquidated Damages. If a second Notice of Violation is issued for any violation *after* an initial verbal warning and thereafter the issuance of a written Notice of Violation that is not withdrawn pursuant to Subsections 9.13.4 or 9.13.5 above, then liquidated damages may thereafter be assessed against Franchisee (as liquidated damages and not a penalty) by the City Manager in the amount of \$450 for every day the condition persists. Further, if the violation for which liquidated damages were assessed recurs on three (3) or more days within a 60-day period following any assessment of liquidated damages, then starting on the fourth (4th) day that such violation either persists or recurs the amount of liquidated damages shall increase to \$700 per day.

9.13.7 Basis for Liquidated Damages. The Parties further recognize that if Franchisee recurrently fails to prevent and remediate nuisance conditions, the City and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which City and its citizens will suffer. Therefore, the Parties agree that the liquidated damages established herein represent a reasonable estimate of the amount of such damages for such specific violations, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each Party specifically confirms the accuracy of the statements made above and the fact that each Party has had ample opportunity to consult with legal counsel and obtain an explanation of these liquidated damage provisions prior to entering this Agreement.

Franchisee's Initials _____ City Initials _____

9.13.8 Further Remedies For Severe Or Persistent Violations. The above provisions for a Correction Plan procedure and liquidated damages are intended to give the Parties a remedy under this Agreement short of termination or default; however, should Franchisee's violations be severe and repetitive or otherwise not reasonably subject to correction through liquidated damages, the Planning Director may, in his sole discretion, institute the procedures set forth in this Article hereof.

9.14. No Waiver Of City's Police Powers Or Legal Rights. Nothing in this Agreement is intended to limit the power and ability of the City or any LEA to initiate administrative and/or judicial proceedings for the abatement of nuisance conditions or violations of any applicable law. Nothing herein shall waive or limit any other legal rights or recourses the City may have in response to Franchisee's repeated, material violations of Performance Standards or failure to mitigate nuisance conditions.

ARTICLE X TRANSFERS OF INTEREST.

10.1. Restrictions on Transfers. The City, in entering into this Agreement, has placed a special value, faith and confidence in the experience, background, and expertise of the Franchisee in the field of waste disposal. Such faith and confidence being a substantial consideration in the granting of this Agreement warrants the transfer restrictions provided in this Article X.

10.2. Definition of Transfer. As used in this Section, the term "Transfer" shall include any hypothecation, mortgage, pledge, or encumbrance of this Agreement by Franchisee, subject to the exceptions set forth in Section 10.4 below. A Transfer shall also include the transfer to any person or group of persons acting in concert of more than thirty percent (30%) of the present equity ownership and/or more than thirty percent (30%) of the voting control of Franchisee (jointly and severally referred to herein as the "Trigger Percentages"), taking all transfers into account on a cumulative basis, except transfers of such ownership or control interest to an affiliate owned or controlled by the present beneficial owners of Franchisee or members of their immediate family, or between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family. A transfer of interests (on a cumulative basis) in the equity ownership and/or voting control of Franchisee in amounts less than Trigger Percentages shall not constitute a Transfer subject to the restrictions set forth herein. In the event Franchisee or its successor is a corporation or trust, such Transfer shall refer to the transfer of the issued and outstanding capital stock of Franchisee, or of beneficial interests of such trust; in the event that Franchisee or any general partner comprising Franchisee is a limited or general partnership or a limited liability company, such Transfer shall refer to the transfer of more than the Trigger Percentages in the limited or general partnership or limited liability company interest; in the event that Franchisee or any general partner is a joint venture, such Transfer shall refer to the transfer of more than the Trigger Percentages of such joint venture partner, taking all transfers into account on a cumulative basis.

10.3. Transfers Require City Approval. Franchisee shall not Transfer this Agreement or any of Franchisee's rights hereunder, directly or indirectly, voluntarily or by operation of law, except as provided below, without the prior written approval of City, and if so purported to be transferred, the same shall be null and void. Franchisee will submit its request for City consent to the City

together with documents, including but not limited to: (i) the transferee's audited financial statements for at least the immediately preceding three (3) operating years; (ii) proof that the proposed transferee has municipal solid waste management experience on a scale equal to or exceeding the scale of operations conducted by Franchisee; (iii) proof that in the last five (5) years, the proposed transferee has not suffered any citations or other censure from any federal, state, or local agency having jurisdiction over its waste management operations due to any significant failure to comply with federal, state, or local waste management law and that the transferee has provided the City with a complete list of such citations and censures; (iv) proof that the proposed transferee has at all times conducted its operations in an environmentally safe and conscientious fashion; (v) proof that the proposed transferee conducts its municipal solid waste management practices in accordance with sound waste management practices in full compliance with all federal, state, and local laws regulating the Collection and disposal of waste, including hazardous waste; (v) proof that the transferee's officers or directors have no criminal convictions for fraud, deceit, false claims or racketeering with respect to the transferee's course of business; (vi) a "transition plan" describing how Franchisee proposes to efficiently transition the rights and obligations hereunder to the transferee or assignee without material disruptions to service, and (vii) any other information required by the City to ensure the proposed transferee can fulfill the terms of this Agreement, including the payment of indemnities and damages and provision of bonds and/or performance standards, in a timely, safe, and effective manner.

10.4. Exceptions. The requirement to obtain City approval for a Transfer shall not apply to any of the following:

(a) Any mortgage, deed of trust, sale/lease-back, or other form of conveyance for financing and any resulting foreclosure therefrom.

(b) A sale or transfer resulting from or in connection with a reorganization as contemplated by the provisions of the Internal Revenue Code of 1986, as amended or otherwise, in which the ownership interests of a corporation are assigned directly or by operation of law to a person or persons, firm or corporation which acquires the control of the voting capital stock of such corporation or all or substantially all of the assets of such corporation.

(c) A sale or transfer to an affiliate of Franchisee owned or controlled by the present beneficial owners of Franchisee or members of their immediate family, or between members of the same immediate family, or transfers to a trust, testamentary or otherwise, in which the beneficiaries are limited to members of the transferor's immediate family.

10.5. Assumption of Obligations. No attempted Transfer of any of Franchisee's obligations hereunder shall be effective unless and until the successor party executes and delivers to City an assumption agreement in a form approved by the City assuming such obligations. Following any such assignment or Transfer of any of the rights and interests of Franchisee under this Agreement, the exercise, use and enjoyment shall continue to be subject to the terms of this Agreement to the same extent as if the assignee or transferee were Franchisee.

10.6. Release of Franchisee. City's consent to a Transfer shall not be deemed to release Franchisee of liability for performance under this Agreement unless such release is specific and in writing executed by City, which release shall not be unreasonably withheld. Upon the written consent of City to the complete assignment of this Agreement and the express written assumption of the assigned obligations of Franchisee under this Agreement by the assignee, Franchisee shall be relieved of its legal duty from the assigned obligations under this Agreement, except to the extent Franchisee is in default under the terms of this Agreement prior to said Transfer. Franchisee shall cooperate with the City and transferee or assignee to assist in an orderly transition of obligations and rights, including without limitation Franchisee timely providing route lists, billing information, etc., to the transferee or assignee.

10.7. Franchisee to Pay Transfer Costs. Franchisee will pay City its reasonable expenses for attorneys' fees and investigation costs necessary to investigate the suitability of any proposed transferee or assignee, and to review and finalize any documentation required as a condition for approving any such Transfer. In the event of a Transfer, Franchisee shall pay City a "transfer fee" in within thirty (30) days of the date the Transfer is effective. The amount of the transfer fee paid to City shall depend on the date the number of years remaining in the Term of this Agreement, as of the date of the Transfer:

<u># Years Remaining in Term</u>	<u>Amount of Transfer Fee</u>
Less than 1 year	
1 to 2 years	
2 to 3 years	
3 to 4 years	
4 to 5 years	
5 to 6 years	
6 to 7 years	
8 years or more	

10.8. Subcontracting. This Agreement, or any portion thereof, shall not be subcontracted except with the prior written consent of the City, which consent shall not be unreasonably withheld. No such consent shall be construed as making the City a Party to such subcontract, or subject the City to liability of any kind to any subcontractor. Franchisee shall submit all subcontracts for review and approval by the City and any permitted subcontract shall terminate on or before the termination of this Agreement. All subcontractors shall be licensed as required under State, Federal and local laws and regulations to perform their subcontracted work and obtain and maintain a City business license if required. Franchisee shall remain otherwise liable for the full and complete performance of its obligations hereunder. City acknowledges and approves of Franchisee's use of a subcontractor to haul transfer rigs to the landfill, subject to City's approval of such subcontractors, which will not be unreasonably withheld.

10.9. Heirs and Successors. The terms, covenants and conditions of this Agreement shall apply to and shall bind the heirs, successors, executors, administrators and assigns of the Franchisee and City.

ARTICLE XI INSURANCE, INDEMNITY AND PERFORMANCE BOND.

11.1. Insurance. Franchisee shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the policies of insurance contained in Exhibit __ hereto.

11.2. Indemnification. Without regard to the limits of any insurance coverage, Franchisee agrees to indemnify, defend with counsel appointed by the City, protect and hold harmless the City, its representatives, officers, agents and employees against any and all fines, response costs, assessments, actions, suits, injunctive relief, claims, damages to persons or property, losses, costs penalties, obligations, errors, omissions or liabilities, ("claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with (i) violations of the commerce clause of the U.S. Constitution, AB 939, the Comprehensive Environmental Response, Compensation and Liability Act, Title 42 U.S.C. §9601 *et seq.* ("CERCLA"), HSAA, RCRA, any other Hazardous Waste laws, or other federal, state or local environmental statutes, ordinances and regulations which arise from this Agreement; (ii) the negligent performance of the work or services of Franchisee, its agents, employees, subcontractors, or invitees, provided for in this Agreement; (iii) the negligent acts or omissions of Franchisee hereunder, or arising from Franchisee's negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, whether or not there is concurrent passive or active negligence, on the part of the City, its representatives, officers, agents or employees but excluding such claims or liabilities arising from the sole negligence or willful misconduct of the City, its representatives, officers, agents or employees, who are directly responsible to the City, and in connection therewith:

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

(b) Franchisee 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 or services of Franchisee hereunder; and Franchisee 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 Franchisee for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work or services of Franchisee hereunder, Franchisee 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.

Franchisee's obligations hereunder shall survive the termination or expiration of this Agreement.

11.3. Faithful Performance Security. Concurrently with execution of this Agreement, Franchisee shall deliver to City a bond or a letter of credit in the amount of _____ (\$ _____), which shall secure the faithful performance of this Agreement, including, without limitation, payment of any penalty and the funding of any work to cure a breach of this Agreement, unless such requirement is waived by the City Manager. If Franchisee elects to submit a bond, the performance bond shall be executed by a surety company licensed to do business in the State of California, having an A: VII or better rating, and approved by the City; and included on the list of surety companies approved by the Treasurer of the United States. The bond 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 or her power of attorney. The bond shall be unconditional and remain in force during the entire Term. If Franchisee elects to submit a letter of credit, the instrument shall be an irrevocable standby letter of credit in a form approved by the City Attorney and issued by a bank which is reasonably satisfactory to City. The bank must be chartered in the United States, have a rating of B or above or a number rating of 40 or above in the Bank Watch Thomas Ratings, or such equivalent rating service as may be mutually agreed upon between the City and Franchisee, maintain an office in the State of California, maintain an agent for service of process in the State of California, and otherwise do business in the State of California. In the event Franchisee shall for any reason become unable to, or fail in any way to perform as required by this Agreement,

City may declare a portion or all of the performance bond or letter of credit forfeited to the City. Upon partial or full forfeiture of the performance bond or letter of credit, Franchisee shall restore the performance bond or letter of credit to its face amount within thirty (30) days of the City's declaration. Failure to restore the performance bond or letter of credit to its full amount within thirty (30) days shall be a material breach of this Agreement.

11.4. AB 939 Guarantee and Indemnification. Without in any way limiting the indemnification provisions in Section 11.2 above, Franchisee unconditionally guarantees compliance with the requirements AB 939 as amended from time to time. Franchisee shall carry out its obligations under this Agreement so that the City will meet or exceed the diversion requirements set forth in AB 939, and all amendments thereto more fully set forth below. City and Franchisee shall reasonably assist each other to meet the City's AB 939 diversion requirements. In carrying out the provisions of this Section, Franchisee agrees to perform the following obligations at its cost and expense:

(a) Defend, with counsel approved by City, indemnify and hold harmless the City against all fines and/or penalties imposed by the CalRecycle, if Franchisee fails or refuses to provide information relating to its operations which is required under this Agreement and such failure or refusal prevents or delays City from submitting reports required by AB 939 in a timely manner;

(b) Assist City in preparing for, and participating in, the CalRecycle's biannual review of the City's source reduction and recycling element pursuant to Public Resources Code Section 41825;

(c) Assist City in responding to inquiries from the CalRecycle in applying for an extension under Public Resources Code Section 41820, if so directed by City; in conducting any hearing conducted by the CalRecycle relating to AB 939; or in any other investigative or enforcement manner undertaken by any agency;

(d) Defend, with counsel acceptable to City, and indemnify and hold harmless the City against any fines or penalties levied against it for violation of AB 939's diversion requirements, provided that Franchisee's obligation to indemnify City shall be subject to the limitations set forth in Public Resources Code Section 40059.1(c) as may be amended from time to time;

(e) In cooperating with the City, should it seek to become its own enforcement agency, to the extent it may be permitted under state law.

11.5. AB 939 Education. Franchisee and City shall jointly develop and implement a public awareness and education program that is consistent with the City's Source Reduction and Recycling goals as stated in Article V.

ARTICLE XII GENERAL PROVISIONS.

12.1. Force Majeure. The time period(s) specified for performance of the provisions of this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Franchisee, 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 Franchisee shall within ten (10) days of the commencement of such delay notify the City Manager in writing of the causes of the delay; no extension of time for performance shall be granted, however, by reason of the unavailability of any Disposal Site or by reason of strikes, lockouts, or other labor disturbances, or breakage or accidents to vehicles, equipment, machinery or plants. The City Manager 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 City Manager such delay is justified. In no event shall Franchisee be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Franchisee's sole remedy being extension of the Agreement pursuant to this Section 12.1.

12.2. Notices. All notices, demands, requests, approvals, disapprovals, proposals, consents, or other communications whatsoever which this Agreement contemplates or authorizes, or requires or permits either Party to give to the other, shall be in writing and shall be personally delivered, sent by telecopier or sent by registered or certified mail, postage prepaid, return receipt requested, addressed to the respective Party.

or to such other address as either Party may from time to time designate by notice to the other given in accordance with this Section 12.2. Notice shall be deemed effective on the date personally served or by facsimile or, if mailed, three (3) days from the date such notice is deposited in the United States mail.

12.3. Non-discrimination. Franchisee 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, marital status, national origin, sexual orientation, or ancestry in the performance of this Agreement. Franchisee shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, marital status, sexual orientation, national origin or ancestry.

12.4. Compliance with Immigration Laws. Franchisee agrees that, in the performance of this Agreement, it will comply with all applicable immigration laws and regulations.

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

12.6. Laws and Regulations. Franchisee shall observe all the terms of any City ordinance or resolution now in effect, or as the same may be subsequently adopted or amended by the City, governing or affecting the Collection, removal and disposal of Municipal Solid Waste in the City of Huntington Park. Franchisee further agrees to comply with all applicable county, state or federal laws or regulations as they exist now or may subsequently be adopted or amended, governing the Collection, removal and disposal of Municipal Solid Waste or related environmental laws. Franchisee further agrees to comply with all applicable state and federal laws governing employment, wages, working conditions, use of materials, equipment, supplies and the like.

12.7. Proprietary Information: Public Records. The City acknowledges that a number of the records and reports of the Franchisee are proprietary and confidential. Franchisee is obligated to permit City inspection of certain of its records, as provided herein, on demand and to provide copies to City where requested. City will endeavor to maintain the confidentiality of all proprietary information provided by Franchisee and shall not voluntarily disclose such proprietary information. Notwithstanding the foregoing, any documents provided by Franchisee to City that are public records may be disclosed pursuant to a proper public records request. City shall notify Franchisee of any such request affecting Franchisee's records or reports at least five (5) business days prior to their release, to enable Franchisee to seek a protective order or otherwise prevent disclosure; provided, however, that City's failure to provide such notice shall not be a breach of this Agreement.

12.8. Waiver of Future Claims. 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. A Party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. 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.

12.9. Conflict of Interest. 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 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 Franchisee warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City any money or other consideration for obtaining this Agreement.

12.10. 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.

12.11. Integration: Amendment. 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. This Agreement may only be amended at any time by the mutual consent of the Parties by an instrument in writing. This Agreement is intended, in part, to carry out City's obligation to comply with the provisions of AB 939 and regulations promulgated thereunder, as amended from time to time. In the event that AB 939 or other state or federal laws or regulations enacted after this Agreement prevent or preclude compliance with one or more provisions of this Agreement, such provisions of this Agreement shall be modified or suspended as may be necessary to comply with such state or federal laws or regulations. No other amendment of this Agreement shall be valid unless in writing duly executed by the Parties.

12.12. Severability. In the event that part of 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 portions 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.

12.13. Attorneys' Fees. If either Party to this Agreement is required to initiate or defend or is 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 attorneys' fees and expert witness fees.

12.14. No Joint Venture. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Franchisee, its agents or employees, perform the services required herein, except as otherwise set forth. Franchisee shall perform all services required herein independent from the City and shall remain at all times as to City a wholly independent entity with only such obligations as are consistent with that role. Franchisee 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 Franchisee in its business or otherwise or a joint venturer or a member of any joint enterprise with Franchisee.

12.15. 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.

12.16. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California.

12.17. Jurisdiction and Venue. The parties hereto agree that the State of California is the proper jurisdiction for litigation of any matters relating to this Agreement. The Parties further agree that Los Angeles County, California is the proper place for venue as to any such litigation arising out of the Agreement and Franchisee agrees to submit to the personal jurisdiction of such court in the event of such litigation.

12.18. 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.

IN WITNESS WHEREOF, the Parties hereto do hereby set their hands and seals as of the day and the year first written above.

CITY OF HUNTINGTON PARK

By: _____
Mayor

FRANCHISEE

By: _____, President

ATTEST:

CMC, City Clerk

By: _____, Vice President

Cost Proposal to Conduct

"Professional Services for Waste Management Analysis"

Tasks and Subtasks Completed	Senior 1 Hrs	Rate 1	Senior 2 Hrs	Rate 2	Staff 1 Hrs	Rate 3	Subtotal
Compile existing data for RFP development	8.00	165.00	4.00	125.00	3.00	65.00	\$ 2,015.00
Develop Draft Franchise Agreement for RFP	13.00	165.00	10.00	125.00	3.00	65.00	\$ 3,590.00
Develop Draft RFP for City review	16.00	165.00	10.00	125.00	2.00	65.00	\$ 4,020.00
Review City RFP response and revise	6.00	165.00	4.00	125.00	1.00	65.00	\$ 1,555.00
Finalize Draft RFP for distribution to bidders	4.00	165.00	2.00	125.00	0.00	65.00	\$ 910.00
Compile list of approved bidders for City	3.00	165.00	2.00	125.00	1.00	65.00	\$ 810.00
Distribute RFP and respond to questions	8.00	165.00	5.00	125.00	0.00	65.00	\$ 1,945.00
Receive, review and qualify RFP responses	13.00	165.00	10.00	125.00	4.00	65.00	\$ 3,655.00
Conduct cost and pricing evaluation for services	16.00	165.00	12.00	125.00	4.00	65.00	\$ 4,400.00
Meet with City staff to review proposals/pricing	8.00	165.00	6.00	125.00	2.00	65.00	\$ 2,200.00
Develop and stratify responses in matrix	8.00	165.00	4.00	125.00	2.00	65.00	\$ 1,950.00
Finalize and submit matrix to City for review	3.00	165.00	2.00	125.00	1.00	65.00	\$ 810.00
Assist City in review of responses/matrix	4.00	165.00	3.00	125.00	0.00	65.00	\$ 1,035.00
Conduct interviews with top tier haulers	16.00	165.00	16.00	125.00	2.00	65.00	\$ 4,770.00
Make final recommendations to City	6.00	165.00	5.00	125.00	2.00	65.00	\$ 1,745.00
Attend various meetings including Council	12.00	165.00	6.00	125.00	0.00	65.00	\$ 2,730.00
Assist City in final programs and contract	8.00	165.00	5.00	125.00	1.00	65.00	\$ 2,010.00
Develop final franchise agreement and submit	12.00	165.00	8.00	125.00	2.00	65.00	\$ 3,110.00
	164.00		114.00		30.00		\$ 43,260.00

This cost table includes all expenses, travel fees, per diem, copies, and other expenses incurred by the Consultant in the execution of the services in this Response to RFQ

ITEM NO. 6



CITY OF HUNTINGTON PARK

City Manager's Office
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL OF AMERICAN RECOVERY PLAN ACT SPENDING PROPOSAL

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Approve the attached American Recovery Plan Act Spending Proposal.
2. Authorize the City Manager to effectuate the distribution of funds according to the American Recovery Plan Act Spending Proposal.

PURPOSE AND JUSTIFICATION OF RECOMMENDED ACTION

The American Rescue Plan Act ("ARPA") was signed into law on March 11, 2021, with the purpose of providing financial stimulus to offset the economic effects of COVID-19, including food supply chain security, supplemental nutrition assistance programs, education emergency relief, childcare, public health, and housing, among others. The ARPA allocates roughly \$45.5 Billion to metropolitan cities for use in mitigating the impacts of COVID-19. Payments are divided into two "tranches" and covers eligible costs incurred between March 3, 2021, and December 31, 2024. The funds must be used in accordance with Section 603(c) of the Social Security Act.

The City of Huntington Park ("City") may allocate such funds under Section 603(c) for the following uses:

- Responding to COVID-19 or its negative economic impacts, including assistance to household, small businesses, and non-profits.
- Aid to COVID-19 impacted industries such as tourism, travel, and hospitality.
- Premium pay for essential workers of the City or grants to employers of essential workers.
- The provisions of government services to the extent of the revenue shortfall as compared to the most recent full fiscal year prior to the COVID-19 emergency.

CONSIDERATION AND APPROVAL OF AMERICAN RECOVERY PLAN ACT SPENDING PROPOSAL

February 15, 2022

Page 3 of 3

- Necessary investments in water, sewer, or broadband infrastructure.
- City may not deposit funds into any pension fund.
- The City may transfer funds to a non-profit or to the State.

The City will be required to provide periodic reports to the U.S. Secretary of the Treasury detailing the use of the Funds. On December 7, 2021, the City agreed to receive funds from the ARPA in the amount of \$27,952.355.00 ("ARPA Funds"). On December 13, 2021, the City received its first allocation from the Treasury in the amount of \$13,976,177.50. Over the past several months, the City has explored possible uses, and consulted various City departments and stakeholders for suggestions on how the ARPA Funds might be utilized. In accordance with Section 603(c), the City will allocate the ARPA Funds as follows:

- \$4.8 Million (\$2.4 Million per year) to provide In-Home Support Services "home-care workers" with \$1 supplemental income for each hour worked per pay period.
- \$2.4 Million to provide 1,000 seniors guaranteed income of \$200 per month for 1 year.
- \$2.4 Million technology software implementation package to upgrade day-to-day operations, improve efficiency, and modernize financial systems, payment services, permits, workforce management, and other civic services at City Hall, to encompass all Departments.
- \$1.5 Million to reimburse the City's general fund for impact pay from March 17, 2020, and forward.
- Make the City's general fund whole for any loss revenues because of the COVID-19 pandemic.

FISCAL IMPACT

There is no anticipated negative financial impact on the City. The distribution of the funds as discussed above may require the time and expense to administer and maintain accurate records. There will be an overall benefit to the City, including the upgrading and modernization of the City's existing financial systems and information technology infrastructure as well as recovering any fiscal shortfalls as a result of the COVID-19 pandemic.

CONCLUSION

**CONSIDERATION AND APPROVAL OF AMERICAN RECOVERY PLAN ACT
SPENDING PROPOSAL**

February 15, 2022

Page 3 of 3

It is recommended that the City Council approve the ARPA Funds Spending Proposal included herein and authorize the City Manager to effectuate the distribution of ARPA Funds in as described herein.

Respectfully submitted,

RICARDO REYES
City Manager

ATTACHMENT(S)

1. U.S. Department of the Treasury Coronavirus State and Local Fiscal Recovery Funds Award Terms and Conditions

ATTACHMENT "A"

U.S. DEPARTMENT OF THE TREASURY
CORONAVIRUS STATE AND LOCAL FISCAL RECOVERY FUNDS
AWARD TERMS AND CONDITIONS

1. Use of Funds.
 - a. Recipient understands and agrees that the funds disbursed under this award may only be used in compliance with sections 602(c) and 603(c) of the Social Security Act (the Act) and Treasury's regulations implementing that section and guidance.
 - b. Recipient will determine prior to engaging in any project using this assistance that it has the institutional, managerial, and financial capability to ensure proper planning, management, and completion of such project.
2. Period of Performance. The period of performance for this award begins on the date hereof and ends on December 31, 2026. As set forth in Treasury's implementing regulations, Recipient may use award funds to cover eligible costs incurred during the period that begins on March 3, 2021 and ends on December 31, 2024.
3. Reporting. Recipient agrees to comply with any reporting obligations established by Treasury as they relate to this award.
4. Maintenance of and Access to Records
 - a. Recipient shall maintain records and financial documents sufficient to evidence compliance with sections 602(c) and 603(c), Treasury's regulations implementing those sections, and guidance regarding the eligible uses of funds.
 - b. The Treasury Office of Inspector General and the Government Accountability Office, or their authorized representatives, shall have the right of access to records (electronic and otherwise) of Recipient in order to conduct audits or other investigations.
 - c. Records shall be maintained by Recipient for a period of five (5) years after all funds have been expended or returned to Treasury, whichever is later.
5. Pre-award Costs. Pre-award costs, as defined in 2 C.F.R. § 200.458, may not be paid with funding from this award.
6. Administrative Costs. Recipient may use funds provided under this award to cover both direct and indirect costs.
7. Cost Sharing. Cost sharing or matching funds are not required to be provided by Recipient.
8. Conflicts of Interest. Recipient understands and agrees it must maintain a conflict of interest policy consistent with 2 C.F.R. § 200.318(c) and that such conflict of interest policy is applicable to each activity funded under this award. Recipient and subrecipients must disclose in writing to Treasury or the pass-through entity, as appropriate, any potential conflict of interest affecting the awarded funds in accordance with 2 C.F.R. § 200.11

OMB Approved No. [REDACTED]

Expiration Date: November 30, 2021

ASSURANCES OF COMPLIANCE WITH CIVIL RIGHTS REQUIREMENTS

ASSURANCES OF COMPLIANCE WITH TITLE VI OF THE CIVIL RIGHTS ACT OF 1964

As a condition of receipt of federal financial assistance from the Department of the Treasury, the recipient named below (hereinafter referred to as the "Recipient") provides the assurances stated herein. The federal financial assistance may include federal grants, loans and contracts to provide assistance to the Recipient's beneficiaries, the use or rent of Federal land or property at below market value, Federal training, a loan of Federal personnel, subsidies, and other arrangements with the intention of providing assistance. Federal financial assistance does not encompass contracts of guarantee or insurance, regulated programs, licenses, procurement contracts by the Federal government at market value, or programs that provide direct benefits.

The assurances apply to all federal financial assistance from or funds made available through the Department of the Treasury, including any assistance that the Recipient may request in the future.

The Civil Rights Restoration Act of 1987 provides that the provisions of the assurances apply to all of the operations of the Recipient's program(s) and activity(ies), so long as any portion of the Recipient's program(s) or activity(ies) is federally assisted in the manner prescribed above.

1. Recipient ensures its current and future compliance with Title VI of the Civil Rights Act of 1964, as amended, which prohibits exclusion from participation, denial of the benefits of, or subjection to discrimination under programs and activities receiving federal financial assistance, of any person in the United States on the ground of race, color, or national origin (42 U.S.C. § 2000d *et seq.*), as implemented by the Department of the Treasury Title VI regulations at 31 CFR Part 22 and other pertinent executive orders such as Executive Order 13166, directives, circulars, policies, memoranda, and/or guidance documents.
2. Recipient acknowledges that Executive Order 13166, "Improving Access to Services for Persons with Limited English Proficiency," seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, have Limited English proficiency (LEP). Recipient understands that denying a person access to its programs, services, and activities because of LEP is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964 and the Department of the Treasury's implementing regulations. Accordingly, Recipient shall initiate reasonable steps, or comply with the Department of the Treasury's directives, to ensure that LEP persons have meaningful access to its programs, services, and activities. Recipient understands and agrees that meaningful access may entail providing language assistance services, including oral interpretation and written translation where necessary, to ensure effective communication in the Recipient's programs, services, and activities.
3. Recipient agrees to consider the need for language services for LEP persons when Recipient develops applicable budgets and conducts programs, services, and activities. As a resource, the Department of the Treasury has published its LEP guidance at 70 FR 6067. For more information on taking reasonable steps to provide meaningful access for LEP persons, please visit <http://www.lep.gov>.

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4. Recipient acknowledges and agrees that compliance with the assurances constitutes a condition of continued receipt of federal financial assistance and is binding upon Recipient and Recipient's successors, transferees, and assignees for the period in which such assistance is provided.
5. Recipient acknowledges and agrees that it must require any sub-grantees, contractors, subcontractors, successors, transferees, and assignees to comply with assurances 1-4 above, and agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Recipient and the Recipient's sub-grantees, contractors, subcontractors, successors, transferees, and assignees:

The sub-grantee, contractor, subcontractor, successor, transferee, and assignee shall comply with Title VI of the Civil Rights Act of 1964, which prohibits recipients of federal financial assistance from excluding from a program or activity, denying benefits of, or otherwise discriminating against a person on the basis of race, color, or national origin (42 U.S.C. § 2000d et seq.), as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement). Title VI also includes protection to persons with "Limited English Proficiency" in any program or activity receiving federal financial assistance, 42 U.S.C. § 2000d et seq., as implemented by the Department of the Treasury's Title VI regulations, 31 CFR Part 22, and herein incorporated by reference and made a part of this contract or agreement.

6. Recipient understands and agrees that if any real property or structure is provided or improved with the aid of federal financial assistance by the Department of the Treasury, this assurance obligates the Recipient, or in the case of a subsequent transfer, the transferee, for the period during which the real property or structure is used for a purpose for which the federal financial assistance is extended or for another purpose involving the provision of similar services or benefits. If any personal property is provided, this assurance obligates the Recipient for the period during which it retains ownership or possession of the property.
7. Recipient shall cooperate in any enforcement or compliance review activities by the Department of the Treasury of the aforementioned obligations. Enforcement may include investigation, arbitration, mediation, litigation, and monitoring of any settlement agreements that may result from these actions. The Recipient shall comply with information requests, on-site compliance reviews and reporting requirements.
8. Recipient shall maintain a complaint log and inform the Department of the Treasury of any complaints of discrimination on the grounds of race, color, or national origin, and limited English proficiency covered by Title VI of the Civil Rights Act of 1964 and implementing regulations and provide, upon request, a list of all such reviews or proceedings based on the complaint, pending or completed, including outcome. Recipient also must inform the Department of the Treasury if Recipient has received no complaints under Title VI.
9. Recipient must provide documentation of an administrative agency's or court's findings of non-compliance of Title VI and efforts to address the non-compliance, including any voluntary compliance or other

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agreements between the Recipient and the administrative agency that made the finding. If the Recipient settles a case or matter alleging such discrimination, the Recipient must provide documentation of the settlement. If Recipient has not been the subject of any court or administrative agency finding of discrimination, please so state.

10. If the Recipient makes sub-awards to other agencies or other entities, the Recipient is responsible for ensuring that sub-recipients also comply with Title VI and other applicable authorities covered in this document. State agencies that make sub-awards must have in place standard grant assurances and review procedures to demonstrate that they are effectively monitoring the civil rights compliance of sub-recipients.

The United States of America has the right to seek judicial enforcement of the terms of this assurances document and nothing in this document alters or limits the federal enforcement measures that the United States may take in order to address violations of this document or applicable federal law.

Under penalty of perjury, the undersigned official(s) certifies that official(s) has read and understood the Recipient's obligations as herein described, that any information submitted in conjunction with this assurances document is accurate and complete, and that the Recipient is in compliance with the aforementioned nondiscrimination requirements.

City of Huntington Park

12/7/2021

Recipient

Date

DocuSigned by:

Ricardo Reyes

Signature of Authorized Official

PAPERWORK REDUCTION ACT NOTICE

The information collected will be used for the U.S. Government to process requests for support. The estimated burden associated with this collection of information is 30 minutes per response. Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be directed to the Office of Privacy, Transparency and Records, Department of the Treasury, 1500 Pennsylvania Ave., N.W., Washington, D.C. 20220. DO NOT send the form to this address. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

ITEM NO. 7



CITY OF HUNTINGTON PARK

City Manager's Office
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL OF THE PROPOSED AGREEMENT WITH TYLER TECHNOLOGIES, INC. FOR FINANCIAL, CIVIC SERVICES, AND WORKFORCE MANAGEMENT SOFTWARE LICENSES AND IMPLEMENTATION

IT IS RECOMMENDED THAT THE CITY COUNCIL:

1. Approve the attached Software as a Service Agreement with Tyler Technologies Inc.
2. Authorize the City manager to negotiate final terms and execute all applicable documents.

PURPOSE AND JUSTIFICATION OF RECOMMENDED ACTION

The City of Huntington Park ("City") is seeking to implement software to assist with the day-to-day operations of City and improve the efficiency and performance of government functions. The City is seeking to implement three different software platforms from Tyler Technologies, Inc. ("Tyler") including the Munis software for financial management, EnerGov software to assist with permits and other civic services, and ExecuTime software providing enterprise workforce management capabilities such as timekeeping and scheduling.

Tyler is a software company providing software products and related services specifically tailored toward government agencies. Additionally, Tyler provides services related to implementation of software and ongoing support and troubleshooting services. By improving each clients' digital infrastructure, Tyler's goal is to create more efficient government processes and services.

Between February and March of 2019, LanWan, Inc., the City's Information Technology service provider, conducted a comprehensive information technology needs assessment of all City departments. Upon completion of the technology needs assessment, Tyler provided a software demonstration to City staff on April 2-3, 2019, illustrating the potential uses and efficiencies associated with implementing the new software programs. The Munis software will allow the City to manage vendor invoices

CONSIDERATION AND APPROVAL OF THE PROPOSED AGREEMENT WITH TYLER TECHNOLOGIES, INC. FOR FINANCIAL, CIVIC SERVICES, AND WORKFORCE MANAGEMENT SOFTWARE LICENSES AND IMPLEMENTATION

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and vouchers, track accounts payable, and provide record keeping of all such transactions. The EnerGov software is designed to provide a single online platform to manage planning, permitting and business licensing applications, while providing the City tools to effectively manage, track and administer these vital government services. The ExecuTime Software manages time and attendance as well as scheduling for City employees that can be managed from a mobile application.

The Tyler Software as a Service Agreement has been procured through Sourcewell, a public agency specializing in competitively bidding for commonly used equipment and services on behalf of its member agencies. As a member of Sourcewell, the City may obtain the software and services contemplated in the Software as a Service Agreement without engaging in the competitive bid process as such process has already been performed by Sourcewell.

FISCAL IMPACT/FINANCING

The cost of the software and services provided under the Software as a Service Agreement is for a not-to-exceed amount of \$1,700,000.00. Funding will be provided through the American Recovery Plan Act.

CONCLUSION

It is recommended that the City Council approve the attached Software as a Service Agreement with Tyler Technologies, Inc. and authorize the City Manager to sign all applicable documents.

Respectfully submitted,

RICARDO REYES
City Manager

ATTACHMENT(S)

1. Tyler Technologies, Inc. Software as a Service Agreement
2. Tyler Technologies Statement of Work

ATTACHMENT "A"



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client is a member of Sourcewell (formerly known as National Joint Powers Alliance) ("Sourcewell") under member number 32356.

WHEREAS, Tyler participated in the competitive bid process in response to Sourcewell RFP #090320 by submitting a proposal, on which Sourcewell awarded Tyler a Sourcewell contract, numbered 090320-TTI (hereinafter, the "Sourcewell Contract");

WHEREAS, documentation of the Sourcewell competitive bid process, as well as Tyler's contract with and pricing information for Sourcewell is available at <https://sourcewell-mn.gov/cooperative-purchasing/>; and

WHEREAS, Client desires to purchase off the Sourcewell Contract to procure Munis, EnerGov, and ExecuTime software functionality from Tyler, which Tyler agrees to deliver pursuant to the Sourcewell Contract and under the terms and conditions set forth below;

SECTION A – DEFINITIONS

- **"Agreement"** means this Software as a Service Agreement.
- **"Business Travel Policy"** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **"Client"** means City of Huntington Park, California.
- **"Data"** means your data necessary to utilize the Tyler Software.
- **"Data Storage Capacity"** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **"Defect"** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **"Defined Users"** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary. If Exhibit A contains EnerGov labeled software, defined users mean the maximum number of named users that are authorized to use the EnerGov labeled modules as indicated in the Investment Summary.
- **"Developer"** means a third party who owns the intellectual property rights to Third Party Software.
- **"Documentation"** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including



instructions, user guides, manuals and other training or self-help documentation.

- **“Effective Date”** means the date by which both your and our authorized representatives have signed the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.
- **“Investment Summary”** means the agreed upon cost proposal for the products and services attached as Exhibit A.
- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Order Form”** means an ordering document that includes a quote or investment summary and specifying the items to be provided by Tyler to Client, including any addenda and supplements thereto.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.
- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Statement of Work”** means the industry standard implementation plan describing how our professional services will be provided to implement the Tyler Software, and outlining your and our roles and responsibilities in connection with that implementation. The Statement of Work is attached as Exhibit E.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party SaaS Services”** means software as a service provided by a third party, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Products or other parties’ products or services, as applicable, and attached or indicated at Exhibit D.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B – SAAS SERVICES

1. Rights Granted. We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.
2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.
 - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
 - 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
 - 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.

6. SaaS Services.

- 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on Standards for Attestation Engagements ("SSAE") No. 18. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon execution of a mutually agreeable Non-Disclosure Agreement ("NDA"), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data center.
- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective ("RPO") of 24 hours and a Recovery Time Objective ("RTO") of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
- 6.4 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.5 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.6 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.

6.7 We provide secure Data transmission paths between each of your workstations and our servers.

6.8 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel. Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.

6.9 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

SECTION C – PROFESSIONAL SERVICES

1. Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
2. Professional Services Fees. You agree to pay us the professional services fees in the amounts set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy. You acknowledge that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for your implementation. We will bill you the actual fees incurred based on the in-scope services provided to you. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote.
4. Cancellation. If travel is required, we will make all reasonable efforts to schedule travel for our personnel, including arranging travel reservations, at least two (2) weeks in advance of commitments. Therefore, if you cancel services less than two (2) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) non-refundable expenses incurred by us on your behalf, and (b) daily fees associated with cancelled professional services if we are unable to reassign our personnel. We will make all reasonable efforts to reassign personnel in the event you cancel within two (2) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.

6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.
7. Background Checks. For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
8. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).
9. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:
 - 9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);
 - 9.2 provide support during our established support hours;
 - 9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
 - 9.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
 - 9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access

to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

SECTION D – THIRD PARTY PRODUCTS

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues

presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION F – TERM AND TERMINATION

1. Term. The initial term of this Agreement is equal to the number of years indicated for SaaS Services in Exhibit A, commencing on the first day of the first month following the date Tyler makes the SaaS environment available to you, unless earlier terminated as set forth below. If no duration is indicated in Exhibit A, the initial term is one (1) year. Upon expiration of the initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then-current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. Termination. This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 Failure to Pay SaaS Fees. You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
 - 2.2 For Cause. If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
 - 2.3 Force Majeure. Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
 - 2.4 Lack of Appropriations. If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. DISCLAIMER. EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO

THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT UNDERSTANDS AND AGREES THAT TYLER DISCLAIMS ANY LIABILITY FOR ERRORS THAT RELATE TO USER ERROR.

4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).
5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** During the course of performing services under this Agreement, we agree to maintain the following levels of insurance: (a) Commercial General Liability of at least \$1,000,000; (b) Automobile Liability of at least \$1,000,000; (c) Professional Liability of at least \$1,000,000; (d) Workers Compensation complying with applicable statutory requirements; and (e) Excess/Umbrella Liability of at least \$5,000,000. We will add you as an additional insured to our Commercial General Liability and Automobile Liability policies, which will automatically add you as an additional insured to our Excess/Umbrella Liability policy as well. We will provide you with copies of certificates of insurance upon your written request.

SECTION H – GENERAL TERMS AND CONDITIONS

1. **Additional Products and Services.** You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. **Optional Items.** Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. **Dispute Resolution.** You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will

convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. We will not discriminate against any person employed or applying for employment concerning the performance of our responsibilities under this Agreement. This discrimination prohibition will apply to all matters of initial employment, tenure, and terms of employment, or otherwise with respect to any matter directly or indirectly relating to employment concerning race, color, religion, national origin, age, sex, sexual orientation, ancestry, disability that is unrelated to the individual's ability to perform the duties of a particular job or position, height, weight, marital status, or political affiliation. We will post, where appropriate, all notices related to nondiscrimination as may be required by applicable law.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. We will not subcontract any services under this Agreement without your prior written consent, not to be unreasonably withheld.
8. Binding Effect; No Assignment. This Agreement shall be binding on, and shall be for the benefit of, either your or our successor(s) or permitted assign(s). Neither party may assign this Agreement without the prior written consent of the other party; provided, however, your consent is not required for an assignment by us as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of our assets.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect

the rights of third parties under any Third Party Terms.

11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.
14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. All notices or communications required or permitted as a part of this Agreement, such as notice of an alleged material breach for a termination for cause or a dispute that must be submitted to dispute resolution, must be in writing and will be deemed delivered upon the earlier of the following: (a) actual receipt by the receiving party; (b) upon receipt by sender of a certified mail, return receipt signed by an employee or agent of the receiving party; (c) upon receipt by sender of proof of email delivery; or (d) if not actually received, five (5) days after deposit with the United States Postal Service authorized mail center with proper postage (certified mail, return receipt requested) affixed and addressed to the other party at the address set forth on the signature page hereto or such other address as the party may have designated by proper notice. The consequences for the failure to receive a notice due to improper notification by the intended receiving party of a change in address will be borne by the intended receiving party.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
 - (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial

disclosure;

- (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.
18. Quarantining of Client Data. Some services provided by Tyler require us to be in possession of your Data. In the event we detect malware or other conditions associated with your Data that are reasonably suspected of putting Tyler resources or other Tyler clients' data at risk, we reserve the absolute right to move your Data from its location within a multi-tenancy Tyler hosted environment to an isolated "quarantined" environment without advance notice. Your Data will remain in such quarantine for a period of at least six (6) months during which time we will review the Data, and all traffic associated with the Data, for signs of malware or other similar issues. If no issues are detected through such reviews during the six (6) month period of quarantine, we will coordinate with you the restoration of your Data to a non-quarantined environment. In the event your Data must remain in quarantine beyond this six (6) month period through no fault of Tyler's, we reserve the right to require payment of additional fees for the extended duration of quarantine. We will provide an estimate of what those costs will be upon your request.
19. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
20. Governing Law. This Agreement will be governed by and construed in accordance with the laws of your state of domicile, without regard to its rules on conflicts of law.
21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.
22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.
23. Socrata Solution Terms. Your use of certain Tyler solutions includes Tyler's Socrata data platform. Your rights, and the rights of any of your end users, to use Tyler's Socrata data platform is subject to the Socrata SaaS Services Terms of Service, available at <https://www.tylertech.com/terms/socrata-saas-services-terms-of-service>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.
24. Contract Documents. This Agreement includes the following exhibits:

Exhibit A	Investment Summary
Exhibit B	Invoicing and Payment Policy
	Schedule 1: Business Travel Policy
Exhibit C	Service Level Agreement
	Schedule 1: Support Call Process
Exhibit D	Third Party Terms
	Schedule 1: Hyperlinked Terms
	Schedule 2: DocOrigin Terms
Exhibit E	Statement of Work

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Huntington Park, CA

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

City of Huntington Park
6550 Miles Avenue, Room 116
Huntington Park, CA 90255
Attention: _____



Exhibit A
Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Tyler sales quotation to be inserted prior to Agreement execution.

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Exhibit B

Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates.
2. **Other Tyler Software and Services.**
 - 2.1 *VPN Device:* The fee for the VPN device will be invoiced upon installation of the VPN.
 - 2.2 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
 - 2.3 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the Best Practice Recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.4 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
 - 2.5 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.

2.6 *Other Fixed Price Services*: Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document.

3. Third Party Products.

3.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.

3.2 *Third Party Software Maintenance*: The first year maintenance for the Third Party Software is invoiced when we make it available to you for downloading.

3.3 *Third Party Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.

3.4 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary.

3.5 *Third Party SaaS*: Third Party SaaS Services fees, if any, are invoiced annually, in advance, commencing with availability of the respective Third Party SaaS Services. Pricing for the first year of Third Party SaaS Services is indicated in the Investment Summary. Pricing for subsequent years will be at the respective third party’s then-current rates.

4. Transaction Fees. Unless paid directly by an end user at the time of transaction, per transaction (call, message, etc.) fees are invoiced on a quarterly basis. Fees are indicated in Schedule A and may be increased by Tyler upon notice of no less than thirty (30) days.

5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and mileage logs are not available.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting AR@tylertech.com.



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee's private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee's office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a "mid-size" or "intermediate" car. "Full" size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler's TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler's work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

"No shows" or cancellation fees are not reimbursable if the employee does not comply with the hotel's cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C

Service Level Agreement

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. This SLA does not apply to any Third Party SaaS Services. All other support services are documented in the Support Call Process.

II. **Definitions.** Except as defined below, all defined terms have the meaning set forth in the Agreement.

Actual Attainment: The percentage of time the Tyler Software is available during a calendar quarter, calculated as follows: $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

Emergency Maintenance: (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

Planned Downtime: Downtime that occurs during a Standard or Emergency Maintenance window.

Service Availability: The total number of minutes in a calendar quarter that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, denial of service attacks and Force Majeure.

Standard Maintenance: Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

III. **Service Availability**

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

b. Our Responsibilities

When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned

Downtime, a Client Error Incident, Denial of Service attack or Force Majeure). We will also work with you to resume normal operations.

c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS fees paid for the calendar quarter.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable quarter. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Client Relief Schedule	
Actual Attainment	Client Relief
99.99% - 99.50%	Remedial action will be taken
99.49% - 98.50%	2%
98.49% - 97.50%	4%
97.49% - 96.50%	6%
96.49% - 95.50%	8%
Below 95.50%	10%

* Notwithstanding language in the Agreement to the contrary, Recovery Point Objective is one (1) hour.

IV. Maintenance Notifications

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable that the Tyler Software will be unavailable during the maintenance window.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users*:

- (1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most “how-to” and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
- (2) Email – for less urgent situations, users may submit emails directly to the software support group.
- (3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

** Channel availability may be limited for certain applications.*

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools, documentation, and other information including support contact information.
- (2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
- (3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (4) Tyler University – online training courses on Tyler products.

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

For support teams that provide after-hours service, we will provide you with procedures for contacting support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of



such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

Incident Handling

Incident Tracking

Every support incident is logged into Tyler's Customer Relationship Management System and given a unique case number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler's Customer Portal or by calling software support directly.

Incident Priority

Each incident is assigned a priority level, which corresponds to the Client's needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain "characteristics" may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a "confirmed support incident" mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client's remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets*
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

**Response and Resolution Targets may differ by product or business need*

Incident Escalation

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

Remote Support Tool

Some support calls may require further analysis of the Client's database, processes or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler's support team must have the ability to quickly connect to the Client's system and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



Exhibit D
Third Party Terms

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Exhibit D
Schedule 1
Hyperlinked Terms

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- Electronic Warrants
- Modria
- Odyssey Notifications Add On (text notifications)
- ReadySub
- Tyler Notify
- Tyler Jury Manager
- Tyler Supervision
- Virtual Court



Exhibit D
Schedule 2
DocOrigin Terms

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Last Updated: July 22, 2017



Exhibit E
Statement of Work

Statement of Work to be inserted prior to Agreement execution.

ATTACHMENT "B"

City of Huntington Park

SOW from Tyler Technologies, Inc.

1/11/2022

Presented to:

City of Huntington Park
6550 Miles Ave Rm 116
Huntington Park, CA 90255-4338

Contact:

Katharina Howard
Email: Katharina.Howard@TylerTech.com
One Tyler Drive, Yarmouth, ME 04096

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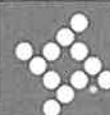
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Part 1: Executive Summary

1. Project Overview

1.1 Introduction

Tyler Technologies ("Tyler") is the largest and most established provider of integrated software and technology services focused solely on the public sector. Tyler's end-to-end solutions empower public sector entities including local, state, provincial and federal government, to operate more efficiently and connect more transparently with their constituents and with each other. By connecting data and processes across disparate systems, Tyler's solutions transform how clients gain actionable insights that solve problems in their communities.

1.2 Project Goals

This Statement of Work ("SOW") documents the methodology, implementation stages, activities, and roles and responsibilities, and project scope listed in the Investment Summary of the Agreement between Tyler and the Huntington Park (collectively the "Project").

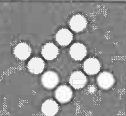
The overall goals of the project are to:

- Successfully implement the contracted scope on time and on budget
- Increase operational efficiencies and empower users to be more productive
- Improve accessibility and responsiveness to external and internal customer needs
- Overcome current challenges and meet future goals

1.3 Methodology

This is accomplished by the Huntington Park and Tyler working as a partnership and Tyler utilizing its depth of implementation experience. While each Project is unique, all will follow Tyler's six-stage methodology. Each of the six stages is comprised of multiple work packages, and each work package includes a narrative description, objectives, tasks, inputs, outputs/deliverables, assumptions, and a responsibility matrix.

Tailored specifically for Tyler's public sector clients, the project methodology contains Stage Acceptance Control Points throughout each Phase to ensure adherence to scope, budget, timeline controls, effective communications, and quality standards. Clearly defined, the project methodology repeats consistently across Phases, and is scaled to meet the Huntington Park's complexity and organizational needs.



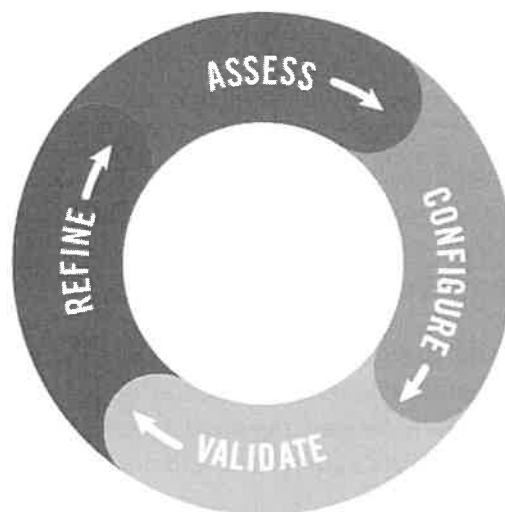
Tyler's Six Stage Project Methodology



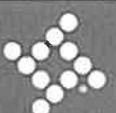
The methodology adapts to both single-phase and multiple-phase projects.

To achieve Project success, it is imperative that both the Huntington Park and Tyler commit to including the necessary leadership and governance. During each stage of the Project, it is expected that the Huntington Park and Tyler Project teams work collaboratively to complete tasks. An underlying principle of Tyler's Implementation process is to employ an iterative model where the Huntington Park's business processes are assessed, configured, validated, and refined cyclically in line with the project budget. This approach is used in multiple stages and work packages as illustrated in the graphic below.

Iterative Project Model



The delivery approach is systematic, which reduces variability and mitigates risks to ensure Project success. As illustrated, some stages, along with work packages and tasks, are intended to be overlapping by nature to complete the Project efficiently and effectively.



Part 2: Project Foundation

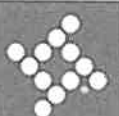
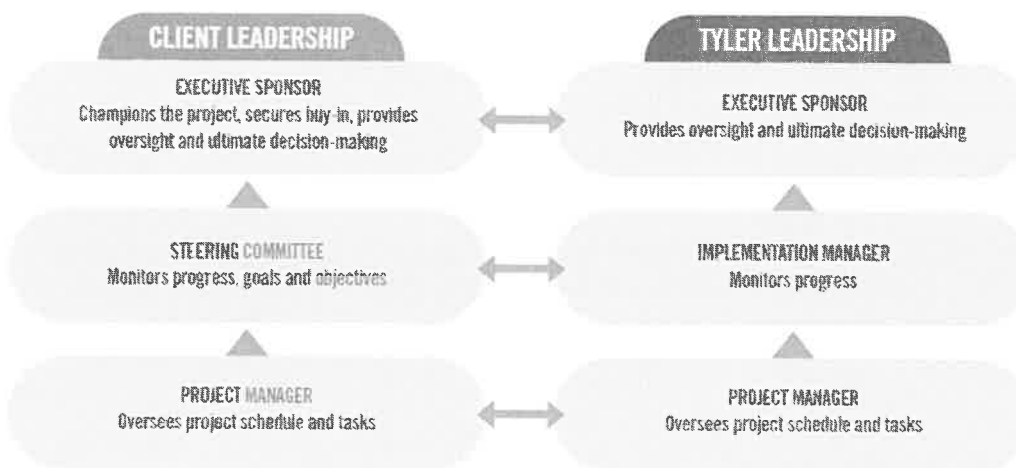
2. Project Governance

Project governance is the management framework within which Project decisions are made. The role of Project governance is to provide a decision-making approach that is logical, robust, and repeatable. This allows organizations to have a structured approach for conducting its daily business in addition to project related activities.

This section outlines the resources required to meet the business needs, objectives, and priorities for the Project, communicate the goals to other Project participants, and provide support and guidance to accomplish these goals. Project governance defines the structure for escalation of issues and risks, Change Control review and authority, and Organizational Change Management activities. Throughout the Statement of Work Tyler has provided RACI Matrices for activities to be completed throughout the implementation which will further outline responsibilities of different roles in each stage. Further refinement of the governance structure, related processes, and specific roles and responsibilities occurs during the Initiate & Plan Stage.

The chart below illustrates an overall team perspective where Tyler and the Huntington Park collaborate to resolve Project challenges according to defined escalation paths. If project managers do not possess authority to determine a solution, resolve an issue, or mitigate a risk, Tyler implementation management and the Huntington Park Steering Committee become the escalation points to triage responses prior to escalation to the Huntington Park and Tyler executive sponsors. As part of the escalation process, each Project governance tier presents recommendations and supporting information to facilitate knowledge transfer and issue resolution. The Huntington Park and Tyler executive sponsors serve as the final escalation point.

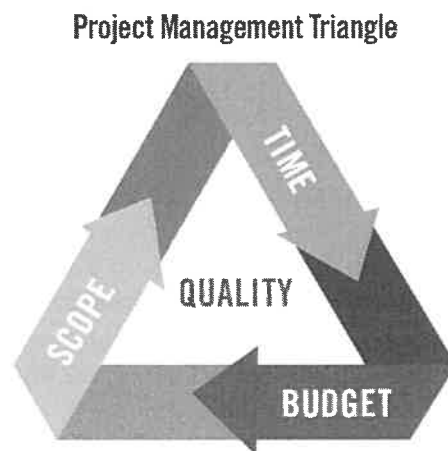
Project Governance Relationships



3. Project Scope Control

3.1 Managing Scope and Project Change

Project Management governance principles contend that there are three connected constraints on a Project: budget, timeline, and scope. These constraints, known as the “triple constraints” or project management triangle, define budget in terms of financial cost, labor costs, and other resource costs. Scope is defined as the work performed to deliver a product, service or result with the specified features and functions, while time is simply defined as the schedule. The Triple Constraint theory states that if you change one side of the triangle, the other two sides must be correspondingly adjusted. For example, if the scope of the Project is increased, cost and time to complete will also need to increase. The Project and executive teams will need to remain cognizant of these constraints when making impactful decisions to the Project. A simple illustration of this triangle is included here, showing the connection of each item and their relational impact to the overall Scope.



A pillar of any successful project is the ability to properly manage scope while allowing the appropriate level of flexibility to incorporate approved changes. Scope and changes within the project will be managed using the change control process outlined in the following section.

3.2 Change Control

It may become necessary to change the scope of this Project due to unforeseeable circumstances (e.g., new constraints or opportunities are discovered). This Project is being undertaken with the understanding that Project scope, schedule, and/or cost may need to change to produce optimal results for stakeholders. Changes to contractual requirements will follow the change control process specified in the final contract, and as described below.

3.3 Change Request Management

Should the need for a change to Project scope, schedule, and/or cost be identified during the Project, the change will be brought to the attention of the Steering Committee and an assessment of the change will occur. While such changes may result in additional costs and delays relative to the schedule, some changes may result in less cost to the Huntington Park; for example, the Huntington Park may decide it no longer

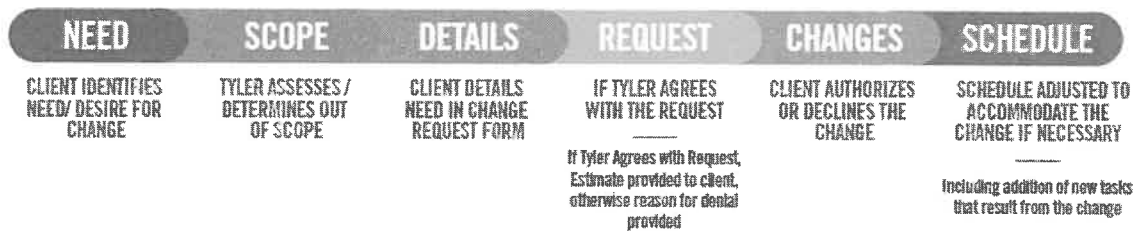


needs a deliverable originally defined in the Project. The Change Request will include the following information:

- The nature of the change.
- A good faith estimate of the additional cost or associated savings to the Huntington Park, if any.
- The timetable for implementing the change.
- The effect on and/or risk to the schedule, resource needs or resource responsibilities.

The Huntington Park will use its good faith efforts to either approve or disapprove any Change Request within ten (10) Business Days (or other period as mutually agreeable between Tyler and the Huntington Park). Any changes to the Project scope, budget, or timeline must be documented and approved in writing using a Change Request form. These changes constitute a formal amendment to the Statement of Work and will supersede any conflicting term in the Statement of Work.

Change Request Process



4. Acceptance Process

The implementation of a Project involves many decisions to be made throughout its lifecycle. Decisions will vary from higher level strategy decisions to smaller, detailed Project level decisions. It is critical to the success of the Project that each Huntington Park office or department designates specific individuals for making decisions on behalf of their offices or departments.

Both Tyler and the Huntington Park will identify representative project managers. These individuals will represent the interests of all stakeholders and serve as the primary contacts between the two organizations.

The coordination of gaining Huntington Park feedback and approval on Project deliverables will be critical to the success of the Project. The Huntington Park project manager will strive to gain deliverable and decision approvals from all authorized Huntington Park representatives. Given that the designated decision-maker for each department may not always be available, there must be a designated proxy for each decision point in the Project. Assignment of each proxy will be the responsibility of the leadership from each Huntington Park department. The proxies will be named individuals that have the authorization to make decisions on behalf of their department.

The following process will be used for accepting Deliverables and Control Points:

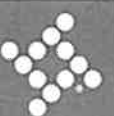
- The Huntington Park shall have five (5) business days from the date of delivery, or as otherwise mutually agreed upon by the parties in writing, to accept each Deliverable or Control Point. If the Huntington Park does not provide acceptance or acknowledgement within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.
- If the Huntington Park does not agree the Deliverable or Control Point meets requirements, the Huntington Park shall notify Tyler project manager(s), in writing, with reasoning within five (5) business days, or the otherwise agreed-upon timeframe, not to be unreasonably withheld, of receipt of the Deliverable.
- Tyler shall address any deficiencies and redeliver the Deliverable or Control Point. The Huntington Park shall then have two (2) business days from receipt of the redelivered Deliverable or Control Point to accept or again submit written notification of reasons for rejecting the milestone. If the Huntington Park does not provide acceptance within two (2) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.

5. Roles and Responsibilities

The following defines the roles and responsibilities of each Project resource for the Huntington Park and Tyler. Roles and responsibilities may not follow the organizational chart or position descriptions at the Huntington Park, but are roles defined within the Project. It is common for individual resources on both the Tyler and Huntington Park project teams to fill multiple roles. Similarly, it is common for some roles to be filled by multiple people.

5.1 Tyler Roles & Responsibilities

Tyler assigns a project manager prior to the start of each Phase of the Project (some Projects may only be one Phase in duration). Additional Tyler resources are assigned as the schedule develops and as needs arise.



5.1.1 Tyler Executive Manager

Tyler executive management has indirect involvement with the Project and is part of the Tyler escalation process. This team member offers additional support to the Project team and collaborates with other Tyler department managers as needed to escalate and facilitate implementation Project tasks and decisions.

- Provides clear direction for Tyler staff on executing on the Project Deliverables to align with satisfying the Huntington Park 's overall organizational strategy.
- Authorizes required Project resources.
- Resolves all decisions and/or issues not resolved at the implementation management level as part of the escalation process.
- Acts as the counterpart to the Huntington Park 's executive sponsor.

5.1.2 Tyler Implementation Manager

- Tyler implementation management has indirect involvement with the Project and is part of the Tyler escalation process. The Tyler project managers consult implementation management on issues and outstanding decisions critical to the Project. Implementation management works toward a solution with the Tyler Project Manager or with Huntington Park management as appropriate. Tyler executive management is the escalation point for any issues not resolved at this level.
- Assigns Tyler Project personnel.
- Provides support for the Project team.
- Provides management support for the Project to ensure it is staffed appropriately and staff have necessary resources.
- Monitors Project progress including progress towards agreed upon goals and objectives.

5.1.3 Tyler Project Manager

- The Tyler project manager(s) provides oversight of the Project, coordination of Tyler resources between departments, management of the Project budget and schedule, effective risk, and issue management, and is the primary point of contact for all Project related items. As requested by the Huntington Park, the Tyler Project Manager provides regular updates to the Huntington Park Steering Committee and other Tyler governance members. Tyler Project Manager's role includes responsibilities in the following areas:

5.1.3.1 Contract Management

- Validates contract compliance throughout the Project.
- Ensures Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions.
- Prepares and presents contract milestone sign-offs for acceptance by the Huntington Park project manager(s).
- Coordinates Change Requests, if needed, to ensure proper Scope and budgetary compliance.

5.1.3.2 Planning

- Delivers project planning documents.
- Defines Project tasks and resource requirements.
- Develops initial Project schedule and Project Management Plan.



- Collaborates with the Huntington Park project manager(s) to plan and schedule Project timelines to achieve on-time implementation.

5.1.3.3 Implementation Management

- Tightly manages Scope and budget of Project to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.
- Establishes and manages a schedule and Tyler resources that properly support the Project Schedule and are also in balance with Scope/budget.
- Establishes risk/issue tracking/reporting process between the Huntington Park and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to the Huntington Park any items that may impact the outcomes of the Project.
- Collaborates with the Huntington Park 's project manager(s) to establish key business drivers and success indicators that will help to govern Project activities and key decisions to ensure a quality outcome of the project.
- Collaborates with the Huntington Park 's project manager(s) to set a routine communication plan that will aide all Project team members, of both the Huntington Park and Tyler, in understanding the goals, objectives, status, and health of the Project.

5.1.3.4 Resource Management

- Acts as liaison between Project team and Tyler manager(s).
- Identifies and coordinates all Tyler resources across all applications, Phases, and activities including development, forms, installation, reports, implementation, and billing.
- Provides direction and support to Project team.
- Manages the appropriate assignment and timely completion of tasks as defined in the Project Schedule, task list, and Go-Live Checklist.
- Assesses team performance and adjusts as necessary.
- Consulted on in Scope 3rd party providers to align activities with ongoing Project tasks.

5.1.4 Tyler Implementation Consultant

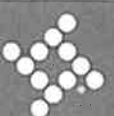
- Completes tasks as assigned by the Tyler project manager(s).
- Documents activities for services performed by Tyler.
- Guides the Huntington Park through software validation process following configuration.
- Assists during Go-Live process and provides support until the Huntington Park transitions to Client Services.
- Facilitates training sessions and discussions with the Huntington Park and Tyler staff to ensure adequate discussion of the appropriate agenda topics during the allotted time.
- May provide conversion review and error resolution assistance.

5.1.5 Tyler Sales

- Supports Sales to Implementation knowledge transfer during Initiate & Plan.
- Provides historical information, as needed, throughout implementation.
- Participates in pricing activities if additional licensing and/or services are needed.

5.1.6 Tyler Technical Services

- Maintains Tyler infrastructure requirements and design document(s).
- Involved in system infrastructure planning/review(s).



- Provides first installation of licensed software with initial database on servers.
- Supports and assists the project team with technical/environmental issues/needs.
- Deploys Tyler products.
- Conducts GIS Planning.
- Reviews GIS data and provides feedback to the Huntington Park.
- Loads Huntington Park provided GIS data into the system.

5.1.7 Tyler SaaS Technicians

- Sets up Tyler-hosted servers.
- Provides maintenance of hosted server hardware, operating system, and software upgrades.
- Provides IT-related services for server environment.
- Provides remote technical assistance and tracks issues.
- Provides system management and disaster recovery services within hosting services.
- Performs Tyler software upgrades through coordination with the Huntington Park.

5.2 Huntington Park Roles & Responsibilities

Huntington Park resources will be assigned prior to the start of each Phase of the Project. One person may be assigned to multiple Project roles.

5.2.1 Huntington Park Executive Sponsor

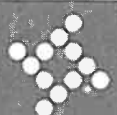
The Huntington Park executive sponsor provides support to the Project by providing strategic direction and communicating key issues about the Project and its overall importance to the organization. When called upon, the executive sponsor also acts as the final authority on all escalated Project issues. The executive sponsor engages in the Project, as needed, to provide necessary support, oversight, guidance, and escalation, but does not participate in day-to-day Project activities. The executive sponsor empowers the Huntington Park steering committee, project manager(s), and functional leads to make critical business decisions for the Huntington Park.

- Champions the project at the executive level to secure buy-in.
- Authorizes required project resources.
- Actively participates in organizational change communications.

5.2.2 Huntington Park Steering Committee

The Huntington Park steering committee understands and supports the cultural change necessary for the Project and fosters an appreciation for the Project's value throughout the organization. The steering committee oversees the Huntington Park project manager and Project through participation in regular internal meetings. The Huntington Park steering committee remains updated on all Project progress, Project decisions, and achievement of Project milestones. The Huntington Park steering committee also serves as primary level of issue resolution for the Project.

- Works to resolve all decisions and/or issues not resolved at the project manager level as part of the escalation process.
- Attends all scheduled steering committee meetings.
- Provides support for the project team.
- Assists with communicating key project messages throughout the organization.
- Prioritizes the project within the organization.



- Ensures the project staffed appropriately and that staff have necessary resources.
- Monitors project progress including progress towards agreed upon goals and objectives.
- Has the authority to approve or deny changes impacting the following areas:
 - Cost
 - Scope
 - Schedule
 - Project Goals
 - Huntington Park Policies
 - Needs of other client projects

5.2.3 Huntington Park Project Manager

The Huntington Park shall assign project manager(s) prior to the start of this project with overall responsibility and authority to make decisions related to Project Scope, scheduling, and task assignment. The Huntington Park Project Manager should communicate decisions and commitments to the Tyler project manager(s) in a timely and efficient manner. When the Huntington Park project manager(s) do not have the knowledge or authority to make decisions, he or she engages the necessary resources to participate in discussions and make decisions in a timely fashion to avoid Project delays. The Huntington Park project manager(s) are responsible for reporting to the Huntington Park steering committee and determining appropriate escalation points.

5.2.3.1 Contract Management

- Validates contract compliance throughout the project.
- Ensures that invoicing and Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions. Collaborates on and approves Change Requests, if needed, to ensure proper scope and budgetary compliance.

5.2.3.2 Planning

- Reviews and accepts project planning documents.
- Defines project tasks and resource requirements for the Huntington Park project team.
- Collaborates in the development and approval of the project schedule.
- Collaborates with Tyler project manager(s) to plan and schedule project timelines to achieve on-time implementation.

5.2.3.3 Implementation Management

- Tightly manages project budget and scope.
- Collaborates with Tyler project manager(s) to establish a process and approval matrix to ensure that scope changes and budget (planned versus actual) are transparent and handled effectively and efficiently.
- Collaborates with Tyler project manager to establish and manage a schedule and resource plan that properly supports the project schedule as a whole and is also in balance with scope and budget.
- Collaborates with Tyler project manager(s) to establish risk and issue tracking and reporting process between the Huntington Park and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to Tyler any items that may impact the outcomes of the project.
- Collaborates with Tyler project manager(s) to establish key business drivers and success indicators that will help to govern project activities and key decisions to ensure a quality outcome of the project.



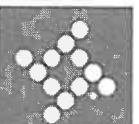
- Routinely communicates with both the Huntington Park staff and Tyler, aiding in the understanding of goals, objectives, current status, and health of the project by all team members.
- Manages the requirements gathering process and ensure timely and quality business requirements are being provided to Tyler.

5.2.3.4 Resource Management

- Acts as liaison between project team and stakeholders.
- Identifies and coordinates all Huntington Park resources across all modules, phases, and activities including data conversions, forms design, hardware and software installation, reports building, and satisfying invoices.
- Provides direction and support to project team.
- Builds partnerships among the various stakeholders, negotiating authority to move the project forward.
- Manages the appropriate assignment and timely completion of tasks as defined.
- Assesses team performance and takes corrective action, if needed.
- Provides guidance to Huntington Park technical teams to ensure appropriate response and collaboration with Tyler Technical Support Teams to ensure timely response and appropriate resolution.
- Owns the relationship with in-Scope 3rd party providers and aligns activities with ongoing project tasks.
- Ensures that users have appropriate access to Tyler project toolsets as required.
- Conducts training on proper use of toolsets.
- Validates completion of required assignments using toolsets.

5.2.4 Huntington Park Functional Leads

- Makes business process change decisions under time sensitive conditions.
- Communicates existing business processes and procedures to Tyler consultants.
- Assists in identifying business process changes that may require escalation.
- Contributes business process expertise for Current & Future State Analysis.
- Identifies and includes additional subject matter experts to participate in Current & Future State Analysis.
- Validates that necessary skills have been retained by end users.
- Provides End Users with dedicated time to complete required homework tasks.
- Acts as an ambassador/champion of change for the new process and provide business process change support.
- Identifies and communicates any additional training needs or scheduling conflicts to the Huntington Park project manager.
- Actively participates in all aspects of the implementation, including, but not limited to, the following key activities:
 - Task completion
 - Stakeholder Meeting
 - Project Management Plan development
 - Schedule development
 - Maintenance and monitoring of risk register
 - Escalation of issues
 - Communication with Tyler project team
 - Coordination of Huntington Park resources
 - Attendance at scheduled sessions



- Change management activities
- Modification specification, demonstrations, testing and approval assistance
- Data analysis assistance
- Decentralized end user training
- Process testing
- Solution Validation

5.2.5 Huntington Park Power Users

- Participate in project activities as required by the project team and project manager(s).
- Provide subject matter expertise on the Huntington Park business processes and requirements.
- Act as subject matter experts and attend Current & Future State Analysis sessions as needed.
- Attend all scheduled training sessions.
- Participate in all required post-training processes as needed throughout project.
- Test all application configuration to ensure it satisfies business process requirements.
- Become application experts.
- Participate in Solution Validation.
- Adopt and support changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Demonstrate competency with Tyler products processing prior to Go-live.
- Provide knowledge transfer to the Huntington Park staff during and after implementation.
- Participate in conversion review and validation.

5.2.6 Huntington Park End Users

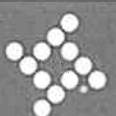
- Attend all scheduled training sessions.
- Become proficient in application functions related to job duties.
- Adopt and utilize changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Utilize software to perform job functions at and beyond Go-live.

5.2.7 Huntington Park Technical Lead

- Coordinates updates and releases with Tyler as needed.
- Coordinates the copying of source databases to training/testing databases as needed for training days.
- Coordinates and adds new users, printers and other peripherals as needed.
- Validates that all users understand log-on process and have necessary permission for all training sessions.
- Coordinates interface development for Huntington Park third party interfaces.
- Develops or assists in creating reports as needed.
- Ensures on-site system meets specifications provided by Tyler.
- Assists with software installation as needed.
- Extracts and transmits conversion data and control reports from the Huntington Park's legacy system per the conversion schedule set forth in the project schedule.

5.2.7.1 Huntington Park GIS

- Participates in GIS planning activities.
- Responsible for management and maintenance of Huntington Park GIS infrastructure and data.



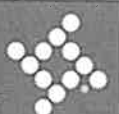
- Ensures GIS data/service endpoints are in alignment with Tyler software requirements.
- Provides Tyler implementation team with GIS data/service access information.

5.2.7.2 Huntington Park Upgrade Coordination

- Becomes familiar with the software upgrade process and required steps.
- Becomes familiar with Tyler's releases and updates.
- Utilizes Tyler resources to stay abreast of the latest Tyler releases and updates, as well as the latest helpful tools to manage the Huntington Park's software upgrade process.
- Assists with the software upgrade process during implementation.
- Manages software upgrade activities post-implementation.
- Manages software upgrade plan activities.
- Coordinates software upgrade plan activities with Huntington Park and Tyler resources.
- Communicates changes affecting users and department stakeholders.
- Obtains department stakeholder acceptance to upgrade production environment.

5.2.8 Huntington Park Change Management Lead

- Validates that users receive timely and thorough communication regarding process changes.
- Provides coaching to supervisors to prepare them to support users through the project changes.
- Identifies the impact areas resulting from project activities and develops a plan to address them proactively.
- Identifies areas of resistance and develops a plan to reinforce the change.
- Monitors post-production performance and new process adherence.



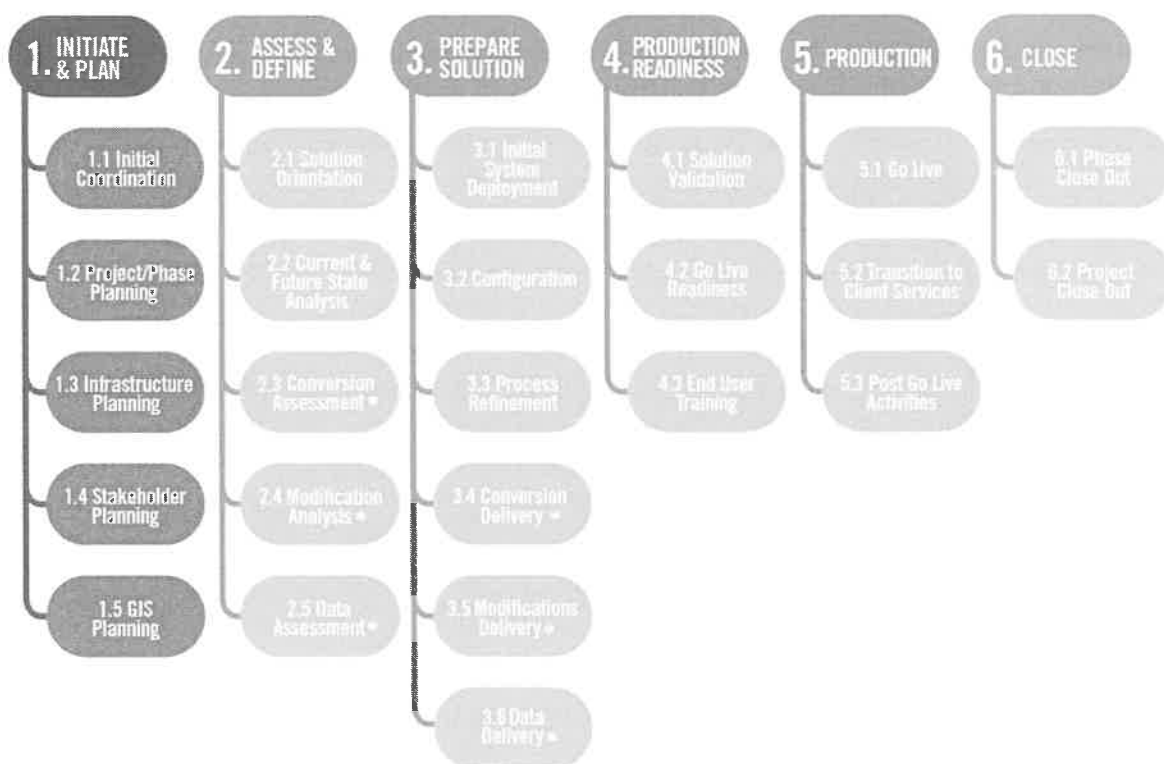
Part 3: Project Plan

6. Project Stages

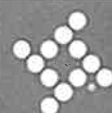
Work Breakdown Structure

The Work Breakdown Structure (WBS) is a hierarchical representation of a Project or Phase broken down into smaller, more manageable components. The top-level components are called “Stages” and the second level components are called “Work Packages”. The work packages, shown below each stage, contain the high-level work to be done. The detailed Project Schedule, developed during Project/Phase Planning and finalized during subsequent stages, lists the tasks to be completed within each work package. Each stage ends with a “Control Point”, confirming the work performed during that stage of the Project has been accepted by the Huntington Park.

Work Breakdown Structure (WBS)



**Items noted with an asterisk in the graphic above relate to specific products and services. If those products and services are not included in the scope of the contract, these specific work packages will be noted as “Intentionally Left Blank” in Section 6 of the Statement of Work.*



6.1 Initiate and Plan

The Initiate and Plan stage involves Project initiation, infrastructure, and planning. This stage creates a foundation for the Project by identifying and establishing sequence and timing for each Phase as well as verifying scope for the Project. This stage will be conducted at the onset of the Project, with a few unique items being repeated for the additional Phases as needed.

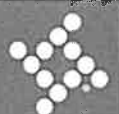
6.1.1 Initial Coordination

Prior to Project commencement, Tyler management assigns project manager(s). Additional Project resources will be assigned later in the Project as a Project schedule is developed. Tyler provides the Huntington Park with initial Project documents used to gather names of key personnel, their functional role as it pertains to the Project, as well as any blackout dates to consider for future planning. the Huntington Park gathers the information requested by the provided deadline ensuring preliminary planning and scheduling can be conducted moving the Project forward in a timely fashion. Internally, the Tyler Project Manager(s) coordinate with sales to ensure transfer of vital information from the sales process prior to scheduling a Project Planning Meeting with the Huntington Park's team. During this step, Tyler will work with the Huntington Park to establish the date(s) for the Project and Phase Planning session.

Objectives:

- Formally launch the project.
- Establish project governance.
- Define and communicate governance for Tyler.
- Identify Huntington Park project team.

STAGE 1	Initial Coordination																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Tyler project team is assigned	A	R	C	I	I	I	I		I		I						
Huntington Parkproject team is assigned									A	I	R	I	I	I			
Provide initial project documents to the Huntington Park		A	R	C			C		I		I						
Gather preliminary information requested			I						A		R	C		C		C	C
Sales to implementation knowledge transfer		A	R	I	I	I	I				I						



Create Project Portal to store project artifacts and facilitate communication		A	R								I						
---	--	---	---	--	--	--	--	--	--	--	---	--	--	--	--	--	--

Inputs	Contract documents
	Statement of Work

Outputs/Deliverables	Completed initial project documents
	Project portal

Work package assumptions:

- Project activities begin after the agreement has been fully executed.

6.1.2 Project/Phase Planning

Project and Phase planning provides an opportunity to review the contract, software, data conversions and services purchased, identify applications to implement in each Phase (if applicable), and discuss implementation timeframes.

During this work package Tyler will work with the Huntington Park to coordinate and plan a formal Project planning meeting(s). This meeting signifies the start of the Project and should be attended by all Huntington Park Project team members and the Tyler Project Manager. The meeting provides an opportunity for Tyler to introduce its implementation methodology, terminology, and Project management best practices to the Huntington Park's Project Team. This will also present an opportunity for project managers and Project sponsors to begin to discuss Project communication, metrics, status reporting and tools to be used to measure Project progress and manage change.

Tyler will work with the Huntington Park Project Team to prepare and deliver the Project Management Plan as an output of the planning meeting. This plan will continue to evolve and grow as the Project progresses and will describe how the project will be executed, monitored, and controlled.

During project planning, Tyler will introduce the tools that will be used throughout the implementation. Tyler will familiarize the Huntington Park with these tools during project planning and make them available for review and maintenance as applicable throughout the project. Some examples are Solution validation plan, issue log, and go-live checklist.

STAGE 1	Project/Phase Planning	
	Tyler	Huntington Park



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Schedule and conduct planning session(s)		A	R						I		C	C	I				
Develop Project Management Plan		A	R						I		C	C	I				
Develop initial project schedule		A	R	I	I	I	I		I	I	C	C	I	I	C		I

Inputs	Contract documents
	Statement of Work
	Guide to Starting Your Project

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
Project Management Plan	Delivery of document
Project Operational Plan	Delivery of document
Initial Project Schedule	Huntington Park provides acceptance of schedule based on resource availability, project budget, and goals.

Work package assumptions:

- Huntington Park has reviewed and completed the Guide to Starting Your Project document.

6.1.3 Infrastructure Planning

Procuring required hardware and setting it up properly is a critical part of a successful implementation. This task is especially important for Tyler-hosted/SaaS deployment models. Tyler will be responsible for building the environments for a hosted/SaaS deployment, unless otherwise identified in the Agreement. Tyler will install Licensed Software on application server(s) or train the Huntington Park to install License Software. The Huntington Park is responsible for the installation and setup of all peripheral devices.

Objectives:

- Ensure the Huntington Park's infrastructure meets Tyler's application requirements.
- Ensure the Huntington Park's infrastructure is scheduled to be in place and available for use on time.

STAGE 1	Infrastructure Planning	
	Tyler	Huntington Park



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Provide Infrastructure Requirements and Design Document		A	R		C		C				I						I
Initial Infrastructure Meeting		A	R		C		C				C						C
*Schedule SaaS Environment Availability		A	R				C				I						
*Schedule Hardware to be Available for Installation			I				I		A		R						C
Schedule Installation of All Licensed Software		A	R				C				I						I
Infrastructure Audit		A	R				C				I						C

Inputs	1. Initial Infrastructure Requirements and Design Document
--------	--

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	1. Completed Infrastructure Requirements and Design Document	Delivery of Document
	2. Infrastructure Audit	System Passes Audit Criteria

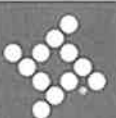
6.1.4 Stakeholder Meeting

Communication of the Project planning outcomes to the Huntington Park Project team, executives and other key stakeholders is vital to Project success. The Stakeholder meeting is a strategic activity to inform, engage, gain commitment, and instill confidence in the Huntington Park team. During the meeting, the goals and objectives of the Project will be reviewed along with detail on Project scope, implementation methodology, roles and responsibilities, Project timeline and schedule, and keys to Project success.

Objectives:

- Formally present and communicate the project activities and timeline.
- Communicate project expectations.

STAGE 1	Stakeholder Meeting	
	Tyler	Huntington Park



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Create Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C		I				
Review Stakeholder Meeting Presentation		I	C						A		R		C				
Perform Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C	I	I	I	I	I	I

Inputs	Agreement
	SOW
	Project Management Plan

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Stakeholder Meeting Presentation	

Work package assumptions:

- None

6.1.5 GIS Preparation

GIS data is a core part of many Tyler applications. Other Huntington Park offices/products may also use this data and have different GIS requirements. A key focus of this preparation will be the process for developing the GIS data for use with Tyler applications. This can be an iterative process, so it is important to begin preparation early.

Objectives:

- Identify all Huntington Park GIS data sources and formats.
- Tyler to understand the Huntington Park's GIS needs and practices.
- Ensure the Huntington Park's GIS data meets Tyler product requirements.

STAGE 1	GIS Preparation	
	Tyler	Huntington Park



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Initial GIS Planning Meeting		A	R				C				C						C
Determine all GIS Data Sources			I				I		A		R						C
Provide Source GIS Data			I				I		A		R						C
Review GIS Data and Provide Feedback		A	R				C				I						C

Inputs	GIS Requirements Document
--------	---------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Production Ready Map Data	Meets Tyler GIS Requirements.

Work package assumptions:

- GIS data provided to Tyler is accurate and complete.
- GIS data provided to Tyler is current.
- Huntington Park is responsible for maintaining the GIS data.

6.1.6 Control Point 1: Initiate & Plan Stage Acceptance

Acceptance criteria for this stage includes completion of all criteria listed below.

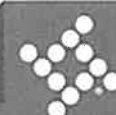
Note: Advancement to the Assess & Define stage is not dependent upon Tyler's receipt of this stage acceptance.

Initiate & Plan Stage Deliverables:

- Project Management Plan
- Initial Project Schedule

Initiate & Plan stage acceptance criteria:

- All stage deliverables accepted based on acceptance criteria previously defined
- Project governance defined
- Project portal made available to the Huntington Park
- Stakeholder meeting complete
- GIS Data Production Ready
- Completed Infrastructure Requirements and Design Document
- System Passes Infrastructure Audit (as applicable)



6.2 Assess & Define

The Assess & Define stage will provide an opportunity to gather information related to current Huntington Park business processes. This information will be used to identify and define business processes utilized with Tyler software. The Huntington Park collaborates with Tyler providing complete and accurate information to Tyler staff and assisting in analysis, understanding current workflows and business processes.

6.2.1 Solution Orientation

The Solution Orientation provides the Project stakeholders a high-level understanding of the solution functionality prior to beginning the current and future state analysis. The primary goal is to establish a foundation for upcoming conversations regarding the design and configuration of the solution.

Tyler utilizes a variety of tools for the Solution Orientation, focusing on Huntington Park team knowledge transfer such as: eLearning, documentation, or walkthroughs. The Huntington Park team will gain a better understanding of the major processes and focus on data flow, the connection between configuration options and outcome, integration, and terminology that may be unique to Tyler's solution.

Objectives:

- Provide a basic understanding of system functionality.
- Prepare the Huntington Park for current and future state analysis.

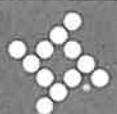
STAGE 2	Solution Orientation																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Provide pre-requisites			A	R							I	I		I	I		I
Complete pre-requisites											A	R		C			C
Conduct orientation			A	R							I	I		I	I		I

Inputs	Solution orientation materials
	Training Plan

6.2.2 Current & Future State Analysis

The Current & Future State Analysis provides the Project stakeholders and Tyler an understanding of process changes that will be achieved with the new system.

The Huntington Park and Tyler will evaluate current state processes, options within the new software, pros and cons of each based on current or desired state and make decisions about the future state configuration and processing. This may occur before or within the same timeframe as the configuration work package. The



options within the new software will be limited to the scope of this implementation and will make use of standard Tyler functionality.

The Huntington Park will adopt the existing Tyler solution wherever possible to avoid project schedule and quality risk from over customization of Tyler products. It is the Huntington Park's responsibility to verify that in-scope requirements are being met throughout the implementation if functional requirements are defined as part of the contract. The following guidelines will be followed when evaluating if a modification to the product is required:

- A reasonable business process change is available.
- Functionality exists which satisfies the requirement.
- Configuration of the application satisfies the requirement.
- An in-scope modification satisfies the requirement.

Requirements that are not met will follow the agreed upon change control process and can have impacts on the project schedule, scope, budget, and resource availability.

STAGE 2	Current & Future State Analysis																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Current State process review			A	R	I	I	I				C	C	C	C			C
Discuss future-state options			A	R	C	C	C				C	C	C	C			C
Make future-state decisions (non-COTS)			C	C	C	C	C				A	R	I	C			C
Document anticipated configuration options required to support future state			A	R	C	C	C				I	I	I	I			I

Inputs	Huntington Parkcurrent state documentation
	Solution Orientation completion

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
Documentation that describes future-state decisions and configuration options to support future-state decisions.	Delivery of document

Work package assumptions:



- Huntington Park attendees possess sufficient knowledge and authority to make future state decisions.
- The Huntington Park is responsible for any documentation of current state business processes.
- The Huntington Park can effectively communicate current state processes.

6.2.3 Conversion Assessment

Data Conversions are a major effort in any software implementation. Tyler's conversion tools facilitate the predictable, repeatable conversion process that is necessary to support a successful transition to the Tyler system. The first step in this process is to perform an assessment of the existing ("legacy") system(s), to better understand the source data, risks, and options available. Once the data has been analyzed, the plan for data conversion is completed and communicated to the appropriate stakeholders.

Objectives:

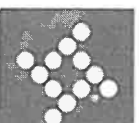
- Communicate a common understanding of the project goals with respect to data.
- Ensure complete and accurate source data is available for review/transfer.
- Map the data from the source to the Tyler system.
- Document the data conversion/loading approach.

STAGE 2	Data Conversion Assessment																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
			I		C						A						R
			I	I	I						A	R		C			I
			R	C	C						C	I	I	I			I

Inputs	Huntington Park Source data
	Huntington Park Source data Documentation (if available)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data Conversion Plan built/updated	Huntington Park Acceptance of Data Conversion Plan, if Applicable

Work package assumptions:



- Tyler will be provided with data from the Legacy system(s) in a mutually agreed upon format.
- Tyler will work with the Huntington Park representatives to identify business rules before writing the conversion.
- Huntington Park subject matter experts and resources most familiar with the current data will be involved in the data conversion planning effort.

6.2.4 Intentionally left blank.

6.2.5 Intentionally left blank.

6.2.6 Control Point 2: Assess & Define Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Note: Advancement to the Prepare Solution Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Assess & Define Stage Deliverables:

- Documentation of future state decisions and configuration options to support future state decisions.
- Modification specification document.
- Assess & Define Stage Acceptance Criteria:
- All stage deliverables accepted based on criteria previously defined.
- Solution Orientation is delivered.
- Conversion data extracts are received by Tyler.
- Data conversion plan built.

6.3 Prepare Solution

During the Prepare Solution stage, information gathered during the Initiate & Plan and Assess & Define stages will be used to install and configure the Tyler software solution. Software configuration will be validated by the Huntington Park against future state decisions defined in previous stages and processes refined as needed to ensure business requirements are met.

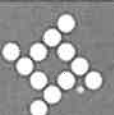
6.3.1 Initial System Deployment

The timely availability of the Tyler Solution is important to a successful Project implementation. The success and timeliness of subsequent work packages are contingent upon the initial system deployment of Tyler Licensed Software on an approved network and infrastructure. Delays in executing this work package can affect the project schedule.

Objectives:

- All licensed software is installed and operational.
- The Huntington Park can access the software.

STAGE 3	Initial System Deployment (Hosted/SaaS)*	
	Tyler	Huntington Park



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Prepare hosted environment			A				R				I						C
Install Licensed Software with Initial Database on Server(s) for Included Environments			A				R				I						C
Install Licensed Software on Huntington Park Devices (if applicable)			I				C				A						R
Tyler System Administration Training (if applicable)			A				R				I						C

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Licensed Software is Installed on the Server(s)	Software is accessible
	Licensed Software is Installed on Huntington Park Devices (if applicable)	Software is accessible
	Installation Checklist/System Document	System Passes
	Infrastructure Design Document (C&J – If Applicable)	

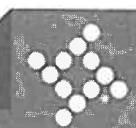
Work package assumptions:

- The most current available version of the Tyler Licensed Software will be installed.
- The Huntington Park will provide network access for Tyler modules, printers, and Internet access to all applicable Huntington Park and Tyler Project staff.

6.3.2 Configuration

The purpose of Configuration is to prepare the software product for validation.

Tyler staff collaborates with the Huntington Park to complete software configuration based on the outputs of the future state analysis performed during the Assess and Define Stage. The Huntington Park collaborates with Tyler staff iteratively to validate software configuration.



Objectives:

- Software is ready for validation.
- Educate the Huntington Park Power User how to configure and maintain software.
- Prepare standard interfaces for process validation (if applicable).

STAGE 3	Configuration																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Conduct configuration training			A	R							I	C		C			
Complete Tyler configuration tasks (where applicable)			A	R							I	I		I			
Complete Huntington Park configuration tasks (where applicable)			I	C							A	R		C			
Standard interfaces configuration and training (if applicable)			A	R			C				I	C		C			C
Updates to Solution Validation testing plan			C	C							A	R		C			C

Inputs	Documentation that describes future state decisions and configuration options to support future state decisions.
--------	--

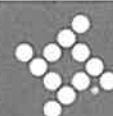
Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Configured System	N/A

Work package assumptions:

- Tyler provides guidance for configuration options available within the Tyler software. The Huntington Park is responsible for making decisions when multiple options are available.

6.3.3 Process Refinement

Tyler will educate the Huntington Park users on how to execute processes in the system to prepare them for the validation of the software. The Huntington Park collaborates with Tyler staff iteratively to validate software configuration options to support future state.



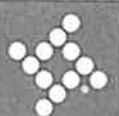
Objectives:

- Ensure that the Huntington Park understands future state processes and how to execute the processes in the software.
- Refine each process to meet the business requirements.
- Validate standard interfaces, where applicable.
- Validate forms and reports, where applicable.

STAGE 3	Process Refinement																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Conduct process training			A	R							I	C	I	C			
Confirm process decisions			I	C						A	R	C	I	C			
Test configuration			I	C							A	R		C			
Refine configuration (Huntington Park Responsible)			I	C							A	R		C			
Refine configuration (Tyler Responsible)			A	R							I	I		I			
Validate interface process and results			I	C			C				A	R		C			C
Update Huntington Park-specific process documentation (if applicable)			I	C							A	R		C			
Updates to Solution Validation testing plan			C	C							A	R		C			C

Inputs	Initial Configuration
	Documentation that describes future state decisions and configuration options to support future state decisions.
	Solution validation test plan

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
	Updated solution validation test plan



Completed Huntington Park-specific process documentation (completed by Huntington Park)

Work package assumptions:

- None

6.3.4 Conversion Delivery

The purpose of this task is to transition the Huntington Park's data from their source ("legacy") system(s) to the Tyler system(s). The data will need to be mapped from the legacy system into the new Tyler system format. A well-executed data conversion is key to a successful cutover to the new system(s).

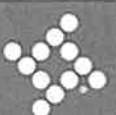
With guidance from Tyler, the Huntington Park will review specific data elements within the system and identify / report discrepancies. Iteratively, Tyler will collaborate with the Huntington Park to address conversion discrepancies. This process will allow for clean, reconciled data to transfer from the source system(s) to the Tyler system(s). Reference Conversion Appendix for additional detail.



Objectives:

- Data is ready for production (Conversion).

STAGE 3	Data Delivery & Conversion	
	Tyler	Huntington Park



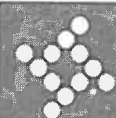
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Provide data crosswalks/code mapping tool			A	C	R						I	I		I			
Populate data crosswalks/code mapping tool			I	C	C						A	R		C			
Iterations: Conversion Development			A	C	R						I						I
Iterations: Deliver converted data			A		R		I				I						I
Iterations: Proof/Review data and reconcile to source system			C	C	C						A	R		C			C

Inputs	
	Data Conversion Plan
	Configuration

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Code Mapping Complete / Validated	N/A
	Conversion Iterations / Reviews Complete	Conversion complete, verified, and ready for final pass

Work package assumptions:

- The Huntington Park will provide a single file layout per source system as identified in the investment summary.
- The Huntington Park subject matter experts and resources most familiar with the current data will be involved in the data conversion effort.
- The Huntington Park project team will be responsible for completing the code mapping activity, with assistance from Tyler.



6.3.5 Intentionally left blank.

6.3.6 Intentionally left blank.

6.3.7 Control Point 3: Prepare Solution Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below in each Work Package.

Note: Advancement to the Production Readiness Stage is dependent upon Tyler's receipt of the Stage Acceptance.

Prepare Solution Stage Deliverables:

- Licensed software is installed.
- Installation checklist/system document.
- Updated solution design document (Socrata only).
- Prioritized data sets for review in Tyler system (Socrata only).
- Conversion iterations and reviews complete.

Prepare Solution Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Software is configured.
- Solution validation test plan has been reviewed and updated if needed.

6.4 Production Readiness

Activities in the Production Readiness stage will prepare the Huntington Park team for go-live through solution validation, the development of a detailed go-live plan and end user training. A readiness assessment will be conducted with the Huntington Park to review the status of the project and the organizations readiness for go-live.

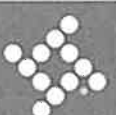
6.4.1 Solution Validation

Solution Validation is the end-to-end software testing activity to ensure that the Huntington Park verifies all aspects of the Project (hardware, configuration, business processes, etc.) are functioning properly, and validates that all features and functions per the contract have been deployed for system use.

Objectives:

- Validate that the solution performs as indicated in the solution validation plan.
- Ensure the Huntington Park organization is ready to move forward with go-live and training (if applicable).

STAGE 4	Solution Validation	
	Tyler	Huntington Park



RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Update Solution Validation plan			A	R	C						C	C		C			
Update test scripts (as applicable)			C	C	C						A	R		C			
Perform testing			C	C	C						A	R		C			
Document issues from testing			C	C	C						A	R		C			
Perform required follow-up on issues			A	R	C						C	C		C			

Inputs	Solution Validation plan
	Completed work product from prior stages (configuration, business process, etc.)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Solution Validation Report	Huntington Park updates report with testing results

Work package assumptions:

- Designated testing environment has been established.
- Testing includes current phase activities or deliverables only.

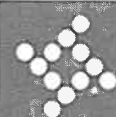
6.4.2 Go-Live Readiness

Tyler and the Huntington Park will ensure that all requirements defined in Project planning have been completed and the Go-Live event can occur, as planned. A go-live readiness assessment will be completed identifying risks or actions items to be addressed to ensure the Huntington Park has considered its ability to successfully Go-Live. Issues and concerns will be discussed, and mitigation options documented. Tyler and the Huntington Park will jointly agree to move forward with transition to production. Expectations for final preparation and critical dates for the weeks leading into and during the Go-Live week will be planned in detail and communicated to Project teams.

Objectives:

- Action plan for go-live established.
- Assess go-live readiness.
- Stakeholders informed of go-live activities.

STAGE 4	Go-Live Readiness
----------------	--------------------------



	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Perform Readiness Assessment	I	A	R	C	C	I	C	I	I	I	I		I				I
Conduct Go-Live planning session		A	R	C							C	C	C	C	C		C
Order peripheral hardware (if applicable)			I							A	R						C
Confirm procedures for Go-Live issue reporting & resolution		A	R	I	I	I	I				C	C	I	I	I	I	I
Develop Go-Live checklist		A	R	C	C						C	C	I	C			C
Final system infrastructure review (where applicable)			A				R				C						C

Inputs	Future state decisions
	Go-live checklist

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated go-live checklist	Updated Action plan and Checklist for go-live delivered to the Huntington Park

Work package assumptions:

- None

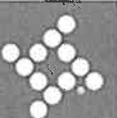
6.4.3 End User Training

End User Training is a critical part of any successful software implementation. Using a training plan previously reviewed and approved, the Project team will organize and initiate the training activities.

Train the Trainer: Tyler provides one occurrence of each scheduled training or implementation topic. Huntington Park users who attended the Tyler sessions may train additional users. Additional Tyler led sessions may be contracted at the applicable rates for training.

Tyler will provide standard application documentation for the general use of the software. It is not Tyler's responsibility to develop Huntington Park specific business process documentation. Huntington Park-led training labs using Huntington Park specific business process documentation if created by the Huntington Park can be added to the regular training curriculum, enhancing the training experiences of the end users.

Objectives:



- End users are trained on how to use the software prior to go-live.
- The Huntington Park is prepared for on-going training and support of the application.

STAGE 4	End User Training																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
Update training plan		A	R	C							C		I		C		
End User training (Tyler-led)		A	R	C							C	C	I	C	C	C	
Train-the-trainer		A	R	C							C	C	I	C			
End User training (Huntington Park-led)			C	C							A	R	I	C	C	C	

Inputs	Training Plan
	List of End Users and their Roles / Job Duties
	Configured Tyler System

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	End User Training	Huntington Park signoff that training was delivered

Work package assumptions:

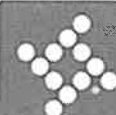
- The Huntington Park project team will work with Tyler to jointly develop a training curriculum that identifies the size, makeup, and subject-area of each of the training classes.
- Tyler will work with the Huntington Park as much as possible to provide end-user training in a manner that minimizes the impact to the daily operations of Huntington Park departments.
- The Huntington Park will be responsible for training new users after go-live (exception—previously planned or regular training offerings by Tyler).

6.4.4 Control Point 4: Production Readiness Stage Acceptance

Acceptance criteria for this stage includes all criteria listed below. Advancement to the Production stage is dependent upon Tyler's receipt of the stage acceptance.

Production Readiness stage deliverables:

- Solution Validation Report.
- Update go-live action plan and checklist.
- End user training.



Production Readiness stage acceptance criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live planning session conducted.

6.5 Production

Following end user training the production system will be fully enabled and made ready for daily operational use as of the scheduled date. Tyler and the Huntington Park will follow the comprehensive action plan laid out during Go-Live Readiness to support go-live activities and minimize risk to the Project during go-live. Following go-live, Tyler will work with the Huntington Park to verify that implementation work is concluded, post go-live activities are scheduled, and the transition to Client Services is complete for long-term operations and maintenance of the Tyler software.

6.5.1 Go-Live

Following the action plan for Go-Live, defined in the Production Readiness stage, the Huntington Park and Tyler will complete work assigned to prepare for Go-Live.

The Huntington Park provides final data extract and Reports from the Legacy System for data conversion and Tyler executes final conversion iteration, if applicable. If defined in the action plan, the Huntington Park manually enters any data added to the Legacy System after final data extract into the Tyler system.

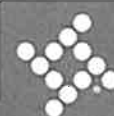
Tyler staff collaborates with the Huntington Park during Go-Live activities. The Huntington Park transitions to Tyler software for day-to day business processing.

Some training topics are better addressed following Go-Live when additional data is available in the system or based on timing of applicable business processes and will be scheduled following Go-Live per the Project Schedule.

Objectives:

- Execute day to day processing in Tyler software.
- Huntington Park data available in Production environment.

STAGE 5	Go-Live																
	Tyler								Huntington Park								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads
			C		C						A						R
	Provide final source data extract, if applicable																



ITEM NO. 8



CITY OF HUNTINGTON PARK

Public Works Department
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL OF THE INSTALLATION OF WATER METERS AT THE PUBLIC WORKS YARD AND CHELSEA CIRCLE PARK

IT IS RECOMMENDED THAT CITY COUNCIL:

1. Approve Inframark's two proposals for a total amount of \$33,440 payable from Water Fund Account No. 681-8030-461.56-41 for the installation of water meters at the Public Works Yard and Chelsea Circle Park; and
2. Authorize the City Manager to execute all pertinent proposals.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Water loss management is a critical issue for the City. Drought, aging infrastructure, depleted groundwater resources and more have led to mandatory water management measures imposed by the State of California Department of Water Resources (DWR). A specific measure that ensures compliance with all applicable water conservation techniques is the California water loss audit.

Senate Bill (SB) 555 was adopted in 2015 during the State's seven-year drought and required urban retail water suppliers to submit water loss audits to the state by October 1st of each year. Assembly Bill (AB) 1414 slightly modified the requirements and the reporting submittal due date was ratified for all urban water suppliers to January 1st of each year starting January 1, 2024. DWR's mandatory audits are a concerted effort to track water losses associated with urban water distribution systems and to identify areas for efficiency improvement and cost recovery from real water losses.

A water audit is followed by intervention to identify losses and implement solutions and then by an evaluation of intervention measures and the needs for further improvement. DWR looks at authorized consumption, real loss, apparent loss and non-revenue water.

CONSIDERATION AND APPROVAL OF THE INSTALLATION OF WATER METERS AT THE PUBLIC WORKS YARD AND CHELSEA CIRCLE PARK

February 15, 2022

Page 2 of 3

- Authorized Consumption is water that is used by known customers of the water system. Authorized consumption is the sum of billed authorized consumption and unbilled authorized consumption and is a known quantity. It also includes water supplied to other water systems.
- Real Losses, also referred to as physical losses, are actual losses of water from the system and consist of leakage from transmission and distribution mains, leakage and overflows from the water system's storage tanks and leakage from service connections up to and including the meter.
- Apparent losses, also referred to as commercial losses, occur when water that should be included as revenue generating water appears as a loss due to unauthorized actions or calculation error. Apparent losses consist of unauthorized consumption, customer metering inaccuracies, and systematic data handling errors in the meter reading and billing processes.
- Non-Revenue Water (NRW) is water that is not billed and no payment is received. It can be either authorized, or result from apparent and real losses. Unbilled Authorized Consumption is a component of NRW and consists of unbilled metered consumption and unbilled un-metered consumption.

In order to help improve the overall audit grading score given by the State, the City must monitor the water consumption on its own properties. One way to tally the amount of water used throughout the City's network is to add water meters where non-exist. City requested a proposal from Inframark, City's Water Maintenance and Operations, to add water meters at the Public Works Yard and Chelsea Circle Park. This would start the water loss control program that helps identify and account for the physical loss of and consumed resource from the system.

FISCAL IMPACT/FINANCING

Recommendation is to approve Inframark's two proposals (Attachment 1) totaling \$33,440 payable from Water Fund Account No. 681-8030-461.56-41 to install the water meters. Authority will be granted to the City Manager to approve all related proposals.

CONCLUSION

Upon Council approval, staff will proceed with the recommended actions.

Respectfully submitted,



RICARDO REYES
City Manager

**CONSIDERATION AND APPROVAL OF THE INSTALLATION OF WATER METERS
AT THE PUBLIC WORKS YARD AND CHELSEA CIRCLE PARK**

February 15, 2022

Page 3 of 3

A handwritten signature in black ink, appearing to read "Cesar Roldan".

CESAR ROLDAN
Director of Public Works

ATTACHMENTS

1. Inframark Proposals

ATTACHMENT "A"

REQUEST FOR SERVICES

To: Ricardo Reyes, City Manager City of Huntington Park
Date: 1/31/2022
From: Bridgeth Tapia, Assistant Manager
Project Description: Installation of 2-inch meter at Chesley Circle Park (at Albany and Zoe)

PROJECT SCOPE

Inframark offers to execute the following work at the City of Huntington Park Public Works Yard located at 6900 Bissell Street, Huntington Park:

Fee includes the identification of existing utilities using the 811 DigAlert service for excavation purposes, expose existing 6-inch main, locate existing 2-inch service and replace galvanized lateral line, using existing corporation stop, with approximately 30 lineal feet of copper, install new 2-inch meter, tie-in to existing backflow, and replace disturbed asphalt.

PROJECT DETAILS

The RFS is for the above project scope and does not include any other work which is not listed herewith. A separate RFS shall be prepared for any additional work if required.

Project No. _____

Projected Date of Completion: 2/28/2022

Estimated Cost of Services: Not to exceed \$16,390.00


Submitted by, Ricardo Barba, Project Manager-Inframark

1/31/2022
Date

APPROVED TO PROCEED:

Ricardo Reyes, City Manager

Date

REQUEST FOR SERVICES



To: Ricardo Reyes, City Manager City of Huntington Park
Date: 1/31/2022
From: Bridgeth Tapia, Assistant Manager
Project Description: Installation of 4-inch meter at Public Works Yard

PROJECT SCOPE

Inframark offers to execute the following work at the City of Huntington Park Public Works Yard located at 6900 Bissell Street, Huntington Park:

Fee includes the identification of existing utilities using the 811 DigAlert service for excavation purposes, locating existing 4-inch lateral to cut in for installation of new 4-inch meter, installation of new meter box (up to 2 stacks high using Eisel model number 666B type), and restoration work of any concrete removed.

PROJECT DETAILS

The RFS is for the above project scope and does not include any other work which is not listed herewith. A separate RFS shall be prepared for any additional work if required.

Project No. _____

Projected Date of Completion: 2/28/2022

Estimated Cost of Services: Not to exceed \$17,050.00

A handwritten signature in black ink that reads "Ricardo Barba".

Submitted by, Ricardo Barba, Project Manager-Inframark

1/31/2022

Date

APPROVED TO PROCEED:

Ricardo Reyes, City Manager

Date

ITEM NO. 9



CITY OF HUNTINGTON PARK

Public Works Department
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL TO SOLICIT CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES AS PART OF THE OVERSIGHT OF CIP 2017-03 ACTIVE TRANSPORTATION PROGRAM CYCLE III PROJECT NO. ATPL-5150(015)

IT IS RECOMMENDED THAT CITY COUNCIL:

1. Authorize staff to publish and solicit a Request for Proposal (RFP) from qualified firms to provide Construction Management and Inspection Services (CM/CI) for CIP 2017-03 Active Transportation Program (ATP) Cycle III Project No. ATPL-5150(015).

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

CIP 2017-03 ATP Cycle III (project) is phase 2 of the pedestrian safety enhancements at uncontrolled crosswalks at several locations. The project looks to install Rectangular Rapid Flashing Beacons (RRFB) with LED lights, updated signage and pavement markings at uncontrolled crosswalks and mitigate hazardous conditions while improving pedestrian safety. The project focuses on improving existing uncontrolled crosswalks near schools along Pacific Boulevard, Miles Avenue, State Street, Gage Avenue, Alameda Street, Saturn Avenue, Zoe Avenue and Salt Lake Avenue.

At the regularly scheduled City Council Meeting of February 1, 2022, the City Council approved the plans, specifications and engineer's estimate (PS&E) for the project and authorized staff to publish the Notice Inviting Bid (NIB). The bid opening is scheduled for March 16, 2022. The project requires construction management and inspection services

CONSIDERATION AND APPROVAL TO SOLICIT CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES AS PART OF THE OVERSIGHT OF CIP 2017-03 ACTIVE TRANSPORTATION PROGRAM CYCLE III PROJECT NO. ATPL-5150(015)

February 15, 2022

Page 2 of 3

(CM/CI) to provide project oversight. CM/CI services are the overall planning, coordination, and control of a project from beginning to completion. A formal RFP (Attachment 1) will be published to solicit proposals from qualified firms to provide CM/CI services for the project.

The following is a tentative schedule:

RFP ISSUED	February 18, 2022
REQUEST FOR INFORMATION DEADLINE: 5:00 PM	March 2, 2022
RELEASE OF INFORMATION REQUESTED: 5:00 PM	March 9, 2022
PROPOSAL DUE DATE/SUBMISSION DEADLINE: 2:00 PM	March 22, 2022
TENTATIVE CITY COUNCIL AWARD DATE	April 5, 2022
APPROXIMATE NOTICE TO PROCEED DATE	April 18, 2022

LEGAL REQUIREMENT

Congress adopted the Brooks Act (P.L. 92-582), requiring the use of Qualifications-Based Selection (QBS) for the procurement of architect and engineering services. The use of QBS ensures that taxpayers receive highly technical architect and engineering services from the most experienced and most qualified firms at a fair and reasonable cost. California's QBS requirements can be found at Government Code sections 4525 et seq., also known as the Mini Brooks Act.

The City Clerk's Office shall publish the RFP (Attachment 1) in the local newspaper of general circulation, the City's website and other forms of electronic media. The RFP shall describe the project and provides the tasks required from qualified firms to manage the project. The time and location to submit proposals shall also be placed within the published RFP. The RFP shall be published for a minimum period of twenty-one (21) calendar days. Once proposals are submitted, reviewed and scored, staff will come back to the City Council with a recommendation to award.

FISCAL IMPACT/FINANCING

At this time, there is no fiscal impact associated with the approval of the solicitation of proposals to perform CM/CI services. Once proposals are submitted and evaluated, staff will return with a well-defined budget for consideration and approval at a future City Council meeting.

CONCLUSION

Upon Council approval, staff will proceed with the recommended actions.

**CONSIDERATION AND APPROVAL TO SOLICIT CONSTRUCTION MANAGEMENT
AND INSPECTION SERVICES AS PART OF THE OVERSIGHT OF CIP 2017-03
ACTIVE TRANSPORTATION PROGRAM CYCLE III PROJECT NO. ATPL-5150(015)**

February 15, 2022

Page 3 of 3

Respectfully submitted,



RICARDO REYES
City Manager



CESAR ROLDAN
Director of Public Works

ATTACHMENT(S)

1. RFP CIP No. 2017-03 ATP Cycle III – Construction Management Services

ATTACHMENT "A"



**CITY OF HUNTINGTON PARK
REQUEST FOR PROPOSAL FOR
Construction Management & Inspection Services
CIP 2017-03 Active Transportation Program Cycle III Project No. ATPL-5150(015)
PROPOSAL DUE DATE: MARCH 22, 2022, 2:00 P.M.**

6550 Miles Ave
Huntington Park, CA 90255

Contact: Cesar Roldan
323.584.6320
croltan@hpcg.gov



Table of Contents

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1. INTRODUCTION

The City of HUNTINGTON PARK (City) is seeking proposals from qualified consulting professionals experienced in construction management and inspection services specifically related to the administration, monitoring and enforcement of Caltrans local assistance funded capital improvement projects. Focus is on safe routes to school for all pedestrians that utilize non-motorized modes of transportation as part of **CIP 2017-03 ATP Cycle III Project No. ATPL-5150(015)**. The purpose of ATP is to encourage increased use of active modes of transportation by achieving the following goals:

- Increase the proportion of trips accomplished by biking and walking
- Increase safety and mobility for non-motorized users
- Advance the active transportation efforts of regional agencies to achieve Greenhouse Gas (GHG) reduction goals, pursuant to SB 375 (of 2008) and SB 341 (of 2009)
- Enhance public health
- Ensure that disadvantaged communities fully share in the benefits of the program
- Provide a broad spectrum of projects to benefit many types of active transportation users

2. OVERVIEW

This project is phase 2 to complete pedestrian safety enhancements at the remaining uncontrolled crosswalk locations in the City. The project will install Rectangular Rapid Flashing Beacons (RRFB) with LED lights, updated signing, and pavement markings at uncontrolled crosswalks and will mitigate hazardous conditions while improving pedestrian safety. The project is in the City of Huntington Park's public right-of-way. The project focuses on locations that have existing uncontrolled crosswalks near schools and along: Pacific Blvd, Miles Ave, State St, Gage Ave, Alameda St, Saturn Ave, Zoe Ave and Salt Lake Ave. Project plans and specifications may be downloaded from <http://www.hpca.gov/bids.aspx>

3. SCOPE OF SERVICES

The City is seeking a qualified consultant to provide construction management and inspection services. The consultant applying should have significant experience in providing this type of service.

- The City reserves the right to delete specific task(s).

A. Task 1 – Contract and Labor Compliances Services

- Consultant will furnish all materials, equipment, labor, and services to provide construction management and inspection services related to CIP 2017-03 ATP Cycle III Project No. ATPL-5150(015). The primary responsibility for general supervision of construction must remain with the CM/CI hired by the City. CM/CI must also ensure

that the work is performed in accordance with the approved plans and specifications, by employing or retaining as a consultant a registered engineer for construction engineering services on the project. Activities include preparation of contract change orders, construction surveys, foundation investigations, measurement, and computation of quantities, testing of construction materials, checking of shop drawings, preparation of estimates, reports, and other inspection activities necessary to ensure that the construction is being performed in accordance with the plans and specifications. Ensure that the contractor is submitting weekly payroll records through the State Department of Industrial Relations (DIR). Oversee compliance with State prevailing wage and labor compliance requirements. Oversee the specific labor standards parameters applicable to the construction project. Participate in the pre-construction meetings, weekly or bi-weekly meetings and inform contractors of wages, reporting and other project obligations. Prepare and distribute construction agendas and meeting minutes. Create and maintain Labor Standards Enforcement Files that includes pictures. Conduct employee interviews and reconcile with weekly reports. Notify the prime contractor in writing of any discrepancies or suspected violations and define the corrective actions to be taken including restitution payments. Review the final project file and participate in the final review meeting with City staff.

- Caltrans Local Assistance Procedures Manual Chapter 10 will be utilized as the selection criteria: <https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/ch10.pdf>

4. KEY PERSONNEL

It is imperative that the key personnel providing the consulting services have the background, experience, and qualifications to complete the project. The City reserves the right to approve all key personnel individually for work on this contract. All key staff shall be named in the contract. After the contract is signed, the consultant may not replace key staff unless their employment is terminated or agreed upon by the City. The City must approve replacement staff before a substitute person is assigned to the Project. The City reserves the right to request that the consultant replace a staff person assigned to the contract should the City consider such a replacement to be for the good of the project.

5. CITY'S STANDARD PROFESSIONAL SERVICES AGREEMENT

Please see ATTACHMENT 2 – CITY'S STANDARD PROFESSIONAL SERVICE AGREEMENT.

6. INSURANCE REQUIREMENTS

Please see ATTACHMENT 3 - CITY'S STANDARD INSURANCE REQUIREMENTS.

7. EVALUATION CRITERIA

Each proposal shall be evaluated on the basis of the consultant's expertise, experience and training and the expertise of its key personnel along with prior contracting history, approach to the project, cost, proposed schedule and compliance with the RFP requirements including the terms of the attached PSA. Each such factor shall be weighted by the City as follows:

- Expertise, Experience and Training Plus Prior Contracting History (90%) – The expertise, experience and training of the consultant and its key personnel and the previous experience with similar work in similar fields and qualifications and depth of staff that will perform the work on this project. This factor includes evaluation of the consultant's prior contracting history, including the review of the consultant's certifications relating to false claims, debarment and civil litigation.
- Compliance with RFP (10%) – The ability of the consultant to comply with all instructions set forth under this RFP as well as the consultant's ability to agree to all of the terms and conditions of the attached PSA without modification, particularly as relates to indemnification, insurance requirements and standards of care.

*** Use of the City of Huntington Park City Seal is prohibited.**

8. SELECTION PROCESS

A selection committee comprised of the City staff and/or consultants may review the proposals. Proposals will be ranked on qualifications and the selection committee may choose to interview several of the top ranked consultants. However, at its sole discretion the selection committee may dispense with interviews and select a consultant to perform the work.

- Negotiations regarding a fair and reasonable price may occur subsequent to consultant selection.

9. REQUIRED FORMAT FOR TECHNICAL PROPOSAL SUBMITTAL

All proposals shall include the following information and comply with the associated page limit restrictions. Note that 1 page includes the front side of an 8.5" x 11" sheet of paper and the cover does not constitute a page:

Cover Letter: Maximum 1-page cover letter signed by an officer of the firm, binding the consultant to all of the commitments made in the submittal. The letter shall include name, address and phone number of the person authorized to represent the consultant and shall include the following Statement:

**I HAVE READ, UNDERSTOOD, AND AGREED TO ALL STATEMENTS IN THIS REQUEST
FOR PROPOSAL AND ACKNOWLEDGE RECEIPT OF ALL**

ADDENDUMS/AMENDMENTS AS WELL AS TO THE TERMS, CONDITIONS, AND ATTACHMENTS REFERENCED.

Consultant's Background: Maximum 2-page background on the consultant and its area(s) of professional expertise relevant to this RFP. An additional 1 page may be included to highlight the background of each proposed subconsultant to be used by the consultant and the specific task(s) or functions the subconsultant will perform.

Qualifications and Experience of Consultant's Personnel: Maximum 3-page summary of the relevant work experience, work history, training, education, and special certifications of the consultant's personnel who will be performing the professional services contemplated under this RFP on the consultant's behalf. Briefly discuss the Consultant team's qualification and experience with projects of similar magnitude and nature. Consultants shall provide identical information for all subconsultants performing any of the tasks or services contemplated under this RFP on the consultant's behalf. The summary shall also include the office location of key personnel proposed to work on this contract. Relevant experience can include your company's overall experience, experience with similar projects and the experience of individuals on your proposed team. Show how your experience relates to the demands of this project.

Proposed Personnel: Maximum 2-page resume for the project manager and 1-page resume for each of the other key personnel, including subconsultants, which will be performing the majority of the work on this project/contract. Resumes for corporate leadership should not be included unless said individuals will be performing substantial work on this project. The designated Project manager shall be the primary contact with the City during the contract period and shall function in that capacity while employed by the firm. In addition, the City must approve changes of personnel.

References: Each consultant must include at least 3 public agency references going back not more than five (5) years from the issuance of this RFP in which the consultant was engaged to perform tasks similar to those requested under this RFP. References should place an emphasis on past projects in which the personnel to be used by consultant for this project were deployed. The references should include the name, title and contract information of the public agency officer or employee responsible for overseeing the consultant's work.

Fee Schedule/Cost Proposal: Maximum 1-page detailed cost estimate for performing specific Tasks identified in the RFP and a schedule of rates for each proposed personnel that may be tasked to complete the project. The Task-specific cost estimate shall include an estimate of the number of hours per staff member by proposed task and clearly identify and hourly rate schedule for proposed staff. The proposal shall include the compensation structure for performing specific services identified in Task 1. The proposal shall also include costs and expenses related to photocopying,

postage, travel, etc. (i.e. Reimbursement expenses, if any). To the extent that a proposal contemplates the use of the subconsultants to perform any one or more of the above described tasks on the consultant's behalf, the proposal shall include a List of Subconsultants identifying all subconsultants and state the fee for each subconsultant in the Fee Schedule under the appropriate Task under which the service will be provided. In so far as the proposer's proposal contemplates an increase in compensation rates or charges prior to the completion of Task 1, and during the term of the portion of the PSA or any extension term the proposal shall clearly indicate when such increases will take effect and by how much.

10. FEE

The Fee Schedule/Cost Proposal shall be delivered in a separate sealed envelope which is plainly marked on the outside "**CIP 2017-03 ATP Cycle III Project No. ATPL-5150(015) – CM/CI Services**" and addressed to the above-mentioned location. The envelope shall contain the name and address of the consultant clearly marked on the outside.

11. QUESTIONS REGARDING THIS RFP

All questions regarding this RFP must be submitted via email:

Cesar Roldan, Director of Public Works

E-mail: croldan@hpca.gov

Questions regarding this proposal shall be submitted via email by **5:00 PM, MARCH 2, 2022**. In response to all questions received by this date, City may issue an Addendum and/or send out an email to all of the individuals that downloaded the RFP no later than March 9, 2022. The addendum and/or responses will be emailed to all RFP recipients on record.

12. PROPOSAL SUBMITTAL PROTOCOL

In order to be considered in the selection process, interested parties shall submit two (2) hard copies and one (1) electronic copy (flash drive) of their Proposals no later than **2:00 PM, MARCH 22, 2022**, to:

City of Huntington Park – City Clerk's Office

Attn: Cesar Roldan, Director of Public Works

6550 Miles Avenue

Huntington Park, CA 90255

Late proposals will not be accepted.

13. PRE-CONTRACTUAL EXPENSES IN RESPONDING TO THE RFP PREPARATION

The City shall not be liable for any pre-contractual expenses incurred by any consultant or by any selected consultant. Each consultant shall protect, defend, indemnify, and hold harmless the City from any and all liability, claims, or expenses whosoever incurred by, or on behalf of, the entity

participating in the preparation of its response to this RFP. Pre-contractual expenses are defined as expenses incurred by consultants and the selected consultant, if any, in:

- Preparing and submitting information in response to this RFP
- Negotiations with the City on any matter related to this procurement
- Costs associated with interviews, meetings, travel or presentations
- All other expenses incurred by a consultant prior to the date of award and a formal notice to proceed.

The City reserves the right to amend, withdraw and cancel this RFP. The City reserves the right to reject all responses to this request at any time prior to contract execution, or only award a partial contract for a limited scope of work. The City reserves the right to request or obtain additional information about any and all proposals.

ATTACHMENTS:

ATTACHMENT 1 – IMPORTANT DATES

ATTACHMENT 2 – CITY'S STANDARD PROFESSIONAL SERVICE AGREEMENT

ATTACHMENT 3 – CITY'S STANDARD INSURANCE REQUIREMENTS

ATTACHMENT 1 – IMPORTANT DATES

RFP ISSUED	February 18, 2022
REQUEST FOR INFORMATION DEADLINE: 5:00 PM	March 2, 2022
RELEASE OF INFORMATION REQUESTED: 5:00 PM	March 9, 2022
PROPOSAL DUE DATE/SUBMISSION DEADLINE: 2:00 PM	March 22, 2022
TENTATIVE CITY COUNCIL AWARD DATE	April 5, 2022
APPROXIMATE NOTICE TO PROCEED DATE	April 18, 2022

ATTACHMENT 2 - CITY'S STANDARD PROFESSIONAL SERVICE AGREEMENT



PROFESSIONAL SERVICES AGREEMENT

(Engagement: [SERVICE BEING PROVIDED])

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this [DATE] (hereinafter, the "Effective Date"), by and between the CITY OF HUNTINGTON PARK, a California municipal corporation ("CITY") and [NAME OF CONSULTANT], a California Corporation <INSERT OTHER FORM OF ENTITY> (hereinafter, "CONSULTANT"). For the purposes of this Agreement CITY and CONSULTANT are sometimes hereinafter individual referred to as a "Party" and collectively referred to as "Parties."

RECITALS

This AGREEMENT is made and entered into with respect to the following facts:

WHEREAS, CITY has determined that it requires professional services from a consultant to [BRIEFLY DESCRIBE THE CONSULTING SERVICES TO BE PERFORMED].

WHEREAS, on Effective Date, the CITY entered into a Professional Services Agreement (the "Master Agreement") with [NAME OF CONSULTANT] to provide [SERVICES]; and

WHEREAS, CONSULTANT represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees; and

WHEREAS, CONSULTANT further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the execution of this Agreement was approved by the Huntington Park City Council at its Regular Meeting of [DATE].

NOW, THEREFORE, for and in consideration of performance by the Parties of the mutual covenants and conditions herein contained, the CITY and CONSULTANT agree as follows:

I.
ENGAGEMENT TERMS

- 1.1 SCOPE OF SERVICES: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONSULTANT agrees to perform the services and tasks set forth in that certain document entitled "Scope of Services" and attached hereto as **Exhibit "A"** (hereinafter referred to as the "**Scope of Services**"). CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and work necessary to competently perform and timely complete the services and tasks as set forth in the Scope of Services. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally by the capitalized term "Work."
- 1.2 TERM: The term of this Agreement shall commence at 12:00 a.m. on the Effective Date. This Agreement shall have an initial term of [NUMBER] years commencing from the Effective Date unless terminated as provided elsewhere in this Agreement (hereinafter, the "Term"). The term of this Agreement shall expire at 11:59 p.m. on [INSERT DATE] (hereinafter, the "Expiration Date"), unless extended by written agreement or terminated in accordance with this Agreement. Upon the conclusion of the Term, this Agreement may be renewed for a [YEARS] year extension term, upon mutual agreement of the Parties and approval from City Council, unless either Party issues written notice sixty (60) days in advance of its intent not to authorize an additional extension term. Nothing in this Section shall operate to prohibit or otherwise restrict the CITY's ability to terminate this Agreement at any time for convenience or for cause as further set out herein.
- 1.3 COMPENSATION: During the term of this Agreement and any extension term provided herein, CONSULTANT shall perform the Services set forth in Section 1.2 above, at the rates of compensation set forth in the Rate Schedule reflected in **Exhibit "B"**. Subject to the CPI Index Adjustment section of **Exhibit "B"**, CONSULTANT further agrees that the total compensation for the Work shall not exceed the sum total of \$ [AMOUNT], (hereinafter, the "Contract Price"), and also not exceed the total sum of \$[AMOUNT] DOLLARS per year / (\$[AMOUNT]) per month (hereinafter, the "Base Fee"). CONSULTANT shall not exceed the Contract Price unless such added expenditure is first approved by the CITY Council acting in consultation with the City Manager. In the event CONSULTANT's charges are projected to exceed the Contract Price prior to the expiration of the Term or any single extension term, CITY may suspend CONSULTANT's performance of any additional Work outside the Work as defined in Exhibit A, pending CITY approval of any anticipated expenditures in excess of the Contract Price or any other CITY-approved amendment to the compensation terms of this Agreement.
- 1.4 PAYMENT OF COMPENSATION: On the first of each month, CONSULTANT shall submit to CITY an itemized invoice for that month's Base Fee and indicating the additional services and tasks performed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT's monthly compensation is a

function of hours worked by CONSULTANT's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY shall pay any undisputed amounts. Within thirty (30) calendar days of receipt of each invoice, CITY shall notify CONSULTANT in writing of any disputed amounts included in the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.

- 1.5 ACCOUNTING RECORDS: CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the reasonable right to access and examine such records, without charge. CITY shall own and further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.
- 1.6 ABANDONMENT BY CONSULTANT: In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONSULTANT shall deliver to CITY immediately and without delay, all written materials, including any electronic communications, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

II.

PERFORMANCE OF AGREEMENT

- 2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the City Manager (hereinafter, the "CITY Representative") to act as its representative for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representative or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONSULTANT shall not accept directions or orders from any person other than the CITY Representative or their designee.
- 2.2 CONSULTANT REPRESENTATIVE: CONSULTANT hereby designates [WHO CONSULTANT DESIGNATES] to act as its representative for the performance of this Agreement (hereinafter, "CONSULTANT Representative"). CONSULTANT Representative shall have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. CONSULTANT Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the

CONSULTANT Representative shall constitute notice to CONSULTANT. CONSULTANT may, by written notice to CITY, advise CITY of any change in CONSULTANT Representative.

2.3 COORDINATION OF SERVICE: CONFORMANCE WITH REQUIREMENTS:

CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONSULTANT shall be subject to inspection and approval by CITY Representatives or their designees.

2.4 STANDARD OF CARE: PERFORMANCE OF EMPLOYEES: CONSULTANT represents, acknowledges and agrees to the following:

- A. CONSULTANT shall perform all Work skillfully, competently and in accordance with industry standards of CONSULTANT's profession;
- B. CONSULTANT shall perform all Work in a manner in accordance with this Agreement;
- C. CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
- D. CONSULTANT shall be knowledgeable and subject to CITY ordinances, rules and regulations, standard operating procedures, and the supervisory chain of command;
- E. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
- F. All of CONSULTANT's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and
- G. Except as otherwise set forth in this Agreement, all of CONSULTANT's employees and agents (including but not limited to subCONSULTANTS and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT shall perform, at CONSULTANT's own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT's failure to comply with its obligation set out herein or failure on the part of CONSULTANT's employees, agents, CONSULTANTS, subCONSULTANTS and subconsultants to fulfill its obligations herein. Such effort by CONSULTANT to

correct any errors or omissions shall be commenced as soon as reasonably practicable upon their discovery or notice by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing, in accordance with applicable industry standards. The Parties acknowledge and agree that CITY's acceptance of any work performed by CONSULTANT or on CONSULTANT's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and in accordance with applicable industry standards of CONSULTANT's profession.

2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT's duties or obligations under this Agreement without the prior written consent of the CITY, which consent shall not be unreasonably withheld. CITY shall have up to sixty (60) calendar days to consider any proposed assignment by CONSULTANT. CONSULTANT can withhold consent where the CITY determines that the proposed assignee does not have the financial capacity to comply with the terms of this Agreement. In the absence of CITY's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONSULTANT: The Work shall be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent CONSULTANT basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not 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 and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. 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, workers' compensation insurance and the like.

2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONSULTANT's officers, employees, agents, CONSULTANTS, subCONSULTANTS or subconsultants is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT's officers, employees, agents, CONSULTANTS, subCONSULTANTS or subconsultants fail or refuse to perform the Work in accordance with this Agreement, such officer, employee, agent, CONSULTANT, subCONSULTANT or subconsultant shall be promptly removed by CONSULTANT and shall not be reassigned to perform any of the Work.

2.8 BUSINESS LICENSE: Consultant shall obtain a City business license prior to commencing performance under this Agreement.

2.9 COMPLIANCE WITH LAWS: CONSULTANT shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT shall at all times comply with such laws, ordinances, codes and regulations. Without limiting the generality of the foregoing, if CONSULTANT is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of California pursuant to section 2105 and 17451 of the California Corporations Code. The CITY, its officers and employees shall not be liable at law or equity occasioned by failure of CONSULTANT to comply with this Section. CONSULTANT's compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements. To the extent that any changes in applicable law result in an increase in CONSULTANT's cost of performance, the Parties shall negotiate in good faith to reach a mutually agreeable price adjustment. Should the Parties fail to reach such an agreement within 30 days (or such other agreeable time period) of CONSULTANT's notice to CITY of its increased cost of performance, either Party may terminate this Agreement upon 60 days' written notice.

- I. In the event that water treatment violations occur following the effective date of this Agreement, subject to Sub-Section (b) of Section 7.25 below and the applicable Force Majeure provisions, the CONSULTANT shall, in respect of violations that may be imposed by Applicable Law and to the extent due to CONSULTANT's fault, be responsible for: fines, penalties, or damages. Prior to settlement or payment of any such fines, penalties or damages, the CONSULTANT reserves the right to contest government or private actions, suits or proceedings for violations through administrative procedures or otherwise.
- II. To the extent that violations of applicable laws, rules, regulations or permits are caused by failures in the facilities or causes beyond CONSULTANT's control, including the CITY's failure to approve recommended repairs or maintenance, CONSULTANT will use its best efforts to maximize performance of the Facilities but shall not be responsible for associated violations or damages, fines or penalties which result.

- 2.10 NON-DISCRIMINATION: In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, subCONSULTANT, subconsultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition or sexual orientation. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation. CONSULTANT will cause the foregoing provision to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.
- 2.11 CONFLICTS OF INTEREST: CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by CONSULTANT under this Agreement, or which would conflict in any manner with the performance of its services hereunder. During the term of this Agreement, CONSULTANT shall not perform any work for another person or entity for whom CONSULTANT was not working at the Effective Date if both (i) such work would require CONSULTANT to abstain from a decision under this Agreement pursuant to a conflict of interest statute; and (ii) CITY has not consented in writing prior to CONSULTANT'S performance of such work.
- 2.12 PERSONNEL: CONSULTANT represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by CONSULTANT or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. CONSULTANT reserves the right to determine the assignment of its own employees to the performance of CONSULTANT'S services under this Agreement, but CITY reserves the right, for good cause, to require CONSULTANT to exclude any employee from performing services on CITY'S premises. <Name of individual> shall be CONSULTANT'S project administrator and shall have direct responsibility for management of CONSULTANT'S performance under this Agreement. No change shall be made in CONSULTANT'S project administrator without CITY'S prior written consent.
- 2.13 OWNERSHIP OF WRITTEN PRODUCTS: All reports, documents or other written material ("written products") developed by CONSULTANT in the performance of this Agreement shall be and remain the property of CITY without restriction or limitation upon its use or dissemination by CITY. CONSULTANT may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by CONSULTANT.
- 2.14 CITY RESPONSIBILITIES: During the term of this Agreement, the CITY shall:

- a) obtain and maintain all state, federal, and local permits and licenses required for ownership, operation and maintenance of the Facilities, including without limitation, the CITY's Permits;
- b) comply with Applicable Law relating to the management, ownership, operation, maintenance, repair and replacement of the Facilities (to the extent that the responsibility of complying with those laws is not specifically assumed by the CONSULTANT under this Agreement). The CONSULTANT shall not be responsible for the CITY's failure to comply with any provision of Applicable Law that is not otherwise specifically assumed by the CONSULTANT hereunder.

III.
INDEPENDENT CONTRACTOR

- 3.1 INDEPENDENT CONSULTANT STATUS: The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and shall at all times remain, wholly independent CONSULTANTS and are not officials, officers, employees, departments or subdivisions of CITY. CONSULTANT shall be solely responsible for the negligent acts and/or omissions of its employees, agents, CONSULTANT, and SUBCONSULTANT. CONSULTANT and all persons retained or employed by CONSULTANT shall have no authority, express or implied, to bind CITY in any manner, nor 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 to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing. Neither the CITY nor any of its elected officials, officers or agents shall have control over the conduct of the CONSULTANT except as expressly set forth in this Agreement. The CONSULTANT shall not at any time or in any manner represent that he is in any manner an elected official, officer, employee or agent of the CITY. Except as provided in this Agreement, CITY shall not pay salary, wages, or other compensation to CONTRACTOR for performance hereunder for CITY. CITY shall not be liable for compensation to CONSULTANT, CONSULTANT'S employees or CONSULTANT'S subcontractors for injury or sickness arising out of performing services hereunder. Further, the CONSULTANT is not entitled to any benefit typically associated with an employee, such as medical, sick leave or vacation benefit.
- 3.2 The parties further acknowledge and agree that nothing in this Agreement shall create or be construed to create a partnership, joint venture, employment relationship or any other relationship except as set forth in this Agreement.
- 3.3 CITY shall not deduct from the compensation paid to CONSULTANT any sums required for Social Security, withholding taxes, FICA, state disability insurance or any other federal, state or local tax or charge which may or may not be in effect or hereinafter enacted or required as a charge or withholding on the compensation paid to CONSULTANT. CITY shall have no responsibility to provide CONSULTANT, its employees or subcontractors with workers' compensation or any other insurance.

IV.
INSURANCE

- 4.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONSULTANT will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONSULTANT shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONSULTANT shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per occurrence and Four Million Dollars (\$4,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
 - B. Automobile Liability Insurance: CONSULTANT shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
 - C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California. However, if the CONSULTANT has no employees, for example a sole practitioner or a partner in a firm with only contracted support staff, then Workers' Compensation is not required by the State. CONSULTANT shall the city's form stating they are either the owner of the organization or a partner, and are exempt from the State's workers' compensation requirements because they have no employees and agree to hold the Entity harmless from loss or liability for such. A waiver must be signed.
- 4.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 4.3 The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).
- 4.4 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and

authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A:VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representatives are authorized to authorize lower ratings than those set forth in this Section.

- 4.5 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONSULTANT shall be primary to any coverage available to CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONSULTANT's insurance and shall not contribute with it.
- 4.6 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONSULTANT or CONSULTANT's officers, employees, agents, subCONSULTANTS or subconsultants from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against CITY.
- 4.7 VERIFICATION OF COVERAGE: CONSULTANT acknowledges, understands and agrees, that CITY's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY's financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONSULTANT warrants, represents and agrees that it shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.** All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONSULTANT's commencement of any work or any of the Work. Upon CITY's written request, CONSULTANT shall also provide CITY with certified copies of all required insurance policies and endorsements.

V. INDEMNIFICATION

- 5.1 The Parties agree that CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to this Agreement subject to Paragraph 5.2 and 5.3. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONSULTANT acknowledges that CITY would not

enter into this Agreement in the absence of CONSULTANT's commitment to indemnify, defend and protect CITY as set forth herein.

5.2 Work of CONSULTANT's Design Professionals Services: Except for direct claims by the Parties against each other, the duty to indemnify, defend and hold harmless as set forth under this subsection shall apply to the negligence, recklessness or willful misconduct of any individual who qualifies as a "design professional" within the meaning of subsection (c)(2) of section 2782.8 of the California Civil Code in so far as such negligence, recklessness or willful misconduct occurs in the performance work or activities that must be performed by a "design professional." Subject to the limitation of the preceding sentence, to the fullest extent permitted by law, CONSULTANT shall immediately defend and indemnify and hold harmless the CITY Indemnities, defined above, from and against any and all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of the negligence, recklessness, or willful misconduct of CONSULTANT or any of CONSULTANT's officers, employees, servants, agents, CONSULTANTS, subCONSULTANTS or authorized volunteers or any other person or entity involved by, for, or with or on behalf of CONSULTANT in the performance of design professional services under this Agreement. The Parties understand and agree that the duty of CONSULTANT to indemnify, defend and hold harmless pursuant to this subsection includes the duty to defend as set forth in section 2778 of the California Civil Code. CONSULTANT's obligation to indemnify applies except to the extent that it is finally adjudicated that the liability was caused by the active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, then CONSULTANT's indemnification obligation shall be reduced in proportion to the established comparative liability.

5.3 Work of All Other Persons/Non-Design Professionals: Except for direct claims by the Parties against each other and as otherwise provided under Section 5.2 of this Article, above, to the fullest extent permitted by law, CONSULTANT shall indemnify, defend (with counsel of the CITY'S choosing) and hold harmless the CITY Indemnities from and against all claims, demands, lawsuits, defense costs, civil, penalties, expenses, causes of action, and judgments at law or in equity, or liability of any kind or nature which the CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers may sustain or incur or which may be imposed upon them for injuries or deaths of persons, or damage to property of every nature arising out of, pertaining to, or caused by CONSULTANT's negligent performance under this Agreement, including but not limited to the negligent acts, errors or omissions of CONSULTANT or CONSULTANT's officers, employees, agents, servants, CONSULTANT, SUBCONSULTANTS or the failure of the same to comply with any of the duties, obligations or standards of care set forth herein. The duty to indemnify, defend and hold harmless under this subsection shall not encompass a duty to indemnify, defend or hold harmless for liability, loss, suit, damage, expense, or cost to the extent caused by the negligence or willful misconduct of any or all of the City Indemnities. The duty to indemnify, defend and hold harmless as set forth under this

subsection is intended to encompass liabilities, losses, damages, expense and costs not otherwise subject to subsection 4.2, above.

- 5.4 CONSULTANT shall reimburse CITY Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. CITY shall have the right to offset against the amount of any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Article and related to CONSULTANT's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 5.5 The obligations of CONSULTANT under this Article will 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 and CITY's elected and appointed officials, officers, employees, agents and volunteers.
- 5.6 CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subCONSULTANT or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. In the event CONSULTANT fails to obtain such indemnity obligations from others as required herein, CONSULTANT agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT's subCONSULTANTS or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY's choice.
- 5.7 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. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 5.8 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.
- 5.9 PERS ELIGIBILITY INDEMNITY: In the event that the CONSULTANT or any employee, agent, or subcontractor of the CONSULTANT providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the CITY, the CONSULTANT shall indemnify, defend,

and hold harmless the CITY for the payment of any employee and/or employer contributions for PERS benefits on behalf of the CONSULTANT or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the CITY. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, the CONSULTANT and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by the CITY, including but not limited to eligibility to enroll in PERS as an employee of the CITY and entitlement to any contribution to be paid by the CITY for employer contribution and/or employee contributions for PERS benefits.

VI. TERMINATION

6.1 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONSULTANT a minimum of five (5) calendar day's prior written notice of CITY's intent to terminate this Agreement. CONSULTANT shall have the right to terminate this Agreement for any reason on sixty (60) calendar days' written notice CITY. CONSULTANT'S notice of termination without cause shall specify the effective date of such termination, which effective date shall not be less than 90 days from the written notice. Upon such termination for convenience, CONSULTANT shall be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in Section 7.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY's written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 6.2, below, shall operate to prohibit or otherwise restrict CITY's ability to terminate this Agreement for convenience as provided under this Section.

6.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 6.2.B and 6.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event

of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONSULTANT shall cure the following Events of Defaults within the following time periods:

- i. Within three (3) business days of CITY's issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY's employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
- ii. Within thirty (30) calendar days of CITY's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 30-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 30-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 6.2B.ii that exceeds thirty (30) calendar days from the end of the initial 30-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to the following: (i) CONSULTANT's refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONSULTANT's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT's and/or its employees' disregard or violate any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT's refusal or failure to perform or observe any material covenant, condition, obligation or provision of this Agreement; and/or (vi) CITY's discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior**

to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY's failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONSULTANT's Default Notice to CITY.

- D. Either Party may also immediately suspend performance under this Agreement pending the Defaulting Party's cure of any Event of Default by giving said Party written notice of the Party's intent to suspend performance (hereinafter, a "Suspension Notice"). A Party may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT in accordance with this Agreement up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - i. Upon a thirty (30) day written notice to CONSULTANT, the CITY may terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;
 - iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT's breach of the Agreement or to terminate the Agreement; or
 - iv. The CITY may exercise any other available and lawful right or remedy.
- G. In the event CITY is in breach of this Agreement, CONSULTANT's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

- 6.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 6.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VII.
MISCELLANEOUS PROVISIONS

- 7.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all materials, equipment, reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT shall require all subCONSULTANTS and subCONSULTANT working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subCONSULTANT or subCONSULTANT as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.
- 7.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT shall not use CITY's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 7.3 NON-LIABILITY OF OFFICIAL AND EMPLOYEES OF THE CITY: No official or employee of CITY shall be personally liable to CONSULTANT in the event of any default or breach by CITY, or for any amount which may become due to CONSULTANT.

7.4 WARRANTIES: Each of the Parties represents and warrants to one another as follows:

A. It has received independent legal advice from its attorneys with respect to the advisability of entering into and executing this Agreement;

B. In executing this Agreement, it has carefully read this Agreement, knows the contents thereof, and has relied solely on the statements expressly set forth herein and has placed no reliance whatsoever on any statement, representation, or promise of any other party, or any other person or entity, not expressly set forth herein, nor upon the failure of any other party or any other person or entity to make any statement, representation or disclosure of any matter whatsoever; and

C. It is agreed that each party has the full right and authority to enter into this agreement, and that the person executing this Agreement on behalf of either party has the full right and authority to fully commit and bind such party to the provisions of this Agreement.

7.5 FALSE CLAIMS ACT: CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 et seq. and the California False Claims Act, Government Code Section 12650 et seq.

7.6 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONSULTANT:
[NAME AND ADDRESS]

CITY:
City of Huntington Park
[DEPARTMENT]
6550 Mile Avenue
Huntington Park, CA 90255
Attn: [REP FOR CITY, TITLE]
Phone: (626) XXXXX
Fax: (626) XXXXX

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

7.7 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is

reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

- 7.8 **SUBCONTRACTING:** CONSULTANT shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with subCONSULTANTS), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement with the exception of provisions relating to insurance requirements and indemnification.
- 7.9 **CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS:** CITY reserves the right to employ other CONSULTANTS in connection with the various projects worked upon by CONSULTANT.
- 7.10 **PROHIBITED INTERESTS:** CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 7.11 **TIME IS OF THE ESSENCE:** Time is of the essence for each and every provision of this Agreement.
- 7.12 **GOVERNING LAW AND VENUE:** This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, the venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.
- 7.13 **ATTORNEYS' FEES:** If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.
- 7.14 **SUCCESSORS AND ASSIGNS:** This Agreement shall be binding on the successors and assigns of the Parties.
- 7.15 **NO THIRD PARTY BENEFIT:** There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

- 7.16 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 7.17 SEVERABILITY: If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to the Agreement.
- 7.18 NON-WAIVER: The waiver by CITY or CONSULTANT of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term covenant or condition herein contained. In no event shall the making by CITY of any payment to CONSULTANT constitute or be construed as a waiver by CITY of any breach of covenant, or any default which may then exist on the part of CONSULTANT, and the making of any such payment by CITY with regard to such breach or default. No term, covenant or condition of this Agreement shall be deemed to have been waived by CITY or CONSULTANT unless in writing.
- 7.19 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 7.20 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 7.21 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 7.22 MISCELLANEOUS:
- A. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender, and the neuter and vice versa.
 - B. The representations and warranties made by the Parties to this Agreement shall survive the consummation of the transaction herein described.
 - C. The respective duties and obligations of the Parties hereunder shall be suspended while and so long as performance hereto is prevented or impeded by strikes, disturbances, riots, fire, severe weather, government action, war acts, acts of God, or any other cause similar or dissimilar to the foregoing which are beyond the control of the party from whom the affected performance was due.

D. Each Party has cooperated in the drafting and preparation of this Agreement. Therefore, this Agreement shall not be construed against any Party on the basis such Party drafted this Agreement or any provision within it.

7.23 **ENTIRE AGREEMENT:** This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONSULTANT prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.

7.24 **COUNTERPARTS:** This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONSULTANT and the two remaining counterparts shall remain with the City for archiving and day-to-day reference by the department responsible for administering the Agreement on the City's behalf.

7.25 Notwithstanding any provision to the contrary contained in this Agreement, in no event shall either party be liable for punitive damages.

7.26 **FORCE MAJEURE:** A party's performance of any obligation under this Agreement shall be excused if, and to the extent that, the party is unable to perform because of any event of Force Majeure. In any such event, the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or cause that excused performance hereunder. "Force Majeure" herein means an event which is beyond the reasonable control of a party, including without limitation: (a) acts of God; (b) flood, fire, earthquake, hurricane or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law that prevents CONSULTANT from performing its obligations as set forth in this Agreement; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority that prevents CONSULTANT from performing its obligations as set forth in this Agreement; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances, other than those involving the affected parties employees; (i) shortage of adequate power or transportation facilities.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF HUNTINGTON PARK:

[NAME OF CONSULTANT]

By: _____
[REP FOR CITY]
[TITLE]

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT "A"
SCOPE OF WORK
(SEE ATTACHED)

ATTACHMENT 3 - CITY'S STANDARD INSURANCE REQUIREMENTS

Office of the City Clerk

INSURANCE REQUIREMENTS

The City of Huntington Park requires that applicants must submit to the Office of the City Clerk proof of Liability Insurance in the following amounts.

Coverage shall be at least as broad as:

- **General Liability** – Minimum Limits of: *(Pending Event)*

- **\$1,000,000** per occurrence and **\$2,000,000** general aggregate;
- **\$2,000,000** per occurrence and **\$4,000,000** general aggregate; or
- Other: _____

for bodily injury, personal injury and property damage, including operations, products and completed operations

- **Automobile Liability** – if vendor has no owned autos, Code 8 (hired) and Code 9 (non-owned), with limits of no less than **\$1,000,000** per accident for bodily injury and property damage. (Note – required only if auto is used in performance of work)
- **Workers Compensation** – required by the State of California, with statutory limits, and employer's liability insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. (Note – required only if vendor has employees)

Special Events serving/selling alcohol must also include **Liquor Liability (limits will vary depending on event type)*

The General Liability policy is to contain, or to be endorsed to contain the following:

- The City of Huntington Park, its officers, officials, employees, and volunteers are to be covered as additional insureds.

Special Event Holder or Permittee shall hold harmless, defend and indemnify Entity and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the Entity.

Certificate Holder:

- City of Huntington Park, 6550 Miles Avenue, Huntington Park, CA 90255

Acceptability of Insurers:

- Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the Entity.

A typed legible name of the Authorized representative must accompany the signature on the certificate of insurance and/or the true and certified copy of the policy

**THE ENDORSEMENT PAGE MUST ACCOMPANY THE ACORD FORM
CERTIFICATE OF LIABILITY.**

SUBJECT TO CHANGE ACCORDING TO EVENT

ACORD
CERTIFICATE OF LIABILITY INSURANCE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed if SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on the certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER: Agent or Broker Name & Address

INSURED: Insured Name & Address

CONTACT: PHONE, FAX, E-MAIL, ADDRESS

INSURER(S) AFFORDING COVERAGE: Max #

COVERAGES: **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

TYPE OF INSURANCE	POLICY NUMBER	PERIOD OF INSURANCE	COVERAGE	LIMITS
<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input checked="" type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input type="checkbox"/> POLICY <input type="checkbox"/> AGGREGATE <input type="checkbox"/> LIMIT APPLIES PER <input type="checkbox"/> OTHER	Policy Number	Current Policy Period	<input type="checkbox"/> MED EXP (per person) <input type="checkbox"/> PERSONAL & ADV <input type="checkbox"/> GENERAL AGGREGATE <input type="checkbox"/> PRODUCTS & COMPLETION	Each Occurrence: \$2,000,000 Damage to Rented Premises \$1,000,000 Med Exp: \$5,000 Personal & Adv Injury: \$1,000,000 General Aggregate: \$4,000,000 Products: \$1,000,000
<input checked="" type="checkbox"/> AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRE/AUTO ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY	Policy Number	Current Policy Period	<input type="checkbox"/> LIMITED SINGLE LIMIT <input type="checkbox"/> BODILY INJURY (per person) <input type="checkbox"/> BODILY INJURY (per accident) <input type="checkbox"/> PROPERTY DAMAGE (per accident)	Combined Single Limit: \$1,000,000
<input type="checkbox"/> UMBRELLA LIAB <input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR	Policy Number	Current Policy Period	<input type="checkbox"/> EACH OCCURRENCE <input type="checkbox"/> AGGREGATE	Each Accident: \$1,000,000
<input type="checkbox"/> WORKERS COMPENSATION AND EMPLOYERS' LIABILITY <input type="checkbox"/> ANY/ALL <input type="checkbox"/> EMPLOYER'S LIABILITY <input type="checkbox"/> WORKERS COMPENSATION <input type="checkbox"/> EMPLOYER'S LIABILITY <input type="checkbox"/> EMPLOYER'S LIABILITY <input type="checkbox"/> EMPLOYER'S LIABILITY	Policy Number	Current Policy Period	<input type="checkbox"/> E.C. EACH ACCIDENT <input type="checkbox"/> E.C. DISEASE - EMPLOYEE <input type="checkbox"/> E.C. DISEASE - POLICY LIMIT	Each Accident: \$1,000,000

DESCRIPTION OF OPERATIONS, LOCATIONS, VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

"The City of Huntington Park, its officers, officials, employees, and volunteers are to be covered as additional insureds."

CERTIFICATE HOLDER: City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

CANCELLATION: SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE: SIGNATURE

ACORD 25 (2016/03) The ACORD name and logo are registered marks of ACORD

Must be in ACCORD 25 (2016/03) or ACCORD 25 (2014/01) any other form will NOT be acceptable

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 12 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – STATE OR GOVERNMENTAL
AGENCY OR SUBDIVISION OR POLITICAL
SUBDIVISION – PERMITS OR AUTHORIZATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE**State Or Governmental Agency Or Subdivision Or Political Subdivision:**

"The City of Huntington Park, its officers, officials, employees, and volunteers are to be covered as additional insureds."

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision shown in the Schedule, subject to the following provisions:

1. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. This insurance does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality, or
- b. "Bodily injury" or "property damage" included within the "products-completed operations hazard".

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.

ITEM 10



CITY OF HUNTINGTON PARK

Public Works Department
City Council Agenda Report

February 1, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL OF AWARD OF A CONSTRUCTION CONTRACT FOR CIP 2021-02 CPS AND ARS PROJECT

IT IS RECOMMENDED THAT CITY COUNCIL:

1. Award the construction contract to United Storm Water, Inc. for the fabrication and installation of CIP 2021-02 CPS and ARS Project as the lowest responsive, responsible bidder for an amount of \$258,087.50 payable from Account No. 111-8031-433.76-17;
2. Allow for a 10% contingency in the amount of \$25,808.75 payable from Account No. 111-8031-433.76-17;
3. Appropriate a total of \$158,896.25 from the unspent Measure W funds from fiscal year 2020-21 to Account No. 111-8031-433.76-17; and
4. Authorize the City Manager to execute the construction contract agreement and all applicable change orders.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

Automatic Retractable Screens (ARS) units prevent trash and debris from entering a catch basin (CB) during dry weather and moderate storm flows by keeping the trash and debris in the street gutter for collection by street sweepers. Connector Pipe Screen (CPS) unit prevents trash and debris from entering the storm drain system during dry weather and moderate storm flows by keeping the trash and debris inside the CB.

On December 21, 2021, the City Council authorized staff to advertise the Notice Inviting Bid (NIB) for CIP 2021-02 CPS and ARS Project (Project). The NIB was published on December 23, 2021, in a newspaper of general circulation. The contract specifications were posted on the City's website and were also accessed by vendors via redistribution through several electronic media outlets that post the bid specifications on e-bid boards.

CONSIDERATION AND APPROVAL OF AWARD OF A CONSTRUCTION CONTRACT FOR CIP 2021-02 CPS AND ARS PROJECT

February 15, 2022

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A bid opening was held on February 3, 2022 where the City Clerk opened and read two (2) bids. The following is the ranking of bids commencing from the lowest responsive, responsible bid:

Bidder (lowest bid first)	Total Bid Shown on Bidder's Proposal
United Storm Water, Inc.	\$258,087.50
Downstream Services, Inc.	\$300,421.00

United Storm Water, Inc. was the apparent low bidder. The bid analysis was conducted to ensure that the lowest responsive, responsible bid met all state and local requirements. Based on the investigation, staff's recommendation is to award United Storm Water, Inc. the contract agreement (Attachment 1) for an amount of \$258,087.50. The remaining bid proposal is available in the City Clerk's Office for review and the itemized bid results for comparative analysis is included as Attachment 2.

LEGAL REQUIREMENT

Safe, Clean Water Program: Cities receive direct funding via the Municipal Program proportional to the revenues generated within its boundaries. The Municipal Program is designed to maximize the ability of local governments to address local Stormwater and Urban Runoff challenges and opportunities. Projects and Programs are required to include a water quality benefit; multi-benefit projects and nature-based solutions are strongly encouraged. The Funding can be used for eligible activities such as project development, design, construction, effectiveness monitoring, operations and maintenance (including operation and maintenance of projects built to comply with the latest adopted MS4 permit), as well as for other programs and studies related to protecting and improving water quality in lakes, rivers and ocean.

Public Contract Code sections 20161 and 20162: The City adheres to State Public Contract Code sections 20161 and 20162, which mandates public works projects to be competitively bid. The public works competitive bidding laws are intended to eliminate favoritism, fraud, and corruption in the awarding of public contracts. The construction contract agreement conforms with all applicable State, local and public contracting codes and consents to the proper execution by the City Manager. The City Clerk's Office will release the bid bonds for all construction firms that were not selected after approval from the City Council.

FISCAL IMPACT/FINANCING

The adopted FY 2021-22 budget allocated \$125,000 for this project. The following table demonstrates the expenditure plan per fiscal year:

Fiscal Year	Budgeted Amount	County Allocation	Unspent
2020-21	\$365,850	\$419,513.82*	\$184,013.82
2021-22	\$393,960	\$430,000.00**	\$186,150.00

* City received \$419,513.82 – Payment Reference # GAX-PW-21000005444

** Los Angeles County's annual Municipal Program Fund estimate based on population

**CONSIDERATION AND APPROVAL OF AWARD OF A CONSTRUCTION CONTRACT
FOR CIP 2021-02 CPS AND ARS PROJECT**

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Recommendation is to allocate \$158,896.25 of the unspent Measure W fund balance of \$184,013.82 from FY 2020-21 towards this project. This amount was reserved for Catch Basin Cleaning and Street Sweeping, though were not accounted for and allocated towards those programs during fiscal year 2020-21. Staff recommends the appropriation of an additional \$158,896.25 into Account No. 111-8031-433.76-17.

United Storm Water, Inc. submitted the lowest and most responsive bid for \$258,087.50 in accordance with the contract specifications. Staff recommends the award of the contract agreement to United Storm Water, Inc. for an amount of \$258,087.50 and allow the City Manager in good faith to negotiate and approve all change orders up to an additional amount of \$25,808.75 payable from Account No. 111-8031-433.76-17.

CONCLUSION

Upon Council approval, staff will proceed with the recommended actions.

Respectfully submitted,



RICARDO REYES
City Manager



CESAR ROLDAN
Director of Public Works

ATTACHMENT(S)

1. United Storm Water, Inc. Contract Agreement
2. Bid Results

ATTACHMENT "A"



CONTRACTOR SERVICES AGREEMENT CIP 2021-02 CPS AND ARS PROJECT

THIS CONTRACTOR SERVICES AGREEMENT ("Agreement") is made and entered into this **15th day of February 2022** (hereinafter, the "Effective Date"), by and between the CITY OF HUNTINGTON PARK, a municipal corporation ("CITY") and **United Storm Water, Inc.** (hereinafter, "CONTRACTOR"). For the purposes of this Agreement CITY and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONTRACTOR agree as follows:

I. ENGAGEMENT TERMS

- 1.1 **SCOPE OF SERVICES:** Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Services**"). CONTRACTOR further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Services. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally by the capitalized term "Work."
- 1.2 **TERM:** This Agreement shall commence on **February 15, 2022 to December 31, 2022**. It is the CONTRACTOR'S responsibility to request an extension at least (2) days in advance of the expiration of term of the Agreement. Nothing in this Section shall operate to prohibit or otherwise restrict the CITY's ability to terminate this Agreement at any time for convenience or for cause.
- 1.3 **COMPENSATION:**
 - A. CONTRACTOR shall perform the various services and tasks set forth in the Scope of Services **Exhibit "A"**.
 - B. Section 1.3(A) notwithstanding, CONTRACTOR'S total compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum of **\$258,087.50** (hereinafter, the "Not-to-Exceed Sum"), unless such added expenditure is first approved by the CITY acting in consultation with the City Manager and the Director of Finance. In the event CONTRACTOR'S charges are projected to exceed the Not-to-Exceed Sum prior to the expiration of the Term or any single extension term, CITY may suspend CONTRACTOR'S performance pending CITY approval of any anticipated expenditures in excess of the Not-to-Exceed Sum or any other CITY-approved amendment to the compensation terms of this Agreement.
- 1.4 **PAYMENT OF COMPENSATION:** Following the conclusion of each calendar month, CONTRACTOR shall submit to CITY an itemized invoice indicating the services and tasks

performed during the recently concluded calendar month, including services and tasks performed. If the amount of CONTRACTOR'S monthly compensation is a function of hours worked by CONTRACTOR'S personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within **thirty (30) calendar days** of receipt of each invoice, CITY shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within **forty-five (45) calendar day** of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.

- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement during and for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities. The City shall own all accounting records maintained by the CONTRACTOR.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONTRACTOR shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONTRACTOR'S cessation or abandonment.

II. PERFORMANCE OF AGREEMENT

- 2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the City Manager and Director of Public Works (hereinafter, the "CITY Representatives") to act as its representatives for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representatives or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the CITY Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE AND CONTACT INFORMATION: CONTRACTOR hereby designates or designee to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.
- 2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by CITY Representatives or their designees.

- 2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:
- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR'S profession;
 - B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the CITY;
 - C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code section 1090 and the Political Reform Act (Government Code section 81000 *et seq.*);
 - D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
 - E. All of CONTRACTOR'S employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and
 - F. All of CONTRACTOR'S employees and agents (including but not limited to SUB-CONTRACTOR) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONTRACTOR shall perform, at CONTRACTOR'S own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONTRACTOR'S failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONTRACTOR'S employees, agents, and SUB-CONTRACTOR. Such effort by CONTRACTOR to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendar days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that CITY'S acceptance of any work performed by CONTRACTOR or on CONTRACTOR'S behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONTRACTOR, including but not limited to the representation that CONTRACTOR possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONTRACTOR'S profession.

- 2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are material to CITY'S willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR'S duties or obligations under this Agreement without the prior written consent of CITY. In the absence of CITY'S prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.
- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR'S strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONTRACTOR on an independent CONTRACTOR basis and not as an employee. CONTRACTOR reserves the right to perform

similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR'S competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of CITY and shall at all times be under CONTRACTOR'S exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONTRACTOR 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, workers' compensation insurance and the like.

- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR'S officers, employees, agents, or SUB-CONTRACTOR is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR'S officers, employees, agents, or SUBCONTRACTOR fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, or SUB-CONTRACTOR shall be promptly removed by CONTRACTOR and shall not be reassigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, state or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR'S compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, CONTRACTOR, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.
- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent CONTRACTOR and are not officials, officers, employees, departments or subdivisions of CITY. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, CONTRACTOR and SUB-CONTRACTOR. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, CITY, whether by CONTRACTOR or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general

aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and CONTRACTOR dual liability.

- B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.
 - C. Workers' Compensation Insurance / Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
 - 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A: VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representatives are authorized to authorize lower ratings than those set forth in this Section.
 - 3.4 PRIMACY OF CONTRACTOR'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.
 - 3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR officers, employees, agents, CONTRACTOR or SUB-CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against CITY.
 - 3.6 VERIFICATION OF COVERAGE: CONTRACTOR acknowledges, understands and agrees, that CITY'S ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY'S financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to CITY in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf and shall be on forms provided by the CITY if requested.** All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONTRACTOR'S commencement of any work or any of the Work. Upon CITY'S written request, CONTRACTOR shall also provide CITY with certified copies of all required insurance policies and endorsements.

IV. INDEMNIFICATION

- 4.1 The Parties agree that CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that CITY would not enter into this Agreement in the absence of CONTRACTOR'S commitment to indemnify, defend and protect CITY as set forth herein.
- 4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement.
- 4.3 CITY shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due CITY from CONTRACTOR as a result of CONTRACTOR'S failure to pay CITY promptly any indemnification arising under this Article and related to CONTRACTOR'S failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers.
- 4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR'S, SUB-CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY'S choice.
- 4.6 CITY does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.

V. TERMINATION

5.1 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar day's prior written notice of CITY'S intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY'S written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY'S ability to terminate this Agreement for convenience as provided under this Section.

5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:

- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 5.2.B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.
- B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:
- i. Within three (3) business days of CITY'S issuance of a Default Notice for any failure of CONTRACTOR to timely provide CITY or CITY'S employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to CITY or CITY'S employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
 - ii. Within fourteen (14) calendar days of CITY'S issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service

or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR'S refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONTRACTOR'S failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR'S and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR'S refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vii) CITY'S discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY shall cure any Event of Default asserted by CONTRACTOR within forty-five (45) calendar days of CONTRACTOR'S issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY'S failure to timely pay any undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONTRACTOR'S Default Notice to CITY.
- D. CITY, in its sole and absolute discretion, may also immediately suspend CONTRACTOR'S performance under this Agreement pending CONTRACTOR'S cure of any Event of Default by giving CONTRACTOR written notice of CITY'S intent to suspend CONTRACTOR'S performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY'S ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - i. Upon written notice to CONTRACTOR, CITY may immediately terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONTRACTOR, CITY may extend the time of performance;
 - iii. CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR'S breach of the Agreement or to terminate the Agreement; or

- iv. CITY may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY'S exercise of its remedies under this Agreement.

- G. In the event CITY is in breach of this Agreement, CONTRACTOR'S sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.

- 5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

- 5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. MISCELLANEOUS PROVISIONS

- 6.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all SUB-CONTRACTORS working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any CONTRACTOR as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.
- 6.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONTRACTOR shall not use CITY'S name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 6.3 FALSE CLAIMS ACT: CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., section 3789 et seq. and the California False Claims Act, Government Code section 12650 et seq.

- 6.4 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

United Storm Water, Inc.
14000 E. Valley Boulevard
Industry, CA 91746
Eduardo Perry Jr., President
Phone: (626) 961-9326

CITY:

City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255
Attn: Ricardo Reyes, City Manager
Phone: (323) 582-6161

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

- 6.5 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.6 SUBCONTRACTING: CONTRACTOR shall not SUB-CONTRACTOR any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. SUB-CONTRACTORS (including without limitation SUB-CONTRACTORS with Sub-CONTRACTOR'S), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.7 CITY'S RIGHT TO EMPLOY OTHER CONTRACTOR: CITY reserves the right to employ other CONTRACTOR in connection with the various projects worked upon by CONTRACTOR.
- 6.8 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.9 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.10 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.
- 6.11 ATTORNEYS' FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.

- 6.12 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.
- 6.13 NO THIRD-PARTY BENEFIT: There are no intended third-party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.
- 6.14 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.15 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 6.16 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 6.17 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 6.18 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 6.19 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.
- 6.20 COUNTERPARTS: This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterpart(s) shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONTRACTOR and the remaining two original counterparts shall be retained by CITY.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF HUNTINGTON PARK:

UNITED STORM WATER, INC.:

By: Ricardo Reyes
City Manager

By: Eduardo Perry Jr.
President

Date: _____

Date: _____

APPROVED AS TO FORM:

By: City Attorney

Date: _____

EXHIBIT "A"
SCOPE OF WORK
UNITED STORM WATER, INC.



ORIGINAL

CITY OF HUNTINGTON PARK
CPS & ARS INSTALLATION PROJECT
FY 2021/2022
PROJECT NO. 2021-02

SUBMITTED BY: UNITED STORM WATER INC.
626/961-9326

BID PROPOSAL
FOR
CPS & ARS INSTALLATION PROJECT
FY 2021/2022
PROJECT NO. 2021-02
IN THE CITY OF HUNTINGTON PARK

The undersigned declares that he/she has carefully examined the location of the proposed work, that he/she has examined the specifications and read the accompanying instructions to bidders, and hereby proposes to do all the work in accordance with said specifications for the amounts set forth below:

Construct improvements as reiterated above, located in the City of HUNTINGTON PARK, California, in accordance with the specifications for the unit price set forth in the following items:

ITEM	DESCRIPTION	UNIT	EST	UNIT PRICE	TOTAL COST
1	Mobilization and Demobilization , not to exceed 5% or \$15,000, including all labor, material, and equipment to provide cleanup of construction site, provide all bonds, insurances, move-in(s)/relocation(s), and/or phasing. This bid item also includes all items as necessary to complete the Project Work from the General Provisions which are not contained within the itemized Bid Schedule below.	LS	1	\$10,000.00	\$19,000.00
2	Traffic Control . Basic traffic control mostly outside of traveled lanes, including but not limited to project safety and project parking restriction signs, project information signs, and notifications. Not to exceed 2% of total bid or \$5,000.	LS	1	\$1.00	\$1.00
3	Storm Water Pollution Prevention not to exceed 2% of total bid or \$5,000.	LS	1	\$1.00	\$1.00
4	Confined Space Safety Measures not to exceed 2% of total bid or \$5,000, including bars and/or harnesses to retrieve workers from catch basins.	LS	1	\$500.00	\$500.00
5	Remove and dispose (recycle) existing curb inlet screens and/or bars at the number of <u>catch basin locations</u> listed in this schedule, as indicated on separate map exhibit, and as described in these Specifications. Contractor to <u>verify the quantity</u> of screens <u>per catch basin</u> location after review of data and bid accordingly.	EA	16	\$142.50	\$2,280.00
5a	Measurements of the curb inlets for the purpose of ordering the fabrication and installation of new screens. Price not to exceed \$50 per inlet.	EA	16	\$1.00	\$16.00
6	Remove and dispose (recycle) existing Connector Pipe Screens (CPS) at the number of <u>catch basin locations</u> listed in this schedule, as indicated on separate map exhibit, and as described in these Specifications. Contractor to <u>verify the quantity</u> and <u>type/quality</u> of CPS units within each catch basin location after review of data and bid accordingly.	EA	43	\$142.50	\$6,127.50
6a	Measurements of the interior of the catch basin for the purpose of ordering the fabrication of new CPS units. Price not to exceed \$50 per catch basin.	EA	56	\$35.50	\$1,988.00

ITEM	DESCRIPTION	UNIT	EST	UNIT PRICE	TOTAL COST
7	Remove and dispose (recycle) existing surface-level grates at number of locations listed in this schedule, as indicated on separate map exhibit, and as described in these Specifications.	EA	12	\$75.00	\$900.00
7a	Measurements of the surface-level grates and frames for the purpose of ordering the fabrication and installation of new grates and baskets (CPS) below the grates. Price not to exceed \$50 per grate.	EA	12	\$1.00	\$12.00
8	Fabricate, deliver and install non-color-coated curb inlet screens {Automatic Retractable Screens (ARS)} Manufactured by Wing-Gate™ Industries at the number of catch basin locations listed in this schedule, as indicated on separate map exhibit, and as described in these Specifications. Contractor to verify the quantity of screens per catch basin location after review of data and bid accordingly.	EA	16	\$3,332.00	\$53,312.00
9	Fabricate, deliver and install Connector Pipe Screens (CPS) at the number of catch basin locations listed in this schedule, as indicated on separate map exhibit, and as described in these Specifications. Contractor to verify the quantity and type/quality of CPS units within each catch basin location after review of data and bid accordingly.	EA	56	\$658.00	\$36,848.00
10	Fabricate, deliver and install heavy-duty (traffic-rated) surface-level grate inlets at the locations indicated on separate exhibit and as described in these Specifications.	EA	12	\$3,309.00	\$39,708.00
11	Fabricate, deliver and install screens/baskets below the surface-level grates, at the locations indicated on separate exhibit and as described in these Specifications.	EA	12	\$675.00	\$8,100.00
12	Remove and reconstruct existing curb and gutter, up to ten (10) feet on each side of catch basin, at 465,467,468,469 Florence Avenue, 912 State Street, and at five (5) other locations as necessary during Construction.	LF	200	\$308.00	\$61,600.00
13	Paint or repaint on concrete surfaces, including "NO DUMPING FLOWS TO THE OCEAN", adjacent red curb painting, and staff gauges inside of catch basin. For restoration of existing painted markings, painting shall include a primer (white background) on existing faded markings before applying final coat.	EA	56	\$45.50	\$2,548.00
14	Remove and reconstruct asphalt, approximately two-hundred (200) square feet at a minimum 6-inch total asphalt thickness over compacted subgrade at 465,467,468, and 469 Florence, and at five (5) other locations as necessary during Construction.	SF	1,800	\$18.97	\$34,146.00
TOTAL AMOUNT BID IN FIGURES				\$258,087.60	

TOTAL BASE-BID AMOUNT BID IN WORDS:

Two hundred fifty-eight thousand eighty-seven and fifty cents

Dollars



Bidder's Signature

Eduardo Perry Jr., President

Title

United Storm Water, Inc.

Company Name

BID ALTERNATIVES
FOR
CPS & ARS INSTALLATION PROJECT
FY 2021/2022
PROJECT NO. 2021-02
IN THE CITY OF HUNTINGTON PARK

ALT. ITEM	ALTERNATIVE DESCRIPTION	UNIT	EST	ALT. UNIT PRICE	ALT. TOTAL COST
8a	Fabricate, deliver and install <u>color-coated</u> curb inlet screens {Automatic Retractable Screens (ARS)} Manufactured by Wing-Gate™ Industries at the number of <u>catch basin locations</u> listed in this schedule, as indicated on separate map exhibit, and as described in these Specifications. Contractor to <u>verify the quantity of screens per catch basin</u> location after review of data and bid accordingly.	EA	16	\$75. ⁰⁰	\$1,200. ⁰⁰

NOTICE INVITING SEALED BIDS
FOR
CPS & ARS INSTALLATION PROJECT
FY 2021/2022
PROJECT NO. 2021-02
IN THE CITY OF HUNTINGTON PARK

PUBLIC NOTICE IS HEREBY GIVEN that the City of HUNTINGTON PARK as CITY, invites sealed bids for the above stated project and will receive such bids in the offices of the City Clerk, 6550 Miles Avenue, HUNTINGTON PARK, California 90255, up to the hour of 2:00 p.m. on February 3, 2022. They will be publicly opened in the City Council Chambers at 2:00 p.m. on the above date.

Copies of the contract documents are available on the City's website (www.hpca.gov/bids.aspx). In order to be on the Plan Holder's List for this project, each bidder must download the plans and specifications from the City's website and provide their pertinent information. Bids will not be accepted unless the bidder is on the Plan Holder's List. All questions from Plan Holder are to be posted on the website and copied to the above email address.

To comply with SB 854, beginning January 1, 2015 the following applies:

1. No contractor or subcontractor may be listed on a bid proposal for public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
2. No contractor or subcontractor may be awarded a contract for public works on a public works project awarded on or after April 1, 2015, unless registered with the DIR.
3. The project is subject to compliance monitoring and enforcement by the DIR.
4. Require the prime contractor to post job site notices prescribed by regulation (regulation not created yet) or the City must post the notices itself.

The Contractor shall fill in the Department of Industrial Relations (DIR) Contractor Registration Number Form provided in Appendix "B" and submit it with the sealed Bid.

The CITY hereby affirmatively ensures that minority business enterprises will be afforded full opportunity to submit bids in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, sex, marital status or religion in any consideration leading to the award of contract.

BID PROPOSAL (CONT.)
FOR
CPS & ARS INSTALLATION PROJECT


FY 2021/2022
PROJECT NO. 2021-02

IN THE CITY OF HUNTINGTON PARK

ACKNOWLEDGEMENT

**BIDDER HAS REVIEWED
FIELD INSPECTIONS REPORTS AND PHOTOGRAPHS OF CATCH BASIN**

We United Storm Water, Inc. (Contractor's name) hereby certify that we have read the reports and reviewed the photographs of the catch basins posted on the City's website, and that I am familiar with the project, and that the review of the reports and photographs help me familiarize with the project scope and field conditions.

By:  Date: 2/2/22
Contractor Representative Signature

Eduardo Perry Jr., President
Print Name / Title

This form must be signed and attached to the bid.

BID PROPOSAL (CONT.)
FOR
CPS & ARS INSTALLATION PROJECT

FY 2021/2022
PROJECT NO. 2021-02

IN THE CITY OF HUNTINGTON PARK

SUBSTITUTION REQUEST FORM (1 OF 2)
FOR ALTERNATIVE MATERIALS/PRODUCTS

PROPOSED SUBSTITUTION(s):

N/A

Attach complete dimensional information and technical data needed to substantiate product substitution, including certifications and laboratory tests, if applicable.

Include complete information on changes to Drawings and/or Specifications which proposed substitution will require for its proper installation.

Where product substitutions are proposed at multiple locations, submit copies of plans showing in red each location where the product substitution is proposed.

Submit with request all necessary samples and substantiating data to prove equal quality and performance to that which is specified. Clearly mark manufacturer's literature to indicate equality in performance. Differences in quality of materials and construction shall be indicated.

Submit Manufacturer's Statement of Responsibility.

This form must be signed and attached to the bid.

BID PROPOSAL (CONT.)
FOR
CPS & ARS INSTALLATION PROJECT

FY 2021/2022
PROJECT NO. 2021-02

IN THE CITY OF HUNTINGTON PARK

SUBSTITUTION REQUEST FORM (2 OF 2)

**CONTRACTOR'S CERTIFICATION OF PERFORMANCE AND ASSUMPTION OF
LIABILITY FOR EQUAL PERFORMANCE**

We United Storm Water, Inc. (Contractor's name) hereby certify that the proposed substitution is equal to or better in all respects to the product specified and that the proposed substitution will, in all respects perform the function for which it is intended.

By: 
Contractor Representative Signature

Date: 2/2/22

Eduardo Perry Jr., President

Print Name / Title

This form must be signed and attached to the bid.

DESIGNATION OF SUBCONTRACTORS AND FABRICATORS

BIDDER proposes to subcontract certain portions of the work, which are in excess of one-half of one percent of the bid, and to procure materials and equipment from suppliers and vendors as follows:

<u>NAME, ADDRESS, LICENSE NO., AND PHONE NUMBER OF SUBCONTRACTORS, SUPPLIERS, AND VENDORS</u>	<u>PORTION OF WORK, MATERIALS, OR EQUIPMENT</u>
Wing-Gate Industries LLC 3725 E. 4th Street #1 Long Beach, CA 90814 310-592-8712	Items 8 & 8a: Supply ARS Only
Alhambra Foundry 1147 Meridian Ave Alhambra, CA 91803 626-289-4294	Item 10: Supply Traffic Grates Only
LNA Concrete Structures, Inc. P.O. Box 58 Chino Hills, CA 91709 909-393-1493	Items 12 & 14: All Portions of Work
Contractors License # 611949 DIR #1000007129	

Prior to award of contract, Contractor shall submit a list of suppliers and vendors, in writing, to the City Engineer.

NOTE: If Contractor is submitting an alternative supplier to

REFERENCES

The following are the names, addresses, and telephone numbers for three public agencies for which BIDDER has performed similar work (catch basin curb inlet screens (ARS) and/or connector pipe screens (CPS) within the past five (5) years:

1. City of Beverly
455 North Rexford Drive, Beverly Hills, CA 90210
Name and Address of Agency
Derek Nguyen; 310-285-2476
Name and telephone number of person familiar with project
\$505,916 Installation of Connector Pipe Screens and Automatic Retractable Screens June 2020
Contract amount Type of work Date completed
City of Carson
2. 701 E. Carson Street, Carson, CA 90745
Name and Address of Agency
Julio Gonzales; 310-830-7600 Ext. 1822
Name and telephone number of person familiar with project
\$1,486,900 Installation of Connector Pipe Screens and Automatic Retractable Screens March 2018
Contract amount Type of work Date completed
City of San Gabriel
3. 425 S. Mission Dr., San Gabriel, CA 91776
Name and Address of Agency
Tybalat Parhad; 626-308-2616
Name and telephone number of person familiar with project
\$165,533 Installation of Connector Pipe Screens August 2018
Contract amount Type of work Date completed

The following are the names, addresses, and telephone numbers of all brokers and sureties from whom BIDDER intends to procure insurance and bonds:

Commercial Surety Bond Agency
1411 N. Batavia St., Suite 201
Orange, CA 92867
Arturo Ayala
714-516-1232

Bolton & Company
3475 E. Foothill Blvd. # 100
Pasadena, CA 91107
Cassandra Rosales
626-535-1495

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

BIDDER certifies that in all previous contracts or subcontractors, all reports which may have been due under the requirements of any AGENCY, State, or Federal equal employment opportunity orders have been satisfactorily filed, and that no such reports are currently outstanding.

AFFIRMATIVE ACTION CERTIFICATION

BIDDER certifies that affirmative action has been taken to seek out and consider minority business enterprises for those portions of the work to be subcontracted, and that such affirmative actions have been fully documented, that said documentation is open to inspection, and that said affirmative action will remain in effect for the life of any contract awarded thereunder. Furthermore, BIDDER certifies that affirmative action will be taken to meet all equal employment opportunity requirements of the contract documents.

NON-COLLUSION AFFIDAVIT

BIDDER declares that the only persons or parties interested in this proposal as principals are those named herein; that no officer, agent, or employee of the CITY is personally interested, directly or indirectly, in this proposal; that this proposal is made without connection to any other individual, firm, or corporation making a bid for the same work and that this proposal is in all respects fair and without collusion or fraud.

BIDDER'S INFORMATION

BIDDER certifies that the following information is true and correct:

Bidder's Name United Storm Water, Inc.

Business Address: 14000 E. Valley Blvd.

Industry, CA 91746

Telephone 626/961-9326

State Contractor's License No. and Class: 768583 Class A, C21, HAZ, C31, C42, C27

Original Date Issued 9/14/1999 Expiration Date 9/30/2023

The following are the names, titles, addresses, and phone numbers of all individuals, firm members, partners, joint ventures, and/or corporate officers having a principal interest in this proposal:

Eduardo Perry Jr., President; 14000 E. Valley Blvd., Industry, CA 91746; 626/961-9326

Daniel C. Perry, Vice President; 14000 E. Valley Blvd., Industry, CA 91746; 626/961-9326

Robert Piña, Secretary/Treasurer ; 14000 E. Valley Blvd., Industry, CA 91746; 626/961-9326


The date of any voluntary or involuntary bankruptcy judgments against any principal having an interest in this proposal is as follows:
N/A

All current and prior DBA's, alias, and/or fictitious business names for any principal having an interest in this proposal are as follows:
N/A

IN WITNESS WHEREOF, BIDDER executes and submits this proposal with the names, title, hands, and seals of all forenamed principals this 2nd day of February, 2022

BIDDER United Storm Water, Inc.

The undersigned declares under penalty of perjury under the laws of the State of California that the representations made hereto are true and correct.


Signature of Contractor's Representative

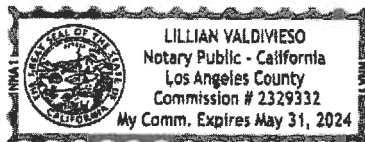
Eduardo Perry Jr.
Printed Name

President
Title

Subscribed and sworn to this 2nd day of February, 2022.

NOTARY PUBLIC

Lillian Valdivieso



Note: The standard printed bid bond form of any bonding company acceptable to the City of Huntington Park may be used in lieu of the following approved sample bond form, provided the security stipulations protecting the City of Huntington Park are not in any way reduced by use of the surety company's printed standard form.

**PROPOSAL GUARANTEE
BID BOND

FOR

CPS & ARS INSTALLATION PROJECT

FY 2021/2022
PROJECT NO. 2021-02

IN THE CITY OF HUNTINGTON PARK**

KNOW ALL MEN BY THESE PRESENTS that United Storm Water, Inc.
_____, as BIDDER, and
Arch Insurance Company, as SURETY, are held and firmly
bound unto the City of Huntington Park, as CITY, in the penal sum of Ten Percent of Amount Bid

dollars (\$ 10%), which is ten percent of the
total amount bid by BIDDER to CITY for the above stated project, for the payment of which sum,
BIDDER and SURETY agree to be bound, jointly and severally, firmly be these presents.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas BIDDER is about to
submit a bid to CITY for the above stated project, if said bid is rejected, or if said bid is accepted
and a contract is awarded and entered into by BIDDER in the manner and time specified, then this
obligation shall be null and void, otherwise it shall remain in full force and effect in favor of CITY.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals, this
27th day of January, 2022.

BIDDER* United Storm Water, Inc.

14000 E. Valley Blvd.
City Of Industry, CA 91746, (626) 961-9326

SURETY* Arch Insurance Company

865 South Figueroa Street, Suite 2700
Los Angeles, CA 90017 (213) 283-3517

Shaunna Rozelle Osirom, Attorney-in-Fact, 1411 N. Batavia St., Suite 201, Orange, CA 92867, (714) 516-1232
Subscribed and sworn to this _____ day of _____, 20____.

NOTARY PUBLIC _____

*Provide BIDDER/SURETY name, address and telephone number and the name, title, address
and telephone number of authorized representative.

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 February 2, 2022 before me, Lillian Valdivieso, Notary Public
(insert name and title of the officer)

personally appeared Eduardo C. Perry, Jr,
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.

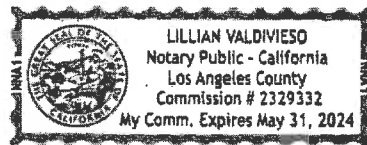
I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing
paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Lillian Valdivieso

(Seal)



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

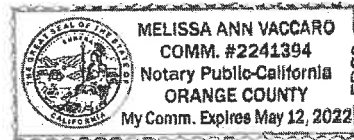
On 01/27/2022 before me, Melissa Ann Vaccaro, Notary Public
(insert name and title of the officer)

personally appeared Shaunna Rozelle Ostrom
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 Melissa Ann Vaccaro (Seal)
Melissa Ann Vaccaro



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated. Not valid for Note, Loan, Letter of Credit, Currency Rate, Interest Rate or Residential Value Guarantees.

POWER OF ATTORNEY

Know All Persons By These Presents:

That the Arch Insurance Company, a corporation organized and existing under the laws of the State of Missouri, having its principal administrative office in Jersey City, New Jersey (hereinafter referred to as the "Company") does hereby appoint:

Arturo Ayala, Ben Stong, Daniel Huckabay, Dwight Reilly, Frank Morones, Michael D. Stong, R. Nappi and Shaunna Rozelle Ostrom of Orange, CA (EACH)

its true and lawful Attorney(s) in fact, to make, execute, seal, and deliver from the date of issuance of this power for and on its behalf as surety, and as its act and deed:

Any and all bonds, undertakings, recognizances and other surety obligations, in the penal sum not exceeding Ninety Million Dollars (\$90,000,000.00).

This authority does not permit the same obligation to be split into two or more bonds in order to bring each such bond within the dollar limit of authority as set forth herein.

The execution of such bonds, undertakings, recognizances and other surety obligations in pursuance of these presents shall be as binding upon the said Company as fully and amply to all intents and purposes, as if the same had been duly executed and acknowledged by its regularly elected officers at its principal administrative office in Jersey City, New Jersey.

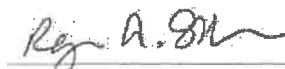
This Power of Attorney is executed by authority of resolutions adopted by unanimous consent of the Board of Directors of the Company on December 10, 2020, true and accurate copies of which are hereinafter set forth and are hereby certified to by the undersigned Secretary as being in full force and effect:

"VOTED, That the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, or the Secretary shall have the power and authority to appoint agents and attorneys-in-fact, and to authorize them subject to the limitations set forth in their respective powers of attorney, to execute on behalf of the Company, and attach the seal of the Company thereto, bonds, undertakings, recognizances and other surety obligations obligatory in the nature thereof, and any such officers of the Company may appoint agents for acceptance of process."

This Power of Attorney is signed, sealed and certified by facsimile under and by authority of the following resolution adopted by the unanimous consent of the Board of Directors of the Company on December 10, 2020:

VOTED, That the signature of the Chairman of the Board, the President, or the Executive Vice President, or any Senior Vice President, of the Surety Business Division, or their appointees designated in writing and filed with the Secretary, and the signature of the Secretary, the seal of the Company, and certifications by the Secretary, may be affixed by facsimile on any power of attorney or bond executed pursuant to the resolution adopted by the Board of Directors on December 10, 2020, and any such power so executed, sealed and certified with respect to any bond or undertaking to which it is attached, shall continue to be valid and binding upon the Company. In Testimony Whereof, the Company has caused this instrument to be signed and its corporate seal to be affixed by their authorized officers, this 22nd day of November, 2021.

Attested and Certified



Regan A. Shulman, Secretary

STATE OF PENNSYLVANIA SS
COUNTY OF PHILADELPHIA SS

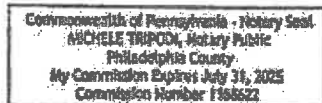


Arch Insurance Company



Stephen C. Ruschak, Executive Vice President

I, Michele Tripodi, a Notary Public, do hereby certify that Regan A. Shulman and Stephen C. Ruschak personally known to me to be the same persons whose names are respectively as Secretary and Executive Vice President of the Arch Insurance Company, a Corporation organized and existing under the laws of the State of Missouri, subscribed to the foregoing instrument, appeared before me this day in person and severally acknowledged that they being thereunto duly authorized signed, sealed with the corporate seal and delivered the said instrument as the free and voluntary act of said corporation and as their own free and voluntary acts for the uses and purposes therein set forth.



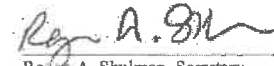


Michele Tripodi, Notary Public
My commission expires 07/31/2025

CERTIFICATION

I, **Regan A. Shulman**, Secretary of the Arch Insurance Company, do hereby certify that the attached Power of Attorney dated **November 22, 2021** on behalf of the person(s) as listed above is a true and correct copy and that the same has been in full force and effect since the date thereof and is in full force and effect on the date of this certificate; and I do further certify that the said Stephen C. Ruschak, who executed the Power of Attorney as Executive Vice President, was on the date of execution of the attached Power of Attorney the duly elected Executive Vice President of the Arch Insurance Company.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and affixed the corporate seal of the Arch Insurance Company on this 27th day of January, 2022.



Regan A. Shulman, Secretary

This Power of Attorney limits the acts of those named therein to the bonds and undertakings specifically named therein and they have no authority to bind the Company except in the manner and to the extent herein stated.

PLEASE SEND ALL CLAIM INQUIRIES RELATING TO THIS BOND TO THE FOLLOWING ADDRESS:

Arch Insurance - Surety Division
3 Parkway, Suite 1500
Philadelphia, PA 19102



To verify the authenticity of this Power of Attorney, please contact Arch Insurance Company at SuretyAuthentic@archinsurance.com
Please refer to the above named Attorney-in-Fact and the details of the bond to which the power is attached.

BIDDER'S VIOLATION OF LAW/SAFETY QUESTIONNAIRE

FOR

CPS & ARS INSTALLATION PROJECT

FY 2021/2022

PROJECT NO. 2021-02

IN THE CITY OF HUNTINGTON PARK

In accordance with Government Code Section 14310.5, the BIDDER shall complete, under penalty of perjury, the following questionnaire.

QUESTIONNAIRE

Has the Bidder, any officer of the bidder or any employee of the Bidder who has a proprietary interest in the Bidder ever been disqualified, removed or otherwise prevented from bidding on or completing a Federal, State or local government project because of a violation of law or a safety regulation?

Yes ☒ _____

No ☐ _____

If the answer is yes, explain the circumstances in the space provided.

In 2018 United Storm Water was temporarily suspended from bidding on federally funded contracts pending the outcome of a legal matter. The matter has since been resolved and United has no restrictions whatsoever from bidding on any contract of any kind.

January 18, 2022

CITY OF HUNTINGTON PARK

ADDENDUM NO. 1

NOTICE INVITING BID: CIP 2021-02 CPS & ARS INSTALLATION PROJECT

The following modifications are hereby made a part of the Contract Documents and supersede, replace, and/or amend the provisions included in the original specifications and contract documents. The following addendum is hereby made a part of the Notice Inviting Bid:

1. **Project bid date has been extended to Thursday, February 3, 2022 at 2:00 p.m.**
2. **Review revised contract specifications dated .**

The following questions were posed by individuals interested in the Notice Inviting Bid for CIP 2021-02 CPS & ARS Installation Project. The answers to the questions are highlighted in yellow.

1. Are Advanced Drainage Systems, Inc. (ADS) Connector Pipe Screens (CPS) acceptable for this project?

Contractor would need to provide specifications for approved-equal by the Engineer. ADS systems are acceptable provided they are "equal" to the materials (grades of steel) and dimensions (thicknesses, lengths, widths), described on Pages SP-26 to SP-27 and to the configuration shown in the Appendix (sample United Stormwater CPS).

2. Which CPS device brand(s) are currently installed?

The Bid Schedule on pages P-2 to P-3 of the Specs has been revised. There are a total of 43 catch basins (out of the 56 total catch basins in the Bid Schedule) that have an existing CPS unit within the catch basin. The other 13 catch basins do not have an existing CPS unit.

3. Which ARS device brand(s) are currently installed (if any)?

At this time, it is not known what brand of screens are installed. The locations of the catch basins which will receive ARS units (16 locations per the Bid Schedule) have not been established at this time. Some may not have an existing ARS unit(s). The City will make a determination on which catch basin locations will receive replacement (or new) ARS units based on the bid price. The locations will be among those shown in the maps contained in the Appendix. Most likely, the locations will be key areas within the City that have high trash accumulation

(commercial areas with restaurants). Please note that although most catch basins require just one ARS unit, some locations may require more than one ARS unit.

4. Which screen/basket (filter) brand(s) are currently installed (if any)?

None or brand is not known.

5. Will the City accept Bio Clean ARS screens as an approved alternative?

It is the City's intent to install only Wing-Gate™ ARS units (sole-source). Substitutions require completion of the Substitution Request Form following the Bid Schedule. After Award of Contract, the Contractor can choose to provide submittal/specifications on the Bio-Clean product for review, but we encourage the Contractors to price their bid according to Wing-Gate™ ARS units.

6. Will the contractor need to obtain encroachment and/or traffic control permits, and if so, will the fees be waived?

Traffic control per WATCH manual. No fee encroachment permit will be issued.

7. Will the city provide a designated disposal site at no additional cost to the contractor?

Yes.

8. Will the city provide a decant area such as a wash rack or permitted discharge location at no additional cost to the contractor?

Yes.

9. Will the city provide a location for a Transportable Treatment Unit (TTU) bin for dumping material at no additional cost to the contractor?

Yes.

10. Will the city provide metered water at no additional cost to the contractor?

Contractor must obtain a water meter from the City and pay for all subsequent costs.

11. Are any of the catch basins (cleaning/installation) wet or dry wells?

No wells; City catch basins that are part of the storm drain network.

12. Are any of the catch basins located within an active railroad right-of-way?

No.

13. The bid proposal line items have a quantity of (43) measurements for the purpose of CPS installations but has (56) CPS fabrication/installation. Should the quantity of measurements be the same as the quantity of installations?

Yes, the quantity should be the same. Please see attached for revised Specs (Bid Schedule) showing a quantity of fifty-six (56) for:

- Bid Item 6a (CPS Measurements)
- Bid Item 9 (CPS Fabrication and Installation)
- Bid Item 13 (Painting)

Of the 56 CPS Units, 13 are new installations and 43 are replacements

14. Will the City provide stencils for painting/repainting the inlets?

No.

15. What sizes should the contractor to use for pricing regarding ARS screens, CPS screens, surface-level grates, and screens/baskets?

See contract specifications for details and general dimensions. The maps in the Appendix provide the locations of the catch basins (ARS, CPS, and Surface Grates). Separate inspection reports (with photos) are available from the City for download. Contractor conduct due-diligence prior to bid.

16. Does the City have any requirements for quick-release lids on the CPS screens?

The Specifications indicate that the top lids/deflector plates are to be fixed. Quick-release features in this case would be optional. If the quick-release feature is an extra-cost item, we advise the Contractors to price their bid according to the base specification to be more likely to be awarded the project since the City is seeking only fixed lids at this time.

17. Field Inspection Reports and Photographs (ref. page 3, 3rd paragraph)—Please provide the noted reports and photos as they are not currently available per the provided web link.

Will be made available the week of January 17th.

18. Removal of Water (ref. page GS-2) - Is the City aware of any catch basin locations holding excessive standing water?

Not to our knowledge. Inspection reports with photos were prepared from August through October, 2021, and conditions may have changed since the time of the photographs. Based on the 56 locations identified in the maps in the Appendix,

and the separate reports, the Contractors may conduct site visits as part of their due-diligence prior to bid.

19. Please confirm if the Contractor will be responsible for pre-product installation catch basin cleaning and disposal of extracted waste, or if this work will be performed by the City.

Within reason, will be performed by the City or third party.

20. Are any of the catch basins to be retrofitted County owned?
- If yes, how many are County owned?
 - If yes, will the City be paying for the corresponding LA County flood control construction permit or will this be the responsibility of the Contractor?
 - If yes, please provide a separate line item/allowance for this expense.

None. The County-owned catch basins will be covered under a separate bid at a later point in time. At this time, this project includes only City-owned catch basins.

21. Anchorage Systems (ref. page SP-26)—List shows 1/2" x 1 5/8" type 316 SS anchor bolts. Would 3/8" x 3" stainless steel concrete wedge anchor bolts be acceptable? This is the current accepted anchoring bolt type for this application.

Yes.

22. ARS Lettering (ref. page SP-26)—The bid specs call out for 2-inch high screen lettering to include the words "City of Huntington Park". Per Wing-Gate Industries this requirement would cause the following issues (Supplier, Terry Flury, Cc'd on this email):

- 2-inch high lettering would be too small. The minimum height lettering that could be fabricated in metal would be 2.5 inches.
- Lettering such as this would greatly increase the price of the ARS devices as separate drawings would need to be made for every single screen since each screen will be a different size.
- Lettering such as this would adversely affect the integrity/strength of the device, and therefore may not be covered under the 3-year warranty requirement since this is a design deviation that adversely affects the integrity of the device. If kicked/impacted with force the screen could become damaged or break.
- Trash and debris would become ensnared on the lettering due to all of the square edges/shapes.
- As an alternative, Wing-Gate Industries suggests installation of a small plate on the upper corner of the device stating "Property of Huntington Park" in two or three text lines as shown on the drawing, sheet 1.

Acknowledged.

23. Work Site Safety Official (ref. page SP-15)—Please define what qualifications the Project Safety Official must have. Is the City requiring that an Environmental Health and Safety professional be onsite at all times?

There are no specific requirements other than typical safety certifications (i.e. OSHA, etc.). The Work Site safety official should be up-to-date on safety training. The Work Site safety official should be identified by the Contractor in writing prior to the Pre-Construction Meeting.

24. Please provide a separate line item for color coated ARS devices as an alternate bid item as this would greatly increase the overall cost of the device. This requirement would require professional "powder coating" for a lasting and good appearance. Normal spray paint would not adhere to the stainless-steel material.
- a. In doing so please state that bid line item 8 would not require color coatings.

Please see revised Bid Schedule with alternative Bid Item for color-coating of ARS Screens (Bid Alternative 8A).

25. Please confirm if the painting of staff gauges in catch basins where CPS are installed is to be included in bid line item 9 or 13.

Staff gauges should be painted under Bid Item 13. Please see revised Bid Schedule for brief language added under Bid Item 13.

Notice Inviting Bid

End of Addendum No. 1 and Request for Information

By order of the City of Huntington Park, Public Works Department

By: 
Cesar Roldan, Director of Public Works

Date: January 18, 2022

Project bid date has been extended to Thursday, February 3, 2022 at 2:00 p.m.

Any and all notifications or Addendums must be acknowledged via signature by the Bidder and made part of and incorporated as part of the Bidder's proposal.

Statement of Bidder Acknowledgment

Please sign the acknowledgment below and include it as part of your Bid Proposal.

United Storm Water, Inc.
Contractor Name


Signature Eduardo Perry Jr.

2/2/22
Date

President
Title

[Return to Profile](#)

Company Certifications

For any questions regarding certifications please contact the Bureau of Contract Administration, Office of Contract Compliance at bca.certifications@lacity.org (<mailto:bca.certifications@lacity.org>).

[View Expired Certifications \(/LABAVN/s/company-certifications-log\)](#)

Company Information

ID 23220
Name: united storm water inc.
Address: 14000 E valley BLVD
 city of industry, CA 91748

City of Los Angeles Certifications

Certificate	Certifying Agency	Status	Add Date	Add By	Cert Date	Cert Number	Expiration Date
LBE: LOCAL BUSINESS ENTERPRISE (LOS ANGELES)	Legacy Agency	Verified	4/21/2021	Asiri Sinwardenage	2021-03-25		3/25/2026
MBE: MINORITY OWNED BUSINESS ENTERPRISE	City of Los Angeles	Verified	4/21/2021	Asiri Sinwardenage	2007-08-20		

Harbor Certifications


Certificate	Certifying Agency	Status	Add Date	Add By	Cert Date	Cert Number	Expiration Date
No Certifications Found							

Request for Certifications

Your certification will not appear on your BAVN profile until it has been verified by the Bureau of Contract Administration, Office of Contract Compliance, Certification Section.

Available Certifications

Select a Certification

 This is not an on-line application. You **MUST** already be certified to add the following to your BAVN profile.

BUSINESS SERVICES

[City of Los Angeles \(https://www.lacity.org\)](https://www.lacity.org)
[Mayor's Office of Eric Garcetti \(http://www.lamayor.org\)](http://www.lamayor.org)
[BAVN Open Data \(https://data.lacity.org/dataset/BAVN-Open-Bid-Opportunities/qtax-byj7\)](https://data.lacity.org/dataset/BAVN-Open-Bid-Opportunities/qtax-byj7)
[Bond Assistance Program \(index.cfm?fuseaction=misc.business_insurance\)](#)
[Building Permits \(http://ladbs.org/services/core-\)](http://ladbs.org/services/core-)

A SERVICE BROUGHT TO YOU BY



Single Company Information

Company: LNA Concrete Structures, Inc.

Contact: Heliodoro Garcia

Business Description: Highway, Street and Bridge Construction / Poured Concrete Foundation and Structure Contracto / Structural Steel and Precast Concrete Contractors / All Other Special Trade Contractors

Phone: (909) 393-1493

Fax: (909) 393-9363

Street: 15455 Tern Street Chino Hills, CA 91709

Ethnicity: Hispanic American

Date Approved: 07-15-2014

DBE Certified:

MBE Certified: 07-15-2014

WBE Certified:

ACDBE Certified:

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**BOARD OF PUBLIC WORKS
MEMBERS**

**KEVIN JAMES
PRESIDENT**

**HEATHER MARIE REPENNING
VICE PRESIDENT**

**MICHAEL R. DAVIS
PRESIDENT PRO TEMPORE**

**JOEL F. JACINTO
COMMISSIONER**

**VACANT
COMMISSIONER**

**DR. FERNANDO CAMPOS
EXECUTIVE OFFICER**

**CITY OF LOS ANGELES
CALIFORNIA**

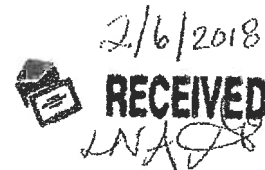


**ERIC GARCETTI
MAYOR**

JOHN L. REAMER, JR.
Inspector of Public Works
and
Director
**BUREAU OF
CONTRACT ADMINISTRATION**
1149 S. BROADWAY, SUITE 300
LOS ANGELES, CA 90015
(213) 847-1922
<http://bca.lacity.org>

January 31, 2018

Heliodoro Garcia
LNA Concrete Structures Inc.
15455 Tern Street
Chino Hills, CA 91709



RE: MINORITY BUSINESS ENTERPRISE (MBE) CERTIFICATION APPROVAL
CCA File No. - 5754

Dear Mr. Garcia:

The City of Los Angeles has removed your company's Disadvantaged Business Enterprise (DBE) certification and the firm's record from the California Unified Certification Program Database of certified DBE firms. According to the U.S. Department of Transportation regulations, 49 Code of Federal Regulations, Part 26, an individual is no longer deemed economically disadvantaged if his or her personal net worth (PNW) exceeds \$1.32 million. Since you have exceeded the PNW limit and your ownership and control are relied upon for DBE certification, your firm no longer qualifies as a DBE.

However, since you still meet the ownership and control requirements as a **Minority Business Enterprise (MBE)** company, we are pleased to inform you that your firm will retain its **MBE** certification and will remain in the City of Los Angeles ACDBE/DBE/MBE/WBE directory as a firm specializing in:

NAICS Codes

Description

**237310
238110
238120
238990**

**Highway, Street and Bridge Construction
Poured Concrete Foundation and Structure Contractors
Structural Steel and Precast Concrete Contractors
All Other Special Trade Contractors**

You may review your firm's information in the City of Los Angeles ACDBE/DBE/MBE/WBE database at <http://bca.lacity.org>. Any additions and revisions must be submitted for review and approval.

This certification will continue until or unless it is removed by our agency. If there are any changes in ownership, control, or structure of your firm, you are required to notify this office of those changes in writing. Also, please include your file number on each page of correspondence relating to these matters.



LNA Concrete Structures Inc.
January 31, 2018
Page 2

The City reserves the right to withdraw this certification if at any time it is determined certification was knowingly obtained by false, misleading or incorrect information. The City also reserves the right to request additional information and/or conduct on site visits at any time during the certification period to verify any documentation submitted with your application. By accepting certification, the firm of LNA Concrete Structures Inc. hereby consents to the examination of its books, records and documents by the City.

For information on City of Los Angeles contracting opportunities, please register at <http://LABAVN.org>.

Should you have any questions, please contact Angela Tumbucon at (213) 847-2665 or e-mail at angela.tumbucon@lacity.org.

Sincerely,



LYNDA McGLINCHEY, Certification Manager
Office of Contract Compliance
Bureau of Contract Administration

Printed on: 6/25/2020 4:46:04 PM

To verify most current certification status go to: <https://www.caleprocure.ca.gov>



Office of Small Business & DVBE Services

Certification ID: 1738540

Legal Business Name:

LNA CONCRETE STRUCTURES, INC.

Doing Business As (DBA) Name 1:

LNA CONCRETE STRUCTURES, INC.

Doing Business As (DBA) Name 2:

Email Address:

agarcialna@aol.com

Business Web Page:

Business Phone Number:

909/393-1493

Business Fax Number:

Address:

15455 TERN STREET

CHINO HILLS

CA 91709

Business Types:

Construction

Certification Type	Status	From	To
SB	Approved	06/23/2020	06/30/2022

Stay informed! KEEP YOUR CERTIFICATION PROFILE UPDATED!

-LOG IN at [CaleProcure.CA.GOV](https://www.caleprocure.ca.gov)

Questions?

Email: OSDSHELP@DGS.CA.GOV

Call OSDS Main Number: 916-375-4940

707 3rd Street, 1-400, West Sacramento, CA 95605

SUPPLIER CLEARINGHOUSE CERTIFICATE OF ELIGIBILITY

CERTIFICATION EXPIRATION DATE: March 16, 2023

The Supplier Clearinghouse for the Utility Supplier Diversity Program of the California Public Utilities Commission hereby certifies that it has audited and verified the eligibility of:

***L N A Concrete Structures, Inc.
Minority Business Enterprise (MBE)***

pursuant to Commission General Order 156, and the terms and conditions stipulated in the Verification Application Package. This Certificate shall be valid only with the Clearinghouse seal affixed hereto.

Eligibility must be maintained at all times, and renewed within 30 days of any changes in ownership or control. Failure to comply may result in a denial of eligibility. The Clearinghouse may reconsider certification if it is determined that such status was obtained by false, misleading or incorrect information. Decertification may occur if any verification criterion under which eligibility was awarded later becomes invalid due to Commission ruling. The Clearinghouse may request additional information or conduct on-site visits during the term of verification to verify eligibility.

This certification is valid only for the period that the above firm remains eligible as determined by the Clearinghouse. Utility companies may direct inquiries concerning this Certificate to the Clearinghouse at (800) 359-7998 in Los Angeles.

VON: 13030053

DETERMINATION DATE: March 16, 2020



CONTRACTORS
STATE LICENSE BOARD
ACTIVE LICENSE



License Number **611949**

Entity **CORP**

Business Name **L N A CONCRETE STRUCTURES
INC**

Classification(s) **A**

Expiration Date **04/30/2022**

www.csib.ca.gov



Contractor Information

Legal Entity Name
L N A CONCRETE STRUCTURES INC
Legal Entity Type
Corporation
Status
Expired
Registration Number
1000007129
Registration effective date
6/21/2018
Registration expiration date
6/30/2019
Mailing Address
15455 TERN STREET CHINO HILLS 91709 CA Un...
Physical Address
15455 TERN STREET CHINO HILLS 91709 CA Un...
Email Address
Trade Name/DBA
License Number(s)
CSLB:611949

Registration History

Effective Date	Expiration Date
6/21/2018	6/30/2019
5/17/2017	6/30/2018
6/2/2016	6/30/2017
6/15/2015	6/30/2016
1/27/2015	6/30/2015
7/1/2019	6/30/2020
7/2/2020	6/30/2023

Legal Entity Information

Corporation Number:
2252405
Federal Employment Identification Number:
President Name:
HELIODORO GARCIA
Vice President Name:
ANGELICA GARCIA
Treasurer Name:
ANGELICA GARCIA
Secretary Name:
ANGELICA GARCIA
CEO Name:
ANGELICA GARCIA

Agent of Service Name:
HELIODORO GARCIA
Agent of Service Mailing Address:
15455 TERN STREET CHINO HILLS 91709 CA United States of America

Workers Compensation

ATTACHMENT "B"

Attachment 2

City of Huntington Park CIP No. 2021-02 CPS & ARS Installation Project February 3, 2022							
Base Bid				United Storm Water Inc		DownStream Services Inc	
ITEM	ITEM DESCRIPTION	UNIT	QUANTITY	UNIT PRICE	ITEM TOTAL	UNIT PRICE	ITEM TOTAL
1	Mobilization and Demobilization not to exceed 5% of total bid or \$15,000	LS	1	\$ 10,000.00	\$ 10,000.00	\$ 14,942.00	\$ 14,942.00
2	Traffic Control not to exceed 2% of total bid or \$5,000	LS	1	\$ 1.00	\$ 1.00	\$ 4,420.00	\$ 4,420.00
3	Storm Water Pollution Prevention not to exceed 2% of total bid or \$5,000	LS	1	\$ 1.00	\$ 1.00	\$ 5,000.00	\$ 5,000.00
4	Confined Space Safety Measures not to exceed 2% of total	LS	1	\$ 500.00	\$ 500.00	\$ 4,500.00	\$ 4,500.00
5	Remove and Dispose (recycle) existing curb inlet screens and/or bars at the number of catch basin locations listed in	EA	16	\$ 142.50	\$ 2,280.00	\$ 436.00	\$ 6,976.00
5a	Measurement of curb inlets not to exceed \$50 per inlet	EA	16	\$ 1.00	\$ 16.00	\$ 50.00	\$ 800.00
6	Remove and Dispose (recycle) existing Connector Pipe Screens at the number of catch basins listed in the schedule	EA	43	\$ 142.50	\$ 6,127.50	\$ 453.00	\$ 19,479.00
6a	Measurements of the interior of the catch basin not to exceed \$50 per catch basin	EA	56	\$ 35.50	\$ 1,988.00	\$ 50.00	\$ 2,800.00
7	Remove and Dispose (recycle) existing surface-level grates at number of locations listed in the schedule	EA	12	\$ 75.00	\$ 900.00	\$ 194.00	\$ 2,328.00
7a	Measurement of surface-level grates and frames not to exceed \$50 per grate	EA	12	\$ 1.00	\$ 12.00	\$ 50.00	\$ 600.00
8	Fabricate, deliver and install non-color-coated curb inlet screens (ARS) anufactured by Wing Gate Industries at the number of catch basin locations in the schedule	EA	16	\$ 3,332.00	\$ 53,312.00	\$ 917.00	\$ 14,672.00
9	Fabricate, deliver and install Connector Pipe Screens at the number of catch basin locations in the schedule	EA	56	\$ 658.00	\$ 36,848.00	\$ 1,394.00	\$ 78,064.00
10	Fabricate, deliver and install heavy-duty surface-level grate	EA	12	\$ 3,309.00	\$ 39,708.00	\$ 996.00	\$ 11,952.00
11	Fabricate, deliver and install screens/baskets below the surface-level grates	EA	12	\$ 675.00	\$ 8,100.00	\$ 1,070.00	\$ 12,840.00
12	Remove and reconstruct existing curb and gutter up to 10' on each side of catch basin as necessary	LF	200	\$ 308.00	\$ 61,600.00	\$ 305.00	\$ 61,000.00
13	Paint or repaint on concrete surfaces including "No Dumping Flows to the Ocean" adjacent red curb painting, and staff gauges inside of each catch basin	EA	56	\$ 45.50	\$ 2,548.00	\$ 108.00	\$ 6,048.00
14	Remove and reconstruct asphalt approximately 200 SF at a minimum of 6-inch total asphalt thickness over subgrade as necessary	SF	1800	\$ 18.97	\$ 34,146.00	\$ 30.00	\$ 54,000.00
				\$258,087.50		\$300,421.00	

ITEM NO. 11



CITY OF HUNTINGTON PARK

Public Works Department
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

**CONSIDERATION AND APPROVAL OF AWARD OF CONTRACT FOR THE
PREPARATION OF PLANS, SPECIFICATIONS, AND ESTIMATE FOR CIP 2018-11
ATP CYCLE IV PROJECT NO. ATPL-5150(014)**

IT IS RECOMMENDED THAT CITY COUNCIL:

1. Award the preparation of Plans, Specifications, and Estimate for CIP 2018-11 ATP Cycle IV Project No. ATPL-5150(014) to West & Associates, Inc. for a not-to-exceed amount of \$239,500 payable from Account No. 202-8080-431.76-21.
2. Authorize the City Manager to execute the professional services agreement.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

The purpose of the Active Transportation Program is to encourage increased use of active modes of transportation by achieving the following goals:

- Increase the proportion of trips accomplished by biking and walking
- Increase safety and mobility for non-motorized users
- Advance the active transportation efforts of regional agencies to achieve Greenhouse Gas (GHG) reduction goals, pursuant to SB 375 (of 2008) and SB 341 (of 2009)
- Enhance public health
- Ensure that disadvantaged communities fully share in the benefits of the program
- Provide a broad spectrum of projects to benefit many types of active transportation users

The design of ATP Cycle IV aims to accomplish these tasks by increasing safe mobility throughout the community.

CONSIDERATION AND APPROVAL OF AWARD OF CONTRACT FOR THE PREPARATION OF PLANS, SPECIFICATIONS, AND ESTIMATE FOR CIP 2018-11 ATP CYCLE IV PROJECT NO. ATPL-5150(014)

February 15, 2022

Page 2 of 3

At the regularly scheduled City Council meeting of October 19, 2021, the City Council authorized staff to solicit proposals for the preparation of Plans, Specifications, and Estimate (PS&E) for CIP 2018-11 ATP Cycle IV Project No. ATPL-5150(014). The Request for Proposal (RFP) was published on October 22, 2021. The City received two (2) proposals on November 17, 2021, though due to Caltrans requiring a minimum of three (3) proposals in order to find equity in the evaluation of the proposals, staff recommended to reject the proposals and re-advertise the project.

On December 7, 2021, the City Council concurred with staff's recommendation and authorized staff to re-advertise the project. On December 10, 2021, the City Clerk's Office published the RFP in a newspaper of general circulation and Public Work' posted the RFP on the City's website and other forms of electronic media. The RFP provided the guidance expected of professional engineering firms that perform similar type work. On February 1, 2022, the City received proposals from the following qualified firms:

1. West & Associates	\$239,500
2. Infrastructure Engineers	\$241,000
3. Cannon	\$279,906
4. Psomas	\$443,989

City staff has relayed that engineering support from an outside consultant is necessary to accomplish the PS&E for this project. Based on the need to commence the design, it is staff's recommendation to award the professional services agreement for design to West & Associates, Inc.

LEGAL REQUIREMENT

Congress adopted the Brooks Act (P.L. 92-582), requiring the use of Qualifications-Based Selection (QBS) for the procurement of architect and engineering services. The use of QBS ensures that taxpayers receive highly technical architect and engineering services from the most experienced and most qualified firms at a fair and reasonable cost. California's QBS requirements can be found at Government Code sections 4525 et seq., also known as the Mini Brooks Act.

FISCAL IMPACT/FINANCING

West & Associates, Inc. has submitted a proposal and a fee schedule for \$239,500 in accordance with the requirements stipulated in the RFP. Staff recommends the award of the PSA to West & Associates, Inc. for a not-to-exceed fee of \$239,500 payable from Account No. 202-8080-431.76-21. There are sufficient monies in the Adopted Budget for Fiscal Year 2021-2022 for this project.

CONCLUSION

Upon Council approval, staff will proceed with the recommended actions.

**CONSIDERATION AND APPROVAL OF AWARD OF CONTRACT FOR THE
PREPARATION OF PLANS, SPECIFICATIONS, AND ESTIMATE FOR CIP 2018-11
ATP CYCLE IV PROJECT NO. ATPL-5150(014)**

February 15, 2022

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Respectfully submitted,



RICARDO REYES
City Manager



CESAR ROLDAN
Director of Public Works

ATTACHMENT(S)

1. West & Associates, Inc. Professional Services Agreement
2. Consultant Proposals

ATTACHMENT "A"



**PROFESSIONAL SERVICES AGREEMENT
PREPARATION OF PLANS, SPECIFICATIONS, AND ESTIMATE FOR
CIP 2018-11 ATP CYCLE IV PROJECT NO. ATPL-5150(014)**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this **15th day of February 2022** (hereinafter, the "Effective Date"), by and between the CITY OF HUNTINGTON PARK, a municipal corporation ("CITY") and **West & Associates Engineering, Inc.** (hereinafter, "CONTRACTOR"). For the purposes of this Agreement CITY and CONTRACTOR may be referred to collectively by the capitalized term "Parties." The capitalized term "Party" may refer to CITY or CONTRACTOR interchangeably.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions herein contained, CITY and CONTRACTOR agree as follows:

I. ENGAGEMENT TERMS

- 1.1 **SCOPE OF SERVICES:** Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONTRACTOR agrees to perform the services and tasks set forth in **Exhibit "A"** (hereinafter referred to as the "**Scope of Services**"). CONTRACTOR further agrees to furnish to CITY all labor, tools, supplies, equipment, services, tasks and incidental and customary work necessary to competently perform and timely complete the services and tasks set forth in the Scope of Services. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally by the capitalized term "Work."
- 1.2 **TERM:** This Agreement shall commence on **February 15, 2022 to December 31, 2022**. It is the CONTRACTOR'S responsibility to request an extension at least (2) days in advance of the expiration of term of the Agreement (**Ending December 31, 2022**). Nothing in this Section shall operate to prohibit or otherwise restrict the CITY's ability to terminate this Agreement at any time for convenience or for cause.
- 1.3 **COMPENSATION:**
 - A. CONTRACTOR shall perform the various services and tasks set forth in the **Scope of Services Exhibit "A"**.
 - B. Section 1.3(A) notwithstanding, CONTRACTOR'S compensation during the Term of this Agreement or any extension term shall not exceed the budgeted aggregate sum of **\$239,500** (hereinafter, the "Not-to-Exceed Fiscal Year Sum"), unless such added expenditure is first approved by the CITY acting in consultation with the City Manager and the Director of Finance. In the event CONTRACTOR'S charges are projected to exceed the Not-to-Exceed Fiscal Year Sum prior to the expiration of the Term or any single extension term, CITY may suspend CONTRACTOR'S performance pending CITY approval of any anticipated expenditures in excess of the Not-to-Exceed Fiscal Year Sum or any other CITY-approved amendment to the compensation terms of this Agreement.

- 1.4 PAYMENT OF COMPENSATION: Following the conclusion of each calendar month, CONTRACTOR shall submit to CITY an itemized invoice indicating the services and tasks performed during the recently concluded calendar month, including services and tasks performed. If the amount of CONTRACTOR'S monthly compensation is a function of hours worked by CONTRACTOR'S personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within **thirty (30) calendar days** of receipt of each invoice, CITY shall notify CONTRACTOR in writing of any disputed amounts included in the invoice. Within **forty-five (45) calendar day** of receipt of each invoice, CITY shall pay all undisputed amounts included on the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONTRACTOR.
- 1.5 ACCOUNTING RECORDS: CONTRACTOR shall maintain complete and accurate records with respect to all matters covered under this Agreement during and for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the right to access and examine such records, without charge. CITY shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities. The City shall own all accounting records maintained by the CONTRACTOR.
- 1.6 ABANDONMENT BY CONTRACTOR: In the event CONTRACTOR ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONTRACTOR shall deliver to CITY immediately and without delay, all materials, records and other work product prepared or obtained by CONTRACTOR in the performance of this Agreement. Furthermore, CONTRACTOR shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONTRACTOR'S cessation or abandonment.

II. PERFORMANCE OF AGREEMENT

- 2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the Director of Public Works (hereinafter, the "CITY Representatives") to act as its representatives for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representatives or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONTRACTOR shall not accept directions or orders from any person other than the CITY Representatives or their designee.
- 2.2 CONTRACTOR REPRESENTATIVE AND CONTACT INFORMATION: CONTRACTOR hereby designates **Phillip West** to act as its representative for the performance of this Agreement (hereinafter, "CONTRACTOR Representative"). CONTRACTOR Representative shall have full authority to represent and act on behalf of the CONTRACTOR for all purposes under this Agreement. CONTRACTOR Representative shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this

Agreement. Notice to the CONTRACTOR Representative shall constitute notice to CONTRACTOR.

- 2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS: CONTRACTOR agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONTRACTOR shall be subject to inspection and approval by CITY Representatives or their designees.
- 2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONTRACTOR represents, acknowledges and agrees to the following:
- A. CONTRACTOR shall perform all Work skillfully, competently and to the highest standards of CONTRACTOR'S profession;
 - B. CONTRACTOR shall perform all Work in a manner reasonably satisfactory to the CITY;
 - C. CONTRACTOR shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code section 1090 and the Political Reform Act (Government Code section 81000 *et seq.*);
 - D. CONTRACTOR understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
 - E. All of CONTRACTOR'S employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONTRACTOR; and
 - F. All of CONTRACTOR'S employees and agents (including but not limited to SUB-CONTRACTOR) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONTRACTOR shall perform, at CONTRACTOR'S own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONTRACTOR'S failure to comply with the standard of care set forth under this Section or by any like failure on the part of CONTRACTOR'S employees, agents, and SUB-CONTRACTOR. Such effort by CONTRACTOR to correct any errors or omissions shall be commenced immediately upon their discovery by either Party and shall be completed within seven (7) calendar days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing and in their sole and absolute discretion. The Parties acknowledge and agree that CITY'S acceptance of any work performed by CONTRACTOR or on CONTRACTOR'S behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONTRACTOR, including but not limited to the representation that CONTRACTOR possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and to the highest standards of CONTRACTOR'S profession.

- 2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONTRACTOR are

material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONTRACTOR or on behalf of CONTRACTOR in the performance of this Agreement. In recognition of this interest, CONTRACTOR agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONTRACTOR'S duties or obligations under this Agreement without the prior written consent of CITY. In the absence of CITY'S prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement.

- 2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONTRACTOR: The Work shall be performed by CONTRACTOR or under CONTRACTOR'S strict supervision. CONTRACTOR will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONTRACTOR on an independent CONTRACTOR basis and not as an employee. CONTRACTOR reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONTRACTOR'S competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONTRACTOR are not employees of CITY and shall at all times be under CONTRACTOR'S exclusive direction and control. CONTRACTOR shall pay all wages, salaries and other amounts due such personnel and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. CONTRACTOR 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, workers' compensation insurance and the like.
- 2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONTRACTOR'S officers, employees, agents, or SUB-CONTRACTOR is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONTRACTOR, a threat to persons or property, or if any of CONTRACTOR'S officers, employees, agents, or SUBCONTRACTOR fail or refuse to perform the Work in a manner acceptable to the CITY, such officer, employee, agent, or SUB-CONTRACTOR shall be promptly removed by CONTRACTOR and shall not be reassigned to perform any of the Work.
- 2.8 COMPLIANCE WITH LAWS: CONTRACTOR shall keep itself informed of and in compliance with all applicable federal, state or local laws to the extent such laws control or otherwise govern the performance of the Work. CONTRACTOR'S compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements.
- 2.9 NON-DISCRIMINATION: In the performance of this Agreement, CONTRACTOR shall not discriminate against any employee, CONTRACTOR, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition.
- 2.10. INDEPENDENT CONTRACTOR STATUS: The Parties acknowledge, understand and agree that CONTRACTOR and all persons retained or employed by CONTRACTOR are, and shall at all times remain, wholly independent CONTRACTOR and are not officials, officers,

employees, departments or subdivisions of CITY. CONTRACTOR shall be solely responsible for the negligent acts and/or omissions of its employees, agents, CONTRACTOR and SUB-CONTRACTOR. CONTRACTOR and all persons retained or employed by CONTRACTOR shall have no authority, express or implied, to bind CITY in any manner, nor to incur any obligation, debt or liability of any kind on behalf of, or against, CITY, whether by CONTRACTOR or otherwise, unless such authority is expressly conferred to CONTRACTOR under this Agreement or is otherwise expressly conferred by CITY in writing.

III. INSURANCE

- 3.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONTRACTOR will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONTRACTOR shall procure and maintain the following insurance coverage, at its own expense:
- A. Commercial General Liability Insurance: CONTRACTOR shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (Occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per occurrence and Two Million Dollars (\$2,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and CONTRACTOR dual liability.
 - B. Automobile Liability Insurance: CONTRACTOR shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per accident for bodily injury and property damage.
 - C. Workers' Compensation Insurance / Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for both CONTRACTOR and CITY against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by CONTRACTOR in the course of carrying out the Work contemplated in this Agreement.
- 3.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers as additional insureds.
- 3.3 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A: VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representatives are authorized to authorize lower ratings than those set forth in this Section.

- 3.4 PRIMACY OF CONTRACTOR'S INSURANCE: All policies of insurance provided by CONTRACTOR shall be primary to any coverage available to CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY'S elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.
- 3.5 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR officers, employees, agents, CONTRACTOR or SUB-CONTRACTOR from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against CITY.
- 3.6 VERIFICATION OF COVERAGE: CONTRACTOR acknowledges, understands and agrees, that CITY'S ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY'S financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONTRACTOR warrants, represents and agrees that it shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article on forms satisfactory to CITY in its sole and absolute discretion. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf and shall be on forms provided by the CITY if requested.** All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONTRACTOR'S commencement of any work or any of the Work. Upon CITY'S written request, CONTRACTOR shall also provide CITY with certified copies of all required insurance policies and endorsements.

IV. INDEMNIFICATION

- 4.1 The Parties agree that CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONTRACTOR acknowledges that CITY would not enter into this Agreement in the absence of CONTRACTOR'S commitment to indemnify, defend and protect CITY as set forth herein.
- 4.2 To the fullest extent permitted by law, CONTRACTOR shall indemnify, hold harmless and defend the CITY Indemnitees from and against all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR'S performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement.
- 4.3 CITY shall have the right to offset against the amount of any compensation due CONTRACTOR under this Agreement any amount due CITY from CONTRACTOR as a result of CONTRACTOR'S failure to pay CITY promptly any indemnification arising under this Article and related to CONTRACTOR'S failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 4.4 The obligations of CONTRACTOR under this Article will not be limited by the provisions of any workers' compensation act or similar act. CONTRACTOR expressly waives its statutory immunity under such statutes or laws as to CITY and CITY'S elected and appointed officials,

officers, employees, agents and volunteers.

- 4.5 CONTRACTOR agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. In the event CONTRACTOR fails to obtain such indemnity obligations from others as required herein, CONTRACTOR agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY'S elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONTRACTOR'S, SUB-CONTRACTOR or any other person or entity involved by, for, with or on behalf of CONTRACTOR in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY'S choice.
- 4.6 CITY does not, and shall not, waive any rights that it may possess against CONTRACTOR because of the acceptance by CITY, or the deposit with CITY, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 4.7 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.

V. TERMINATION

- 5.1 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONTRACTOR a minimum of five (5) calendar day's prior written notice of CITY'S intent to terminate this Agreement. Upon such termination for convenience, CONTRACTOR shall be compensated only for those services and tasks which have been performed by CONTRACTOR up to the effective date of the termination. CONTRACTOR may not terminate this Agreement except for cause as provided under Section 5.2, below. If this Agreement is terminated as provided herein, CITY may require CONTRACTOR to provide all finished or unfinished Documents and Data, as defined in Section 6.1 below, and other information of any kind prepared by CONTRACTOR in connection with the performance of the Work. CONTRACTOR shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY'S written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 5.2, below, shall operate to prohibit or otherwise restrict CITY'S ability to terminate this Agreement for convenience as provided under this Section.
- 5.2 EVENTS OF DEFAULT; BREACH OF AGREEMENT:
- A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than

the applicable cure period set forth under Sections 5.2.B and 5.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONTRACTOR shall cure the following Events of Defaults within the following time periods:

- i. Within three (3) business days of CITY'S issuance of a Default Notice for any failure of CONTRACTOR to timely provide CITY or CITY'S employees or agents with any information and/or written reports, documentation or work product which CONTRACTOR is obligated to provide to CITY or CITY'S employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
- ii. Within fourteen (14) calendar days of CITY'S issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 14-day cure period, CONTRACTOR may submit a written request for additional time to cure the Event of Default upon a showing that CONTRACTOR has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 14-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2B.ii that exceeds thirty (30) calendar days from the end of the initial 14-day cure period.

In addition to any other failure on the part of CONTRACTOR to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONTRACTOR shall include, but shall not be limited to the following: (i) CONTRACTOR'S refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONTRACTOR'S failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONTRACTOR'S and/or its employees' disregard or violation of any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONTRACTOR, whether voluntary or involuntary; (v) CONTRACTOR'S refusal or failure to perform or observe any covenant, condition, obligation or provision of this Agreement; and/or (vi) CITY'S discovery that a statement representation or warranty by CONTRACTOR relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY shall cure any Event of Default asserted by CONTRACTOR within forty-five (45) calendar days of CONTRACTOR'S issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY'S failure to timely pay any

undisputed sums to CONTRACTOR as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONTRACTOR'S Default Notice to CITY.

- D. CITY, in its sole and absolute discretion, may also immediately suspend CONTRACTOR'S performance under this Agreement pending CONTRACTOR'S cure of any Event of Default by giving CONTRACTOR written notice of CITY'S intent to suspend CONTRACTOR'S performance (hereinafter, a "Suspension Notice"). CITY may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONTRACTOR shall be compensated only for those services and tasks which have been rendered by CONTRACTOR to the reasonable satisfaction of CITY up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY'S ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - i. Upon written notice to CONTRACTOR, CITY may immediately terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONTRACTOR, CITY may extend the time of performance;
 - iii. CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONTRACTOR'S breach of the Agreement or to terminate the Agreement; or
 - iv. CITY may exercise any other available and lawful right or remedy.

CONTRACTOR shall be liable for all legal fees plus other costs and expenses that CITY incurs upon a breach of this Agreement or in the CITY'S exercise of its remedies under this Agreement.

- G. In the event CITY is in breach of this Agreement, CONTRACTOR'S sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONTRACTOR under this Agreement for completed services and tasks.

5.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.

5.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement

pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VI. MISCELLANEOUS PROVISIONS

- 6.1 **DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY:** All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONTRACTOR in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONTRACTOR shall require all SUB-CONTRACTORS working on behalf of CONTRACTOR in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any CONTRACTOR as applies to Documents and Data prepared by CONTRACTOR in the performance of this Agreement.
- 6.2 **CONFIDENTIALITY:** All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONTRACTOR shall not use CITY'S name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 6.3 **FALSE CLAIMS ACT:** CONTRACTOR warrants and represents that neither CONTRACTOR nor any person who is an officer of, in a managing position with, or has an ownership interest in CONTRACTOR has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., section 3789 et seq. and the California False Claims Act, Government Code section 12650 et seq.
- 6.4 **NOTICES:** All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONTRACTOR:

West & Associates Engineering, Inc.
78 Anacapa Court
Foothill Ranch, CA 92610
Attn: Phillip West, P.E., QSD/QSP
Office: (949) 716-7670
philw@westaeng.com

CITY:

City of Huntington Park
Public Works Department
6550 Miles Avenue
Huntington Park, CA 90255
Attn: Ricardo Reyes, City Manager
Phone: (323) 582-6161

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

- 6.5 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another and shall take any additional acts or sign any additional documents as is reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.
- 6.6 SUBCONTRACTING: CONTRACTOR shall not SUB-CONTRACTOR any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. SUB-CONTRACTORS (including without limitation SUB-CONTRACTORS with Sub-CONTRACTOR'S), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement, including provisions relating to insurance requirements and indemnification.
- 6.7 CITY'S RIGHT TO EMPLOY OTHER CONTRACTOR: CITY reserves the right to employ other CONTRACTOR in connection with the various projects worked upon by CONTRACTOR.
- 6.8 PROHIBITED INTERESTS: CONTRACTOR warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONTRACTOR, to solicit or secure this Agreement. Further, CONTRACTOR warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONTRACTOR, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
- 6.9 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.
- 6.10 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.
- 6.11 ATTORNEYS' FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.
- 6.12 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.
- 6.13 NO THIRD-PARTY BENEFIT: There are no intended third-party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

- 6.14 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 6.15 SEVERABILITY: If any portion of this Agreement is declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions shall continue in full force and effect.
- 6.16 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 6.17 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 6.18 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 6.19 ENTIRE AGREEMENT: This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONTRACTOR prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.
- 6.20 COUNTERPARTS: This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterpart(s) shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONTRACTOR and the remaining two original counterparts shall be retained by CITY.

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF HUNTINGTON PARK:

WEST & ASSOCIATES ENGINEERING, INC.:

By: Ricardo Reyes
City Manager

By: Phillip West
Principal/President

Date: _____

Date: _____

APPROVED AS TO FORM:

By: City Attorney

Date: _____

EXHIBIT "A"

SCOPE OF WORK

WEST & ASSOCIATES ENGINEERING, INC.



City of Huntington Park

Proposal for:

Professional Plans, Specifications,
and Estimate (PS&E) Services for
CIP 2018-11 ATP Cycle IV

Project No. ATPL-5150(014)

January 19, 2022

Submitted by:

West & Associates Engineering, Inc.

WEST&ASSOCIATES
ENGINEERING, INC.



January 19, 2022

Cesar Roldan
Director of Public Works
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Subject: Professional Plans, Specifications, and Estimate (PS&E) Services for CIP 2018-11 ATP Cycle IV

Dear Mr. Roldan:

West & Associates is pleased to submit our Proposal for Professional Plans, Specifications, and Estimate (PS&E) Services for CIP 2018-11 ATP Cycle IV for the City of Huntington Park.

We recently had the pleasure of working with the City on the Project Approval and Environmental Design (PA&ED) Phase of this Project. Therefore, we are thoroughly familiar with the needs of this Project. In particular, we understand that unlike previous cycles of the City's Active Transportation Program (ATP), this 4th Cycle will include improvements related to bicycle transportation. As such, we are very familiar with the measurements of the streets and how bicycle lanes can be accommodated in the streets.

For this Proposal, we conducted due-diligence. We have visited a key location of the Project site (Miles Avenue at Zoe Avenue) and we have prepared exhibits (Exhibits A & B) illustrating the scope of this Project. Exhibit A provides an overview of the entire Project, and Exhibit B is a **full-size (24x36) plan sheet** showing the **scope of improvements for Miles Avenue at Zoe Avenue**. As clarified by the City, we understand that surveying may not be necessary for each individual street segment. Our recent street improvement project in the City of Alhambra included mapping (drafting) of streets without topo survey, so we are confident that this approach will work successfully.

According to a letter sent by Caltrans to the City on September 3, 2021, we understand that **the City has secured \$288,000 in State Funding** for the design of this Project. This current design phase of the Project will utilize said funding in order to generate Plans, Specifications, and Estimates (PS&E) that will be ready for construction.

I have read, understood, and agreed to all statements in this Request for Proposal and acknowledge receipt of all addendums/amendments as well as to the terms, conditions, and attachments referenced. This proposal is valid for a period of no less than one-hundred & eighty (180) calendar days from the date of this submittal. We acknowledge that **no addendums** have been issued for this RFP, although the City has issued **two (2) sets of answers** to RFIs (see following pages).

Thank you for this project opportunity. Please contact me if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Phillip West". The signature is stylized with a large, flowing "P" and "W".

Phillip West, P.E., QSD/QSP
Principal/President
West & Associates Engineering, Inc.
Office: (949) 716-7670
Cell: (714) 728-8082
philw@westaeng.com

Consultant to assist with the CEQA determination and ensure that applicable SWPPP and other environmental reporting is adhered too.

6. Will there be any public engagement at this stage of the project? We are aware that the City has done so in the past as part of other associated initiatives, if more is expected under this project, could you clarify what is expected? Frequency, audience targets, and what the expected consultant's roles will be?

Public engagement is not necessary as part of the design of the project.

Request for Proposal


End of Request for Information No. 1

By order of the City of Huntington Park, Public Works Department

By: 
Cesar Roldan, Director of Public Works

Date: 1/6/2022

Acknowledged

 Date: 01.17.2022
By: Phillip West,
Principal/President

With that being the case, will the plans and specs need to account for only the general design of these improvements, and not the detailed electronic code/programming (logic, timing, sequencing, etc.) of these signals? That is, the construction contractor will have on his team a qualified installer who can configure those details?

Timing sheets are required as part of the design. The cabinet will be tested by the contractor (not design engineer) either at Los Angeles County Department of Public Works Traffic Signal & Lighting Division or an approved equal third-party purveyor of such services.

6. In Attachment 1 of the RFP (Fee Schedule) it mentions Caltrans certified lab testing of the lab testing (i.e. Task #9). Yet, in the previous answers to RFIs (dated 11/15/21), the City confirmed that "R" Value testing would not be required. Since this is the case and the City only needs to determine the thickness of the pavement sections, could this Task in the Fee Schedule (#9) be waived?

No. Reference Caltrans Local Assistance Procedures Manual Chapter 16:
<https://dot.ca.gov/-/media/dot-media/programs/local-assistance/documents/lapm/ch16.pdf>

Request for Proposal

End of Request for Information No. 2

By order of the City of Huntington Park, Public Works Department

By: 
Cesar Roldan, Director of Public Works

Date: January 1, 2022

Acknowledged


 Date: 01.17.2022
By: Phillip West,
Principal/President

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SECTION 3: QUALIFICATIONS AND EXPERIENCE OF CONSULTANT'S PERSONNEL (2 PAGES)

SECTION 4: PROJECT APPROACH (2 PAGES)

SECTION 5: PROPOSED PERSONNEL (2 PAGES)*

SECTION 6: QUALITY ASSURANCE/QUALITY CONTROL (1.5 PAGES)

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SECTION 8: SCHEDULE AND SCHEDULE CONTROL (1/4 PAGE)

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SECTION 10: COMPLIANCE WITH RFP AND CONTRACT AGREEMENT (1 PAGE)

**This Section includes resumes. Resumes not included in page count.*

***Fee is provided in a separate envelope*

SECTION 2: CONSULTANT'S BACKGROUND

Company Background

West & Associates Engineering, Inc. was started in 2015 by Mr. Phillip West. We provide consulting services to clients throughout the state of California for a broad range of services, including planning, design, and construction management. In particular, we **specialize** in the following types of work:



GENERAL CIVIL / ROADWAYS

Streets & Streetscapes, Grading, Parks, Parking Lots, etc.



FACILITIES

Wells, Pumping Stations, Lift Stations, Valve Vaults, Tanks, Reservoirs, Structures



PIPELINES

Water Mains, Sewers, Storm Drains, Etc.



QSD/QSP SERVICES

Including preparation and inspection of SWPPPs, WQMPS, etc.

Services Listed Include ALL Major Phases of Work:

- Planning
- Design
- Construct. Management

Other Notable Services:

- Plan Check
- Staffing Augmentation
- Specialty Studies

Nearly all of the past experience by the West project team members has been with public agencies. As such, **our focus is on public clients**. Mr. West and the project team members have experience with over **sixty (60)** public agencies throughout Southern California. A good portion of these clients are repeat clients that the team members have worked with over the years. Clients that Mr. West and the project team members have worked with include **Cities (49), Water Agencies (14), and County Agencies (2)**.

SECTION 2: CONSULTANT'S BACKGROUND

Our Project Team members have served clients all over Southern California, regardless of the distance. In fact, we have completed services for municipal agencies which are nearly **four (4) hours away from our office**. We are versatile and able to accommodate your needs!

Office Location and Contact Information

We are a small California "S" Corporation. Our office is located in Foothill Ranch (Lake Forest) in Orange County, California. Mr. Phillip West acts as the Principal/President of the firm.

WEST&ASSOCIATES
ENGINEERING INC.

www.westaeng.com

- Started in 2015
- California "S" Corporation (Fed I.D. No. 81-5259524)
- Contact: Phillip West, P.E., QSD/QSP
- Office: (949) 716-7670
- Cell: (714) 728-8082
- philw@westaeng.com

Subconsultants

Brief descriptions of our sub-consultants are provided in **Section 5** of this Proposal.

SECTION 3: QUALIFICATIONS AND EXPERIENCE OF CONSULTANT'S PERSONNEL

Related Project Examples

We have experience with **over sixty (60) public agencies** in Southern California, **including experience with the City of Huntington Park**. The following experience includes related project experience for our firm. A list of references with contact information is provided in **Section 7** of this proposal.



CITY OF HUNTINGTON PARK

6550 Miles Avenue, Huntington Park CA 90255

Cesar Roldan, Director of Public Works [\(323\) 584-6320](tel:3235846320)

croldan@hpca.gov

West & Associates was recently involved with the City of Huntington Park on the following project(s):

CIP 2018-11 ATP CYCLE IV – PA&ED SERVICES

Engineering services for Phase IV of the City's ATP project. The services included Project Approval & Environmental Design (PA&ED) work in preparation for the solicitation of PS&E. The PA&ED phase will lay the groundwork for the completion of "complete streets" for six (6) streets, with a pedestrian focus, including bicycle routes, sharrows, curb bulbouts, zebra crosswalks, signal modifications, and signage.



CITY OF ALHAMBRA

900 New Avenue, Alhambra, CA 91801

Robert Bias, Engineer [\(626\) 570-5062](tel:6265705062)

rbias@cityofalhambra.org

West & Associates was recently involved with the City of Alhambra on the following project(s):

FY 2020-21 STREET REHABILITATION PROJECT

Engineering services for the City's FY 2020-21 SB1 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five separate streets in the City. The total length of the project was about 30,000 feet.

SECTION 3: QUALIFICATIONS AND EXPERIENCE OF CONSULTANT'S PERSONNEL



CITY OF SIERRA MADRE

232 W. Sierra Madre Blvd. Sierra Madre CA 91024

Chris Cimino, Director of Public Works [626-355-7135](tel:626-355-7135)

ccimino@cityofsierramadre.com

West & Associates was recently involved with the City of Sierra Madre on the following project(s):

FY 2020-21 STREET REHABILITATION PROJECT

Engineering services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, and restoration of pavement striping. The total length of the project was 10,000 feet.

Total Related Experience

The following table provides a partial listing of relevant projects. Some of this experience is past experience for Mr. West prior to the formation of West & Associates:

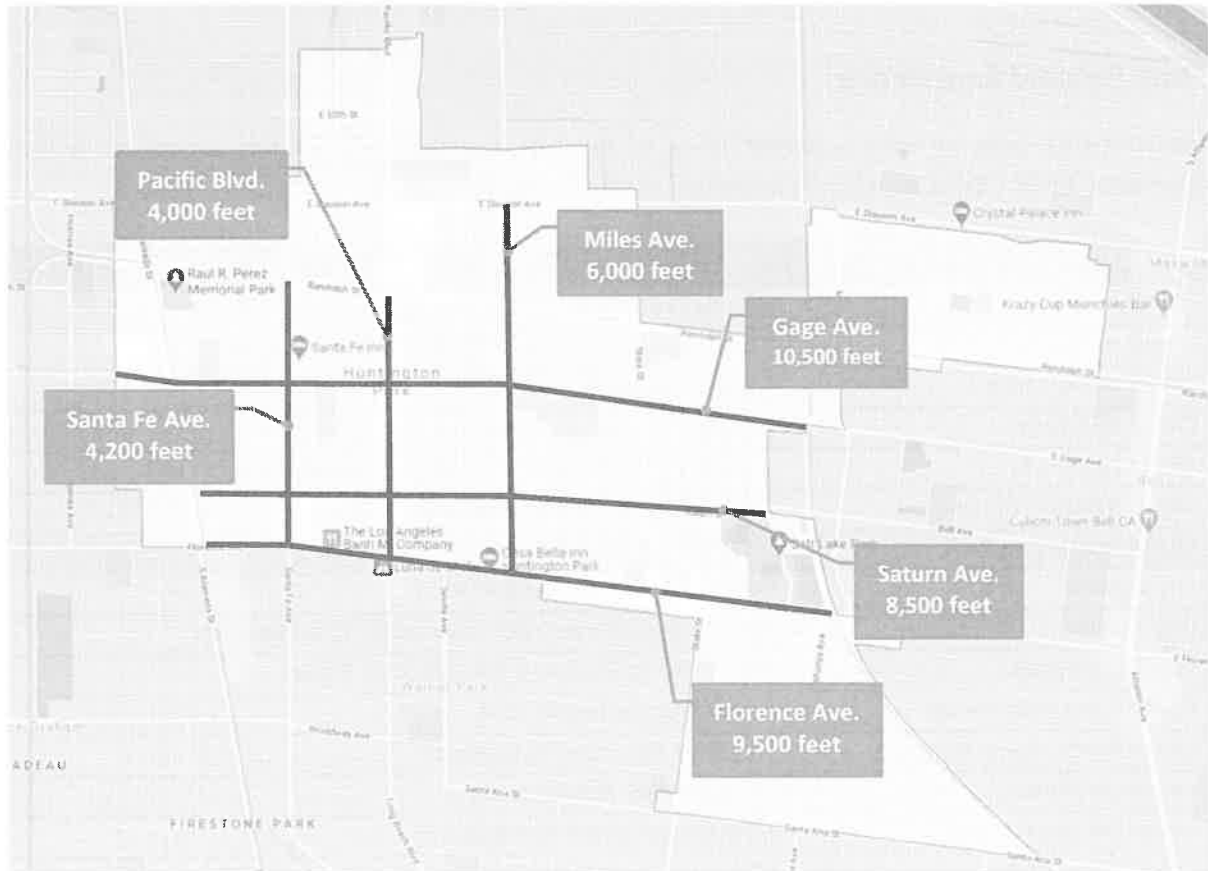
AGENCY	PROJECT NAME
City of Alhambra	FY 20-21 Street Rehabilitation
City of Azusa	Gladstone Elementary Safe Routes to School Survey
City of Baldwin Park	Street Condition Assessment
City of Bellflower	Palo Verde Ave Rehabilitation
City of Culver City	Wash. Blvd. & Wash. Pl. Streetlight Improvements
City of Hawaiian Gardens	Fedde Middle School Safe Routes to School
City of Huntington Park	ATP Cycle IV Project – Preliminary Design
City of Irvine	Barranca Parkway Rehabilitation
City of Irvine	Culver-Main/Culver-Alton Intersection Improvements
City of Montebello	Beach Street Pavement Rehabilitation Project
City Rancho Palos Verdes	Infrastructure Report Card
City of Rancho Santa Margarita	Melinda Road Median Extension
City of San Dimas	Foothill Blvd. Rehabilitation
City of San Dimas	San Dimas Canyon Rehabilitation
City of Sierra Madre	FY 20-21 Street Rehabilitation
City of Sierra Madre	FY 19-20 Street Rehabilitation
City of Sierra Madre	City Recreation Center Parking Lot Improvements
City of Simi Valley	Lost Canyons Drive Improvements
City of San Juan Capistrano	Forster Street Improvements
15 DIFFERENT CLIENTS SERVED	19 RELATED PROJECTS

SECTION 4: PROJECT APPROACH

Project Understanding

In accordance with the RFP, we understand that the City is seeking consulting engineering design services for the preparation of Plans, Specifications, and Cost Estimates (PS&E) for the design of six (6) “complete streets”. The improvements will have a pedestrian focus, including Class III bicycle routes, “sharrows”, curb bulb-outs, crosswalks, signal modifications, and signage.

The major services required for this project include: 1) Collect Data (As-Built, Field Survey, Pavement Coring), 2) Prepare Plans, Specs, and Cost Estimates, and 3) Provide Permitting and Regulation Support Services. The entire project is presented in **Exhibits A and B** of this Proposal. The six (6) street locations are shown in the map below:



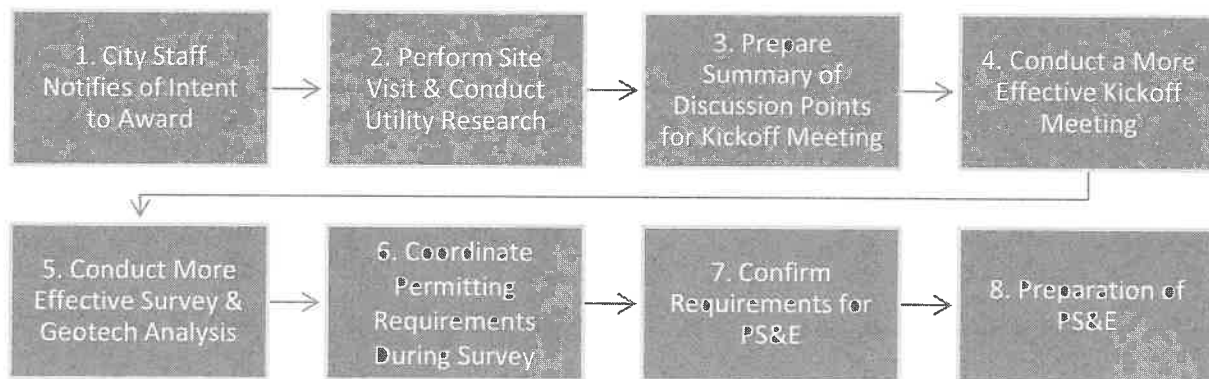
PROJECT SITE LOCATIONS – 43,000 FT.

The total length of the project is approximately **43,000 feet**. We estimate that this will result in roughly **80 to 90 sheets of Plans**, including Title Sheet, Notes Sheet, Plan Sheets, and Detail Sheets. The total estimated construction cost at this point is **\$3.77 million**.

SECTION 4: PROJECT APPROACH

Project Approach

According to the schedule in the RFP, the City desires to complete this project within five (5) months from Notice to Proceed. To accomplish this, we intend to **begin preliminary work upon informal notification of award** by City Staff (instead of upon the official Notice to Proceed). Typically, this is about two to four weeks prior to the Kickoff Meeting. The preliminary work will include utility outreach and field walks to **identify all areas of special needs**. This is necessary for the purpose of confirming design requirements. We will also reach out to the survey and geotechnical sub-consultants in order to **commence these phases of work as soon as possible**. This preliminary work will allow for a more productive kickoff meeting, confirm the field survey efforts, and may likely save time. The following is our project approach:



Scope of Work

We acknowledge the tasks described in the RFP. Our proposed Scope of Work will **include the entirety of the Scope described in the RFP**. Due to the page limits stipulated in the RFP, we have consolidated the Scope into the following short-list of four (4) phases:

- Phase I – Preliminary Engineering Services
 - Task 1 – Data Collection, Technical Research, and Review
 - Task 2 – Topographic Survey and Geotechnical Investigation
 - Task 3 – 1st Submittal (30%) Construction Documents
 - Task 4 – 2nd Submittal (65%) Construction Documents
 - Task 5 – 3rd Submittal (95%) Construction Documents
 - Task 6 – Permitting and Regulations
- Phase II – FINAL (100%) Engineering Services
 - Task 7 – FINAL (100%) Bid-Ready Construction Documents
- Phase III – Bidding & Construction Support (Optional)
 - Task 8 – Bidding Phase Services
 - Task 9 – Construction Phase Services
- Phase IV – As-Built Preparation
 - Task 10 – As-Built Preparation

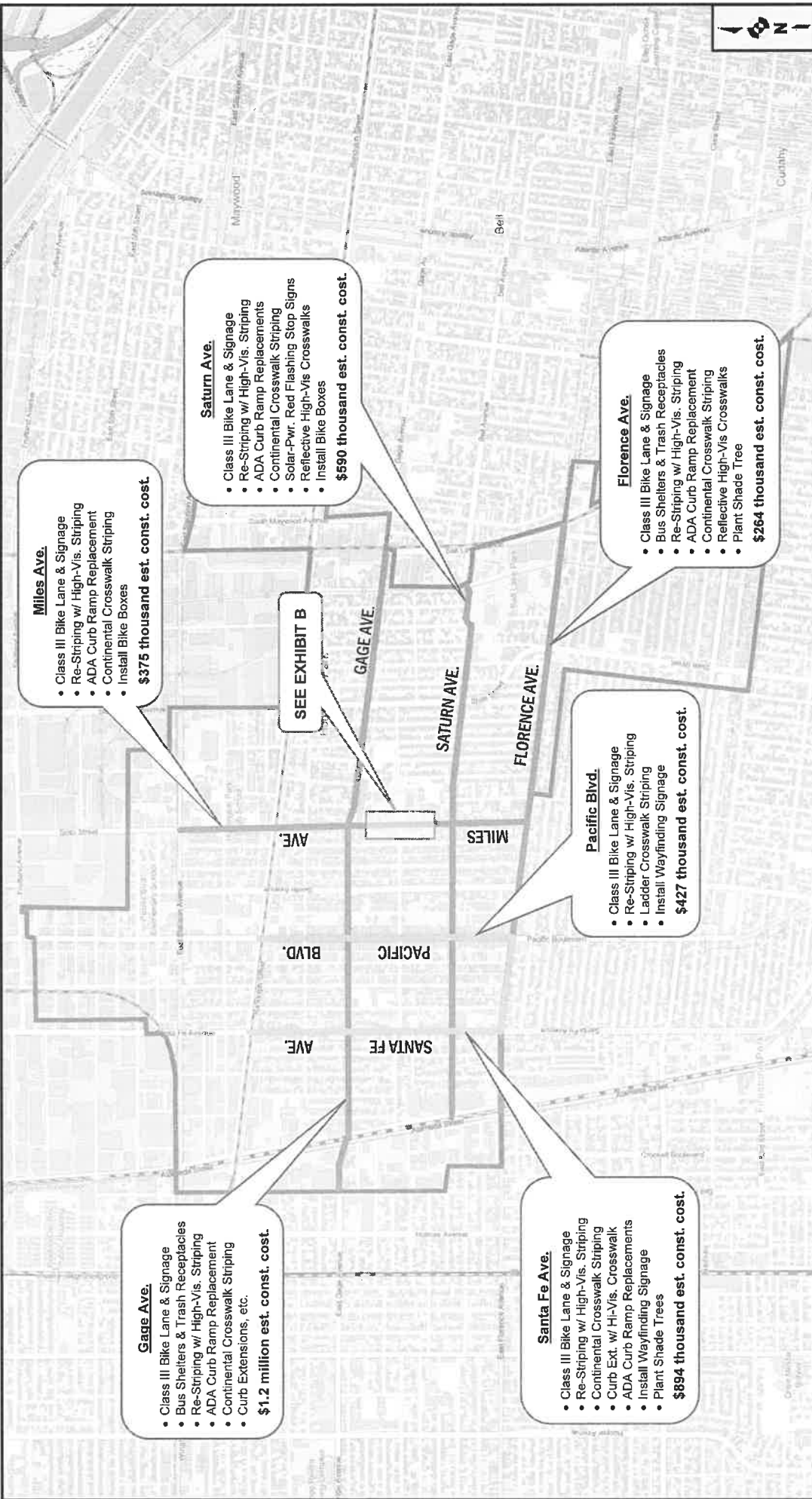


EXHIBIT A

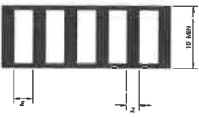
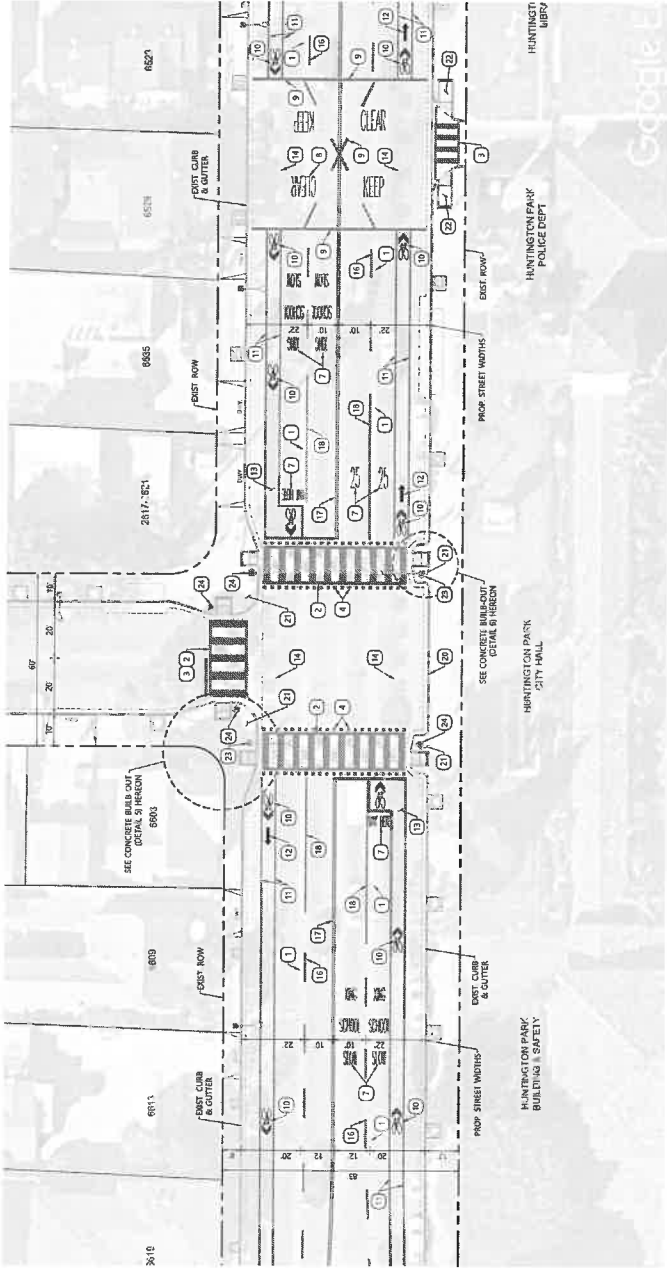
PROJECT LOCATION MAP

(CIP 20108-11 ATP CYCLE IV)

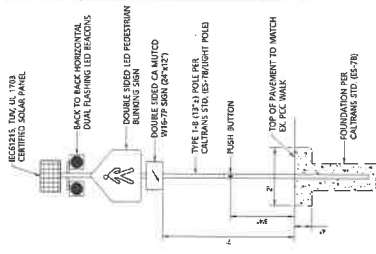
\$3.77 Million Total Estimated Cost

WEST&ASSOCIATES
ENGINEERING

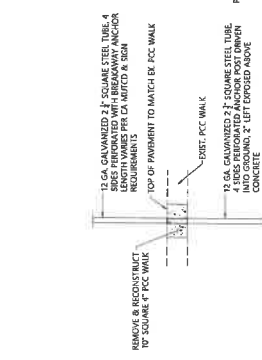
ZOE AVENUE



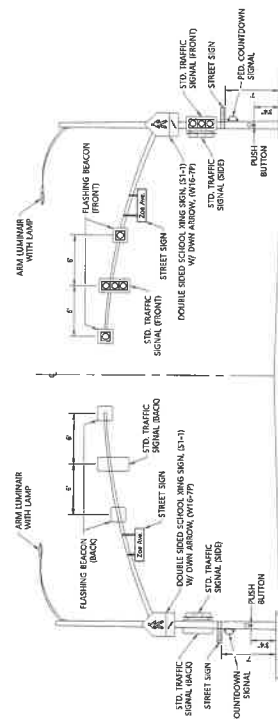
DETAIL 1:
TYPICAL LADDER CROSSWALK MARKINGS
SCALE: NONE



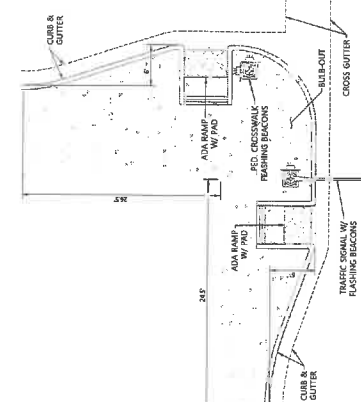
DETAIL 2:
DOUBLE SIDED HORIZONTAL BEACON
(BACK TO BACK)
SCALE: NONE



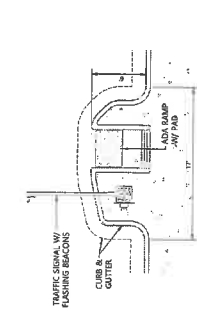
DETAIL 3:
TRAFFIC LIGHT & OVERHEAD FLASHING BEACON
SCALE: NONE



DETAIL 4:
TRAFFIC LIGHT & OVERHEAD FLASHING BEACON
SCALE: NONE



DETAIL 5:
SOUTHWEST CONCRETE BULB-OUT
(CURB EXTENSION)
SCALE: NONE



DETAIL 6:
NORTHEAST CONCRETE BULB-OUT
(CURB EXTENSION)
SCALE: NONE

- CONSTRUCTION NOTES**
- 1) BRIDGE GARD-RAMP EXISTING STRIPING
 - 2) TRAFFIC SIGNALS TO BE ADJUSTED TO MATCH EXISTING STRIPING IN CROSSWALK AND INTERSECTION
 - 3) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 4) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 5) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
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 - 17) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 18) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 19) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 20) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 21) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 22) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 23) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND
 - 24) INSTALL LADDER TYPE CROSSWALK CURB-OUTS PER DETAIL 1 (PAVED PER CALTRANS STANDARD) AND

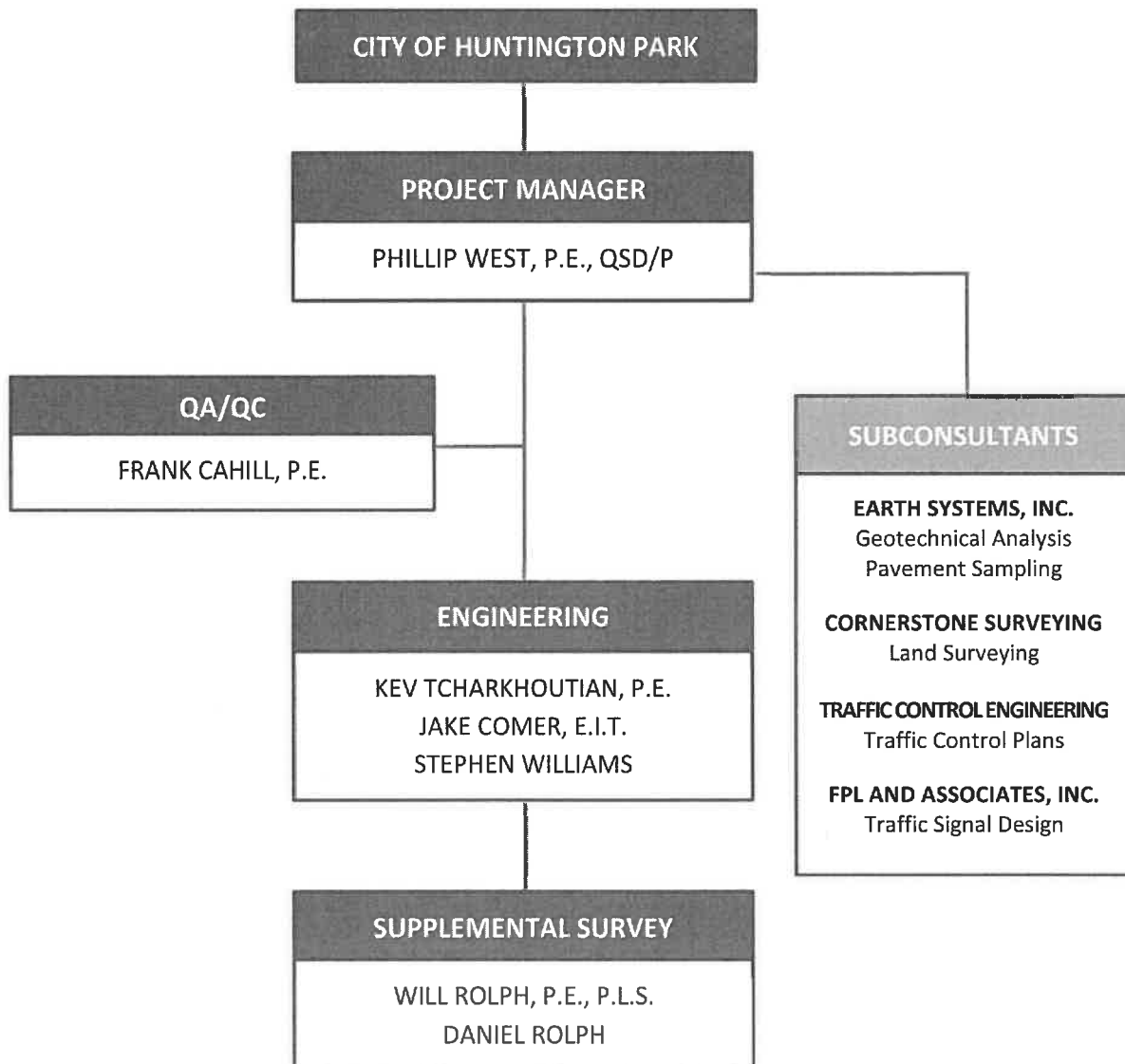
EXHIBIT B
PROPOSED IMPROVEMENTS:
MILES AVENUE @ ZOE AVENUE

PREPARED BY:
WEST & ASSOCIATES
ENGINEERING, INC.

SECTION 5: PROPOSED PERSONNEL

Organizational Chart

The project team will consist of the individuals below:



Resumes of the above individuals are provided later in this section.

SECTION 5: PROPOSED PERSONNEL

Subconsultants

Brief descriptions of our sub-consultants are provided below:

Geotechnical (Pavement Coring) Services:

Earth Systems, Inc.,

2122 East Walnut Street
Suite 200
Pasadena CA 91107
626.356.0955

Company Overview: Geotechnical services for Southern California clients. Earth Systems was started in 1969 and has been in business for over 50 years. They provide a complete range of Geotechnical Services all over Southern California. Their client list includes architects, engineers, private homeowners, commercial businesses, and of course public agencies. In total, they have worked with cities, counties, water districts, school districts, and private companies.

Land Surveying:

Cornerstone Surveying

20730 Knob Place
Perris CA 92570
951.736.0200

Company Overview: Land Surveying services for California. Cornerstone Surveying Inc. began in 1997 and includes a staff of three (3) Licensed Surveyors as well as support staff. Cornerstone's team has over 75 years of in-depth experience with both development and capital improvement/public works projects.

Traffic Control:

Traffic Control Engineering

2687 Saturn St.
Brea, CA 92821
714.447.6077

Company Overview: Traffic Control Services throughout Southern California. The Company was founded in 1989, and provides traffic control engineering services to municipal clients in Southern California. Their services include local, state, and federally funded projects. Typical services include design of traffic control plans.

Traffic Signal Design:

FPL & Associates Inc.

30 Corporate Park #401,
Irvine, CA 92606

Company Overview: FPL and Associates, Inc. is a privately-held corporation located in the heart of Orange County, California. FPL provides comprehensive civil and traffic engineering services to federal, state, municipal, and private clients across the western United States, particularly in the Southern California region.

Phillip West, P.E., QSD/QSP
Principal/Project Manager

EDUCATION:
California State University,
Long Beach
B.S. Civil Engineering

REGISTRATION:
Registered Civil Engineer, California
No. 77453
Qualified SWPPP Developer (QSD)
Qualified SWPPP Practitioner (QSP)
Certificate No. 25034

OVERVIEW:

As Principal/President at West & Associates, Mr. West also serves as a Project Manager for all projects. The entirety of Mr. West's career has been **solely focused on public clients**, and he has served **over sixty (60) public agency clients** throughout his career. His experience has been very diverse and involves planning, design, construction management, field surveying, and even staffing augmentation. Most importantly for this particular project, a good portion of Mr. West's background involves **street design and/or construction management**, including widening, medians, ADA Ramps, rehabilitation etc. A handful of these projects have **involved funding through Caltrans**.

RELATED PROJECT EXPERIENCE

Mr. West has been involved with the related projects described below. These projects are only a portion of Mr. West's overall experience:

CITY OF HUNTINGTON PARK

Project management services for Phase IV of the City's ATP project. The services included Project Approval & Environmental Design (PA&ED) work in preparation for the solicitation of PS&E. The PA&ED phase will lay the groundwork for the completion of "complete streets" for six (6) streets, with a pedestrian focus, including bicycle routes, sharrows, curb bulbouts, zebra crosswalks, signal modifications, and signage.

CITY OF HAWAIIAN GARDENS

Engineering services for the City's Fedde Middle School Safe Routes to School project. The project involved new curb ramps, new crosswalk striping, new speed humps, and a new overhead pedestrian traffic signal along 214th St. and Elaine Ave. in the City of Hawaiian Gardens.

CITY OF ALHAMBRA

Project management services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

CITY OF SIERRA MADRE

Project management services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

Project management services for the City's FY 2019-20 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

Project management services for the City's Recreation Center Parking Lot Improvements project. The project involved grind & overlay, removal of curb and gutter, removal of grass parkway, removal of existing trees, construction of new parking spaces and curb islands, construction of new sidewalk and curb ramps, replacement of driveways, and installation of new striping.

CITY OF BELLFLOWER

Construction Management services for the City's Rehabilitation of Palo Verde Avenue Project. The project involved grind and overlay, removal and replacement, curb and gutter work, ADA curb ramps, striping, and traffic signal modifications. This project also involved Caltrans coordination for funding purposes.

CITY OF CULVER CITY

Design services for the City's Washington Blvd. and Washington Pl. streetlight improvements project. The project involved new streetlights in the City's two main thoroughfares as well as some sidewalk, curb, gutter, street, and ramp work. Project involved nearly 6,000 feet of street.

CITY OF IRVINE

Assisted with engineering services for the City's Barranca Parkway Pavement Restoration Project. The project involved rehabilitation of 10,000 ft. of Barranca Parkway, including grind & overlay, new driveway ramps near the Broadcom building, re-grading of certain portions of street, striping, landscaping adjustments, and adjustment of pedestrian curb ramps.

Engineering services for the City's Culver-Alton & Culver-Main Intersection Improvements project. The project involved re-configuring of a landscaped median, re-grading of a street intersection, re-configuring of turn pocket islands, striping, landscaping adjustments, and adjustment of pedestrian curb ramps.

CITY OF MONTEBELLO

Recently provided engineering services for the City's Beach Street Pavement Rehabilitation Project. The project involves removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five separate streets in the City. The total length of the project was 5,000 feet.

CITY OF RANCHOS PALOS VERDES

Engineering services for the preparation of an Infrastructure Report Card. The Infrastructure Report Card evaluated the City's infrastructure, including the City's streets. The Report Card provided an assessment of existing street infrastructure conditions, recommendations on rehabilitation or replacement needs, a cost estimate for infrastructure improvements of one letter grade, and the costs to improve infrastructure from the current assigned grade all the way to an "A" grade. The project also involved field site visits, presentations to City staff, and a final presentation to the City Council. The City's street's received an "A" grade.

CITY OF RANCHO SANTA MARGARITA

Engineering services for the City's Melinda Road Median Extension Project. The project involves extension of an existing median in Melinda Road at Paseo Alegria near the 241 toll road. The project involves removal of concrete curbs, stamped concrete, landscaping, striping, existing asphalt pavement, and traffic signs, construction of new concrete curbs, construction of new stamped concrete, installation of new asphalt pavement, grind and overlay of asphalt for smooth "feathered" transition for drainage, installation of new project signs and posts, curb painting, and restoration of pavement striping

CITY OF SAN DIMAS

Design services for the City's Foothill Blvd Rehabilitation Project. The project involved grind & overlay, removal and replacement, curb and gutter replacement, sidewalk restoration, landscaped median adjustment, re-grading of some portions of street, striping, and traffic loop adjustment.

**Kev Tcharkhoutian, P.E.
Engineer****EDUCATION:**
California State University,
Long Beach
B.S. Civil Engineering, 1980**REGISTRATION:**
Registered Civil Engineer, California
No. 44598**OVERVIEW:**

Mr. Tcharkhoutian has over 40 years-experience in municipal civil engineering design and construction. He has served as City Engineer or Public Works Director for several agencies throughout Southern California. Mr. Tcharkhoutian has overseen a wide variety of projects including water, sewer, storm drain, streets, parks, and grading. Mr. Tcharkhoutian previously provided QA/QC services for the City of Alhambra's FY 20-21 Street Rehabilitation Project.

RELATED PROJECT EXPERIENCE (CITY ENGINEER OR PUBLIC WORKS DIRECTOR)

Mr. Tcharkhoutian has served as City Engineer or Public Works Director for the following agencies:

- City of Sierra Madre
- City of El Monte
- City of South El Monte
- City of Baldwin Park

RELATED PROJECT EXPERIENCE (OTHER AGENCY EXPERIENCE)

Mr. Tcharkhoutian has served as Principal, Senior, or Associate Engineer for the following agencies:

- City of Montebello
- City of Duarte
- City of Vernon
- City of Wildomar
- City of Colton
- City of South Gate
- City of Maywood
- City of Monrovia

RECENT PROJECT EXPERIENCE

Mr. Tcharkhoutian has recently provided Inspection Services for the following projects:

CITY OF ALHAMBRA

Project management services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

CITY OF HUNTINGTON PARK

Engineering services for Phase IV of the City's ATP project. The services included Project Approval & Environmental Design (PA&ED) work in preparation for the solicitation of PS&E. The PA&ED phase will lay the groundwork for the completion of "complete streets" for six (6) streets, with a pedestrian focus, including bicycle routes, sharrows, curb bulbouts, zebra crosswalks, signal modifications, and signage.

Engineering services of the City and County catch basins within the limits of the City of Huntington Park. The project involved an inventory of the catch basins to assess the rehabilitation needs of the catch basins related to clean stormwater discharges. The goal of the inspections was to determine the need for inlet screens and baskets, and to determine the cleaning needs of the catch basins.

Frank Cahill, P.E.
Quality Assurance/Control**EDUCATION:**

University College Dublin,
Ireland
B.Eng. Civil Engineering

REGISTRATION:

Registered Civil Engineer, California
No. 55373

OVERVIEW:

Mr. Cahill has about **twenty-five years** of experience in California with civil engineering management, design and construction for site development, and **municipal projects** in the **water/wastewater** industry. He will be providing quality review of plans prior to submittal to the City.

RELATED PROJECT EXPERIENCE

Mr. Cahill has been involved with the related projects described below and on the following page. These projects are only a small portion of Mr. Cahill's overall experience:

EAST ORANGE COUNTY WATER DISTRICT

Mr. Cahill acted as the District Engineer for East Orange County Water District from 2017 to 2018, for a period of nearly two years. District Engineer duties included oversight of current projects, planning and budgeting of proposed projects, direction of staff and resources. During his tenure, Mr. Cahill oversaw the implementation of the District's Master Plan Update.

IRVINE RANCH WATER DISTRICT

Project Manager & QA/QC services for the Culver Drive Recycled Water Main Replacement project. The project involved replacement of approximately 1,200 feet of existing recycled water main with a new 12-inch PVC recycled water main, along with new recycled service laterals, air-vacs and a blow-off, and abandonment of existing facilities. The project also involved a complex connection in a busy intersection that required traffic control and the installation of a large 8-inch meter vault to an existing golf course.

MOULTON NIGUEL WATER DISTRICT

Project Manager for the Wood Canyon Domestic Water Booster Pump Station which included four 150 HP pumps, suction and discharge piping and valves, LPG standby generator, electrical system and controls, masonry building, grading and miscellaneous site work. Also provided construction management and inspection services.

CITY OF SIMI VALLEY

Prepared a Water Master Plan for a proposed development in the City. The proposed development included roughly 200 homes, new golf courses, a clubhouse, and club member suites. The master plan included nearly 5 miles of new mains, a booster station, a new reservoir, and revitalization of an existing reservoir.

Quality Assurance/Control services for the design of about 30,000 feet of new streets for a proposed housing development in the City. The street improvements included new street design, curb and gutter, parking pop-outs, and parking lots for a clubhouse at a private golf course. The project also included street rehabilitation work. Mr. Cahill overlooked the design of over 22,000 feet of water mains and over 3,000 feet of sewer improvements within the project vicinity.

UNIVERSAL STUDIOS

Prepared Domestic and Fire Water Master Plans as a Universal Studios Project Engineer. Recommended modifications to enhance the performance of the existing systems.

**Jake Comer, E.I.T.
Engineer****EDUCATION:**
California State University,
Long Beach
B.S. Civil Engineering**REGISTRATION:**
Engineer-In-Training, CA (No. 18-460-16)
Licensed Engineer, CA (In Progress)**OVERVIEW:**

Mr. Comer serves as an engineer for various projects, including water, sewer, and storm drain projects. Mr. Comer has experience in hydrologic and hydraulic analyses, engineering design work with both AutoCAD and MicroStation, field data collection, and GIS analyses. The majority of Mr. Comer's experience has been with public agencies. Mr. Comer previously provided engineering services for the City of Alhambra's FY 20-21 Street Rehabilitation Project.

RELATED PROJECT EXPERIENCE

Mr. Comer has been involved with the related projects described below and on the following page. These projects are only a portion of Mr. Comer's overall experience:

CITY OF HUNTINGTON PARK

Engineering services for Phase IV of the City's ATP project. The services included Project Approval & Environmental Design (PA&ED) work in preparation for the solicitation of PS&E. The PA&ED phase will lay the groundwork for the completion of "complete streets" for six (6) streets, with a pedestrian focus, including bicycle routes, sharrows, curb bulbouts, zebra crosswalks, signal modifications, and signage.

Inspection services of the City and County catch basins within the limits of the City of Huntington Park. The project involved an inventory of the catch basins to assess the rehabilitation needs of the catch basins related to clean stormwater discharges. The goal of the inspections was to determine the need for inlet screens and baskets, and to determine the cleaning needs of the catch basins.

CITY OF ALHAMBRA

Project management services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

CITY OF CHINO

Engineering services for the Yorba Avenue and Eucalyptus Avenue Sewer Main Replacement project. The project involved replacing approximately 5,000 feet of 10-inch and 15-inch sewer main with 15-inch and 21-inch VCP. The project also included a sewer study which evaluated design alternatives and calculated sewer flows and capacity of the existing and new main. Finally, the project also involved coordination with Union Pacific Rail Road for a railroad crossing.

CITY OF MONTEBELLO

Recently provided engineering services for the City's Beach Street Pavement Rehabilitation Project. The project involves removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five separate streets in the City. The total length of the project was 5,000 feet.

CITY OF SIERRA MADRE

Project management services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

Stephen Williams
Engineer**EDUCATION:**
Penn State University,
B.S. Business (Org. Leadership)**OVERVIEW:**

Mr. Williams provides engineering, surveying, construction inspection and drafting services for West & Associates. Prior to his experience in the water/wastewater industry, Mr. Williams had worked in the manufacturing industry for about 10 years, wherein he supervised a team. His skills with the finer details add to the precision of work for the project team. Mr. Williams previously provided engineering services for the City of Alhambra's FY 20-21 Street Rehabilitation Project.

PROJECT EXPERIENCE

Mr. Williams has been involved with the related projects described below:

CITY OF ALHAMBRA

Mapping and drafting services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

CITY OF MONTEBELLO

Recently provided engineering services for the City's Beach Street Pavement Rehabilitation Project. The project involves removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five separate streets in the City. The total length of the project was 5,000 feet.

CITY OF RANCHO SANTA MARGARITA

Engineering services for the City's Melinda Road Median Extension Project. The project involves extension of an existing median in Melinda Road at Paseo Alegria near the 241-toll road. The project involves removal of concrete curbs, stamped concrete, landscaping, striping, existing asphalt pavement, and traffic signs, construction of new concrete curbs, construction of new stamped concrete, installation of new asphalt pavement, grind and overlay of asphalt for smooth "feathered" transition for drainage, installation of new project signs and posts, curb painting, and restoration of pavement striping.

CITY OF SIERRA MADRE

Recently provided engineering services for the City's FY 2020-21 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

Engineering services for the City's FY 2019-20 Street Rehabilitation Project. The project involved pavement removal and replacement, grind and overlay, slurry seal, removal of trees, curb and gutter replacement, sidewalk replacement, sidewalk repair, driveway replacement, curb ramp replacement, restoration of pavement striping, and manhole adjustment on five streets in the City.

Engineering services for the City's Recreation Center Parking Lot Improvements project. The project involved grind & overlay, removal of curb and gutter, removal of grass parkway, removal of existing trees, construction of new parking spaces and curb islands, construction of new sidewalk and curb ramps, replacement of driveways, and installation of new striping.

**Will Rolph, P.E., P.L.S., QSD/P
Surveyor****EDUCATION:**
California State University,
Long Beach
B.S. Civil Engineering**REGISTRATION:**Licensed Civil Engineer, CA. No. 76698
Licensed Surveyor, CA 9381
Qualified SWPPP Developer (QSD)
Qualified SWPPP Practitioner (QSP)
Certificate No. 00812**OVERVIEW:**

Mr. Rolph has over fifteen (15) years of engineering and land surveying experience. Mr. Rolph assists Mr. West with a portion of West & Associates' projects. As a surveyor, Mr. Rolph's primary focus is large residential and commercial developments, but he also has experience working with local municipalities. Mr. Rolph's engineering background involves a strong component of water and sewer utility design.

PROJECT EXPERIENCE

Mr. Rolph has worked with Mr. West on the following projects described below. These projects represent just a small portion of Mr. Rolph's experience:

CITY OF ALHAMBRA

Land surveying & mapping services for the Winchester Avenue and Winthrop Drive Water Main Replacement project. The project involved replacing distribution mains and a transmission main along with new service laterals, hydrants, air-vacs and blow-offs, connections to existing mains, and abandonment of existing facilities. The total length of the project was approximately 10,000 feet. Finally, the project also involved street rehabilitation.

Land surveying & mapping services for the Chapel Avenue Sewer Main Replacement project. The project involved replacing an existing 8-inch sewer main with a 12-inch sewer main, including manhole rehabilitation, connections to existing sewer service laterals, and street rehabilitation. The work also included a Preliminary Design Report (PDR) which evaluated design alternatives and calculated sewer flows and capacity of the existing and new main. Finally, the project also involved street rehabilitation.

CITY OF CHINO

Oversight of surveying & mapping services for the Baker Avenue Water Main Replacement project. The project involved replacing a distribution main along with new service laterals, hydrants, air-vacs and blow-offs, connections to existing mains, and abandonment of existing facilities. The total length of the project was approximately 700 feet.

CITY OF CHINO HILLS

Oversight of surveying & mapping services for the Maroon Bell – Winchester Water Main Replacement project. The project involved replacing distribution mains along with new service laterals, hydrants, air-vacs and blow-offs, connections to existing mains, and abandonment of existing facilities. The project also involved street rehabilitation. The total length of the project was approximately 3,500 feet.

CITY OF RANCHO SANTA MARGARITA

Oversight of surveying & mapping services for the City's Melinda Road Median Extension Project. The project involved the extension of an existing curbed median in Melinda Road north of the 241-toll road.

CITY OF SIERRA MADRE

Oversight of surveying & mapping services for the City's FY 2019-20 Street Improvements Project. The project involved the rehabilitation of over 10,000 feet of City streets, including full-depth replacement, grind and overlay, slurry seal, replacement of curb, gutter, sidewalk, and curb ramps.

**Daniel Rolph,
Surveyor/CAD Designer****EDUCATION:**
B.S., Architecture,
San Diego School of
Architecture**REGISTRATION:**
Licensed Surveyor, CA (In Progress)**OVERVIEW:**

Mr. Rolph practices as a surveyor and CAD designer in the State of California. He has experience in land surveying in over a dozen cities throughout California, many of which have involved coordination with public agencies, including City and Water District Staff and California State agencies, such as Caltrans. **Thus, Mr. Rolph is familiar with the needs of public agencies.**

PROJECT EXPERIENCE

Mr. Rolph has over five (5) years of land surveying and CAD experience. Mr. Rolph has worked with Mr. West on the following projects described below. Most of Mr. Rolph's experience has been with other firms. As such, these projects represent just a small portion of Mr. Rolph's experience:

CITY OF ALHAMBRA

Land surveying & CAD Design services for the Winchester Avenue and Winthrop Drive Water Main Replacement project. The project involved replacing distribution mains and a transmission main along with new service laterals, hydrants, air-vacs and blow-offs, connections to existing mains, and abandonment of existing facilities. The total length of the project was approximately 10,000 feet. Finally, the project also involved street rehabilitation.

Land surveying & CAD Design services for the Chapel Avenue Sewer Main Replacement project. The project involved replacing an existing 8-inch sewer main with a 12-inch sewer main, including manhole rehabilitation, connections to existing sewer service laterals, and street rehabilitation. The work also included a Preliminary Design Report (PDR) which evaluated design alternatives and calculated sewer flows and capacity of the existing and new main. Finally, the project also involved street rehabilitation.

CITY OF CHINO

Land surveying services for the Baker Avenue Water Main Replacement project. The project involved replacing a distribution main along with new service laterals, hydrants, air-vacs and blow-offs, connections to existing mains, and abandonment of existing facilities. The total length of the project was approximately 700 feet.

CITY OF CHINO HILLS

Land surveying services for the Maroon Bell – Winchester Water Main Replacement project. The project involved replacing distribution mains along with new service laterals, hydrants, air-vacs and blow-offs, connections to existing mains, and abandonment of existing facilities. The project also involved street rehabilitation. The total length of the project was approximately 3,500 feet.

CITY OF RANCHO SANTA MARGARITA

Land surveying services for the City's Melinda Road Median Extension Project. The project involved the extension of an existing curbed median in Melinda Road just north of the 241 toll road.

CITY OF SIERRA MADRE

Land surveying & CAD Design services for the City's FY 2019-20 Street Improvements Project. The project involved the rehabilitation of over 10,000 feet of City streets, including full-depth replacement, grind and overlay, slurry seal, replacement of curb, gutter, sidewalk, and curb ramps.

SECTION 6: QUALITY ASSURANCE/QUALITY CONTROL

Quality Assurance/Control of Procedures

The following are quality control methods that we plan on implementing for this project:

Direct Project Management

The Project Manager, Mr. Phillip West, will be directly involved on this project. Instead of periodic reviews and dictations to engineering staff, he will work alongside engineering staff to ensure the work is done properly. All staff members have access to the same files and can edit as the needs arise without things being “lost-in-translation”. This drastically reduces errors during the work process.

Communication Plan

We will strive to address all issues the first time, so that the issues do not have to be re-addressed down the road, thus saving time and money. To accomplish this, we will apply the following procedures:

- Coordinate with the City to schedule meetings at such a day/time which allows the maximum number of City staff to attend the meeting (in order to provide better input for the City).
- Maintain regular communication via telephone and email. Important information will be made in writing via email in order to be accessible by all parties throughout the duration of the project.
- Strive for a high level of responsiveness and timeliness with all email and telephone communication. Typically, we respond to all phone calls or emails within a few hours or less. This reduces re-work if communication corrects a design issue that would have otherwise been resolved improperly.

Permitting Plan

This project will require outreach and coordination with outside agencies (Caltrans, County of Los Angeles, City of Los Angeles, etc.). Outreach with utility companies (SCE, AT&T, etc.) will also be required. To avoid any project delays related to outside agency coordination, we intend to coordinate with these agencies as follows:

- Shortly after project kickoff, we will conduct “preliminary” coordination with these agencies in order to establish a contact individual and inform them of the technical details of the project. The “preliminary” communication will continue up to the 2nd (65%) design submittal. The initial

SECTION 6: QUALITY ASSURANCE/QUALITY CONTROL

feedback from the agency will be provided to the City so that the City can assess the impact of the agency's requirements during the City's review of the 65% Plans. This will allow the City to review the 65% plans more effectively.

- The intent is to **"lock-in"** the design such that after the City provides comments to the 65% Plans, the design is "locked-in" (as far as any design items that concern the permitting agency). Significant changes in design requested by the City after a submittal has been made to the permitting agency can delay the permitting process if the changes concern the permitting agency.

Since the City will have "locked-in" the design at the 65% level, we will coordinate with the agency contact individual until approval by the agency. The City can still request changes to the Plans at 95% and 100% design levels, but **it is our goal to reduce the number and intensity of revisions** in order to avoid any delays in permitting/approval.

Quality Assurance/Control of Products

All work will go through a QA/QC process before submittal to the client. We strive to have all projects reviewed by an experienced individual not directly involved in the project, although general familiarity with the project and the client is desirable. During the QA/QC process, Adobe PDF software is utilized to review documents as opposed to printing hard copies. This is not done to be "green", but rather to **save time and to keep records of our quality control**. This is also important if any quarantines persist during this project. The review of the construction documents shall focus on three key areas including: 1) quality of drafting, 2) quality of design, and 3) constructability.

SECTION 7: REFERENCES

References

The following are key references for this proposal:



CITY OF HUNTINGTON PARK

6550 Miles Avenue, Huntington Park CA 90255

Cesar Roldan, Director of Public Works (323) 584-6320

croldan@hpca.gov



CITY OF ALHAMBRA

900 New Avenue, Alhambra, CA 91801

Thomas Amare, Engineer (626) 300-1562

tamare@cityofalhambra.org

900 New Avenue, Alhambra, CA 91801

Robert Bias, Engineer (626) 570-5062

rbias@cityofalhambra.org



CITY OF SIERRA MADRE

232 W. Sierra Madre Blvd. Sierra Madre CA 91024

Chris Cimino, Director of Public Works (626) 355-7135

ccimino@cityofsierramadre.com



CITY OF RANCHO SANTA MARGARITA

22112 El Paseo, Rancho Santa Margarita CA 92688

Tri Nguyen, Principal Engineer 949-635-1813

tnguyen@cityofrsm.org



CITY OF MONTEBELLO

1600 W Beverly Blvd. Montebello, CA 90640

Albert Mendoza, Deputy Director of Public Works (323) 887-1200

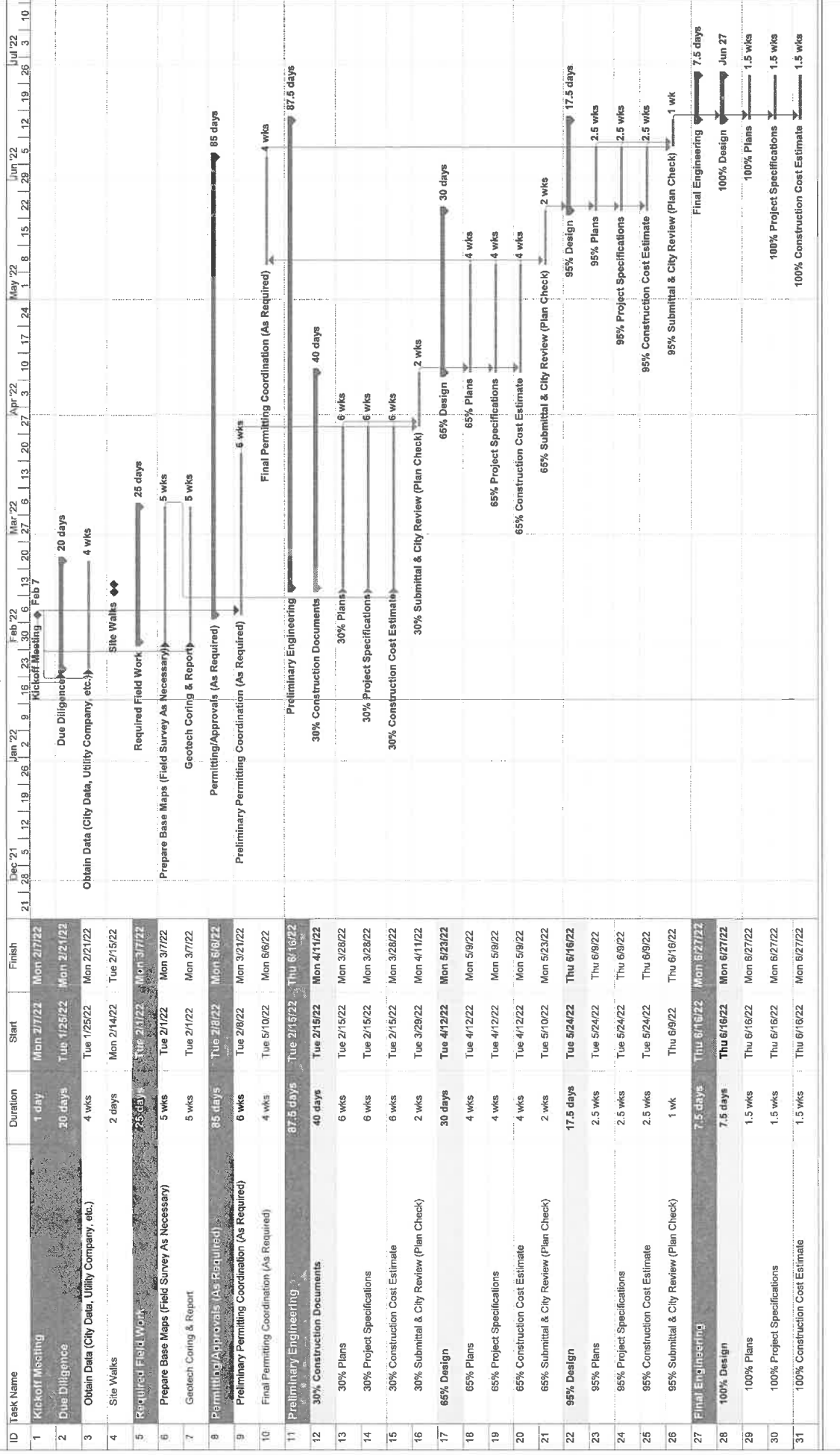
amendoza@cityofmontebello.com

SECTION 8: SCHEDULE

Project Schedule

We have included our project schedule on the following page in MS Project format. The schedule is based on a start date (Kickoff Meeting) of February 7, 2022 in accordance with the Notice to Proceed date as shown in the RFP (Attachment 2 – “Important Dates”). The schedule shows submittal of 100% (Final) PS&E to the City by June 27, 2022, in accordance with the RFP.

**City of Huntington Park
Professional Plans, Specifications, and Estimate (PS&E)
CIP 2018-11 ATP Cycle IV**



SECTION 10: COMPLIANCE WITH RFP AND CONTRACT AGREEMENT

Statement(s)

At this time, we have no objections to the terms or conditions of the RFP or to the City's standard agreement for professional services. Our insurance coverage meets or exceeds the minimum insurance requirements outlined in the City's agreement for professional services. A sample copy of our insurance certificate is shown below.

ACORD		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)		
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.						
IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).						
PRODUCER		CONTACT		NAME		
IOA Insurance Services 130 Vantis, Suite 250 Aliso Viejo, CA 92656		Betty Tran				
www.ioausa.com		PHONE (A/C, Res, Ext)		FAX (A/C, No)		
CA License #0E67768		949-297-5962		949-297-5960		
		E-MAIL		INSURER(S) AFFORDING COVERAGE		
		betty.tran@ioausa.com		NAIC #		
INSURED		INSURER A: RLI Insurance Company		13056		
West & Associates Engineering, Inc. 78 Anacapa Court Foothill Ranch CA 92610-2436		INSURER B: Travelers Casualty and Surety Co America		31194		
		INSURER C:				
		INSURER D:				
		INSURER E:				
		INSURER F:				
COVERAGES		CERTIFICATE NUMBER: 64065479		REVISION NUMBER:		
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSURER	TYPE OF INSURANCE	ADDL SUBS	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	COMMERCIAL GENERAL LIABILITY CLAIMS-MADE Prim/NonCon Wvr of Subr GEN'L AGGREGATE LIMIT APPLIES PER: POLICY OTHER	PSB0006154 Scheduled Al Endt #PPB3130212 Professional Services performed by the Insured and Excluded	9/19/2021	9/19/2022	EACH OCCURRENCE \$2,000,000 DAMAGE TO RENTED EQUIPMENT (Excl. Automobiles) \$1,000,000 MED EXP (Any one person) \$10,000 PERSONAL & ADJ INJURY \$2,000,000 GENERAL AGGREGATE \$4,000,000 PRODUCTS COMP OP AGG \$4,000,000	
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY LEASED AUTOS ONLY Prim/Non Wvr of Subr	PSA0003094 Designated Insured Endt #CA20481013; Prim/NonCon and Blkt Wvr of Subr Included on pg 2 of Form #PPA3000313	9/19/2021	9/19/2022	UNLIMITEED SINGLE LIMIT (Excl. Automobiles) \$1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$	
A	UMBRELLA LIAB EXCESS LIAB RETENTION \$	PSE0002695 Excludes Professional Liability	9/19/2021	9/19/2022	EACH OCCURRENCE \$1,000,000 AGGREGATE \$1,000,000	
A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY EMPLOYER: PARTIAL EXECUTIVE OFFICER NUMBER EXCLUDE 09 (Mandatory in RM) If yes, describe under DESCRIPTION OF OPERATIONS below	PSW0004148 Waiver of Subrogation Endt #WC0403060484	9/19/2021	9/19/2022	PER STATUTE E.L. EACH ACCIDENT \$1,000,000 F.L.D. BASE - EA EMPLOYEE \$1,000,000 E.L. DISEASE - POLICY LIMIT \$1,000,000	
B	Professional Liability Claims-Made	106567562	9/19/2021	9/19/2022	\$2,000,000 Each Claim \$2,000,000 Annual Aggregate	
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)						
Certificate Holder is an Additional Insured with respect to General Liability (GL) and Automobile Liability when required by contract with the Insured, but only to the extent provided within the Endorsements noted above. GL includes Separation of Insureds and Contractual Liability per limitations in the Business Owners' Coverage form. A Workers' Compensation Waiver is included for the person or organization named in the Schedule that are parties to a written contract, but only to the extent provided within the Endorsement noted above. Coverage is subject to all policy terms, conditions, limitations and exclusions. 30 Day Notice of Cancellation / 10 Days for Non-Payment in accordance with policy provisions.						
CERTIFICATE HOLDER			CANCELLATION			
* Per ACORD Additional Remarks Schedule City of Alhambra, its officials, officers and employees 111 S. First Street Alhambra CA 91801			SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.			
			AUTHORIZED REPRESENTATIVE			
			(A/C) Alicia K. Ingram			

ACORD 25 (2016/03)

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January 18, 2022

CITY OF HUNTINGTON PARK

ADDENDUM NO. 1

REQUEST FOR PROPOSAL: CIP 2018-11 ATP CYCLE IV PS&E DESIGN

The following modifications are hereby made a part of the contract documents and supersede, replace, and/or amend the provisions included in the original Request for Proposal (RFP). The following addendum is hereby made a part of the RFP:

Original proposal due date of Wednesday, January 19, 2022 at 2:00 p.m. has been extended to **Tuesday, February 1, 2022 at 2 p.m.**

Request for Proposal

End of Addendum No. 1

By order of the City of Huntington Park, Public Works Department

By: 
Cesar Roldan, Director of Public Works

Date: January 18, 2022

Proposal submittal due date has been extended to Tuesday, February 1, 2022 at 2:00 p.m.

Any and all notifications or Addendums must be acknowledged via signature by the Bidder and made part of and incorporated as part of the Bidder's proposal.

Statement of Bidder Acknowledgment

Please sign the acknowledgment below and include it as part of your Bid Proposal.

West & Associates Engineering, Inc.
Contractor Name


Signature

January 20, 2022
Date

Principal/President
Title

FEE PROPOSAL

Detailed Fee Estimate (Attachment 1 of RFP)

TASKS	ITEM	TOTAL w/out TRAFFIC CONTROL	TOTAL w/ TRAFFIC CONTROL
1	One (1) Kickoff Scoping Meeting	\$1,264	\$1,264
2	Six (6) Review Meetings with City	\$3,576	\$3,576
3	Prepare & Submit 30% Design PS&E: Data Collection, Review and Site Investigations, Prepare AutoCAD Base Maps and Field Topo Survey & Prepare Map, Utility Company Coordination	\$49,633	\$57,133
4	Prepare & Submit 65% Design PS&E: Data Collection, Review and Site Investigations, Prepare AutoCAD Base Maps and Field Topo Survey & Prepare Map, Utility Company Coordination	\$56,293	\$63,793
5	Prepare & Submit 95% Design PS&E: Data Collection, Review and Site Investigations, Prepare AutoCAD Base Maps and Field Topo Survey & Prepare Map, Utility Company Coordination	\$39,149	\$46,649
6	Prepare & Submit 100% Design PS&E: Data Collection, Review, and Site Investigations, Prepare AutoCAD Base Maps and Field Topo Survey & Prepare Map, Utility Company Coordination	\$22,769	\$30,269
7	Geotechnical Investigation (Pavement Coring). Estimate of 40 corings. Including	\$14,000	\$14,000
8	Geotechnical Report	\$2,000	\$2,000
9	Third party laboratory testing (Caltrans certified)	\$8,000	\$8,000
10	Answer Bidding RFIs/RFCs	\$1,380	\$1,380
11	Attend Pre-Construction Meeting	\$840	\$840
12	Answer Construction RFIs/RFCs	\$1,380	\$1,380
13	Review Construction Submittals/Shop Drawings	\$3,200	\$3,200
14	As-Builts/Record Drawings	\$6,016	\$6,016
TOTAL DETAILED FEE SCHEDULE		\$209,500	\$239,500

Total Non-Optional RFP Scope (without Traffic Control Plans): \$209,500

Total Non-Optional RFP Scope (with Traffic Control Plans): \$239,500

Detailed Fee Breakdown Provided on Following Page.

FEE PROPOSAL

Detailed Fee Estimate (Consultant)

Task No.	ITEM	PM	ENG	CAD	SRVY	QA/QC	SEC	TOTAL	
		\$150	\$130	\$102	\$240	\$130	\$72	HRS.	\$
NON-OPTIONAL WORK LISTED IN RFP									
Pt. 1 - PRELIMINARY ENGINEERING									
1	Kickoff Meeting Including Preperation of Agenda & Minutes	4	4				2	10	\$1,264
2	Data Collection, Review, and Site Investigation(s)	4	8	4				16	\$2,048
3	Prepare AutoCAD Base Maps for Streets Not Requiring Replacement	6	8	140		8		162	\$17,260
4	Field Survey & Prepare Map (AutoCAD) for Street Segments with Bulb-Outs	6	8	40	40	8		102	\$16,660
5	Utility Company Coordination	6	12				4	22	\$2,748
6	Review Meeting with City (1)	3	3				2	8	\$984
Subtotal		29	43	184	40	16	8	320	\$40,964
Pt. 2 - FINAL ENGINEERING									
1	Prepare & Submit 30% Design PS&E	30	140	120		12	6	308	\$36,932
2	Prepare & Submit 65% Design PS&E	40	160	140		16	6	362	\$43,592
3	Prepare & Submit 95% Design PS&E	30	80	90		16	4	220	\$26,448
4	Prepare & Submit 100% (FINAL) Design PS&E	12	20	40		10	4	86	\$10,068
5	Follow-Up Utility Company Coordination	4	8				4	16	\$1,928
6	Review Meetings with City (6)	12	12				3	27	\$3,576
Subtotal		128	420	390	0	54	27	1,019	\$122,544
Pt. 3 - PERMITTING & REGULATIONS									
1	Preliminary Permitting Coordination	8	12				4	24	\$3,048
2	Final Permitting Coordination	8	16				4	28	\$3,568
Subtotal		16	28	0	0	0	8	52	\$6,616
Pt. 4 - BIDDING AND CONSTRUCTION SUPPORT									
1	Review/Respond to RFIs, RFCs During Bidding (Estimate of 8 RFIs)	4	6					10	\$1,380
2	Attend Pre-Construction Meeting	3	3					6	\$840
3	Review/Respond to RFIs, RFCs During Const. (Estimate of 10 RFIs)	4	6					10	\$1,380
4	Review Contractor's Submittals (Estimate 20 Submittals)	4	20					24	\$3,200
5	As-Builts/Record Drawings	8	16	24			4	52	\$6,016
Subtotal		23	51	24	0	0	4	102	\$12,816
Direct Costs (printing, reproduction, shipping, mileage, etc.)								N/A	\$2,560
TOTAL NON-OPTIONAL WORK		196	542	598	40	70	47	1,493	\$185,500

Non-Optional RFP Scope: \$185,500

SUBCONSULTANT WORK									
1	Geotechnical Investigation (Pavement Coring). Estimate of 40 corings.							N/A	\$24,000
2	Traffic Control Plans							N/A	\$30,000
Subtotal		0	0	0	0	0	0	0	\$54,000
TOTAL FOR SUBCONSULTANT WORK		0	0	0	0	0	0	0	\$54,000

Subconsultant Work: \$54,000

TOTAL FEE FOR NON-OPTIONAL SERVICES (with Traffic Control Plans): \$239,500

FEE PROPOSAL

HOURLY RATE CHART AND EXPENSE REIMBURSEMENT SCHEDULE

Key Positions

Position	Hourly Rates
Project Manager	\$150
Engineer	\$130
CAD Designer (Assistant Engineer Level)	\$102
2-Man Survey Crew	\$240
Quality Assurance/Control	\$130
Secretary	\$72

Subconsultants

Position	Typical Rates
Geotechnical/Pavement Corings (Per Coring) Including Laboratory Analysis	\$1,000*
Traffic Control Plans	Varies*

*Subconsultant Activity. Price may vary depending on number of potholes/borings.

Reimbursable In-House Costs

Vehicle mileage, between engineer's office and project site and/or client offices	\$ 0.58/mile
Reproduction, printing, and any other services performed by subcontractor	cost + 15%
Postage Delivery Service, Express Mail	cost + 15%

NOTE: All rates are effective until the end of this contract.

ATTACHMENT "B"

Attachment 2

Consultant Proposals

Cannon, Infrastructure Engineers and Psomas

Available at the City Clerks Office

ITEM NO. 12



CITY OF HUNTINGTON PARK

Public Works Department
City Council Agenda Report

February 15, 2022

Honorable Mayor and Members of the City Council
City of Huntington Park
6550 Miles Avenue
Huntington Park, CA 90255

Dear Mayor and Members of the City Council:

CONSIDERATION AND APPROVAL TO SOLICIT LABOR COMPLIANCE SERVICES FOR CIP 2021-01 SB1 CDBG STREET RECONSTRUCTION PROJECT FY 21/22

IT IS RECOMMENDED THAT CITY COUNCIL:

1. Authorize staff to publish and solicit a Request for Proposal (RFP) from qualified firms to provide labor compliance services for CIP 2021-01 SB1 CDBG Street Reconstruction Project FY 21/22.

PURPOSE/JUSTIFICATION OF RECOMMENDED ACTION

At the regularly scheduled City Council meeting of December 21, 2021, the City Council authorized staff to publish the Notice Inviting Bid (NIB) for CIP 2021-01 SB1 CDBG Street Reconstruction Project FY 21/22. The paving project encompasses work on the following street segments:

Street Name	Beginning Location	Ending Location
Miles Avenue	150' N/O 57 th Street	Florence Avenue
Santa Fe Avenue	58 th Street	Florence Avenue

Community Development Block Grant (CDBG) funds have been allocated to this project. The CDBG program provides annual grants on a formula basis to states, cities, and counties to develop viable urban communities. The program is authorized under Title 1 of the Housing and Community Development Act of 1974, Public Law 93-383, as amended 42 U.S.C. 5301 et seq. Federal labor standard provisions apply to construction work financed with CDBG funds. To ensure federal compliance, the project requires services from a labor compliance officer. The labor compliance officer will monitor and enforce compliance with the federal and state prevailing wage laws on this public works project. The labor compliance officer will inform the contractor about their prevailing wage obligations, monitor compliance by obtaining and reviewing certified payroll records, corroborate reported information from time to time, investigate complaints and other

CONSIDERATION AND APPROVAL TO SOLICIT LABOR COMPLIANCE SERVICES FOR CIP 2021-01 SB1 CDBG STREET RECONSTRUCTION PROJECT FY 21/22

February 15, 2022

Page 2 of 3

suspected violations, and take appropriate enforcement action when violations are found. Coordination with the Department of Industrial Relations is necessary on public works projects.

A formal RFP (Attachment 1) will be published to solicit proposals from qualified firms to provide labor compliance services for the project.

The following is a tentative schedule:

RFP ISSUED	February 18, 2022
REQUEST FOR INFORMATION DEADLINE: 5:00 PM	March 1, 2022
RELEASE OF INFORMATION REQUESTED: 5:00 PM	March 8, 2022
PROPOSAL DUE DATE/SUBMISSION DEADLINE: 2:00 PM	March 16, 2022
TENTATIVE CITY COUNCIL AWARD DATE	April 5, 2022
APPROXIMATE NOTICE TO PROCEED DATE	April 18, 2022

LEGAL REQUIREMENT

Congress adopted the Brooks Act (P.L. 92-582), requiring the use of Qualifications-Based Selection (QBS) for the procurement of architect and engineering services. The use of QBS ensures that taxpayers receive highly technical architect and engineering services from the most experienced and most qualified firms at a fair and reasonable cost. California's QBS requirements can be found at Government Code sections 4525 et seq., also known as the Mini Brooks Act.

The City Clerk's Office shall publish the RFP (Attachment 1) in the local newspaper of general circulation, the City's website and other forms of electronic media. The RFP shall describe the project and provide the tasks required to ensure federal compliance for the project. The time and location to submit proposals shall also be placed within the published RFP. The RFP shall be published for a minimum period of twenty-one (21) calendar days. Once proposals are submitted, reviewed and scored, staff will come back to the City Council with a recommendation to award.

FISCAL IMPACT/FINANCING

At this time, there is no fiscal impact associated with the approval of the solicitation of proposals to perform labor compliance services. Once proposals are submitted and evaluated, staff will return with a well-defined budget for consideration and approval at a future City Council meeting.

CONCLUSION

Upon Council approval, staff will proceed with the recommended actions.

Respectfully submitted,

**CONSIDERATION AND APPROVAL TO SOLICIT LABOR COMPLIANCE SERVICES
FOR CIP 2021-01 SB1 CDBG STREET RECONSTRUCTION PROJECT FY 21/22**

February 15, 2022

Page 3 of 3



RICARDO REYES
City Manager



CESAR ROLDAN
Director of Public Works

ATTACHMENT(S)

1. RFP CIP No. 2021-01 SB1 CDBG Street Reconstruction Project – Labor Compliance Services

ATTACHMENT "A"



**CITY OF HUNTINGTON PARK
REQUEST FOR PROPOSAL FOR
Labor Compliance Services
CIP 2021-01 SBI CDBG Street Reconstruction Project FY 21/22**

PROPOSAL DUE DATE: MARCH 16, 2022, 2:00 P.M.

6550 Miles Ave
Huntington Park, CA 90255

Contact: Cesar Roldan
323.584.6320
croldan@hpca.gov



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D.	Task 4 – Construction Estimate Error! Bookmark not defined.	
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1. INTRODUCTION

The City of HUNTINGTON PARK (City) is seeking proposals from qualified consulting professionals experienced in contract and labor compliance services specifically related to the administration, monitoring and enforcement of labor standards for Community Development Block Grant (CDBG) funded capital improvement projects. Focus is on roadway reconstruction of asphalt pavement on Miles Avenue and Santa Fe Avenue as part of **CIP 2021-01 SB1 CDBG Street Reconstruction Project FY 21/22**.

2. OVERVIEW

CIP 2021-01 SB1 CDBG Street Reconstruction Project FY 21/22 includes the furnishing all materials, equipment, labor, and services for the street reconstruction of the roadways on Miles Avenue between Florence Avenue and 150' north of 57th Street and Santa Fe Avenue between Florence Avenue and 58th Street. Improvements include pedestrian safety and mobility enhancements, upgrades to pedestrian ramps in compliance with the latest edition of the American with Disabilities guidelines, striping. This project is subject to Greenbook standards and Public Contracting Code procurement requirements.

3. SCOPE OF SERVICES

The City is seeking a qualified consultant to provide labor compliance professional services related to **CIP 2021-01 SB1 CDBG Street Reconstruction Project FY 21/22**. The consultant applying should have significant experience in providing labor compliance services.

- The City reserves the right to delete specific task(s).

A. Task 1 – Contract and Labor Compliances Services

- Provide all labor compliance services for administering, monitoring and enforcing labor standards provisions as required for the CDBG-funded capital improvement projects. The City is subject to Section 3 requirements. The consultant's Scope of Work shall include but not be limited to the following items:
 - Review the Agreement to Implement and CDBG contract and labor compliance requirements with the City's project team.
 - Oversee the specific labor standards parameters applicable to the construction project.
 - Implement and monitor Equal Employment Opportunities (EEO) program.
 - Enforce that the Federal Wage Decision is incorporated in project specifications and contract.

- Ensure that the Federal Wage Decision is current at Bid Opening or other appropriate date.
- Verify the contractor and subcontractors eligibilities to contract with Federal and State agencies.
- Prepare and submit contract award notices to Contractor, Office of Federal Contract Compliance Programs and CDBG.
- Participate in the pre-construction meeting and inform contractors of wage and reporting obligations. Prepare and distribute pre-construction meeting minutes.
- Create and maintain Labor Standards Enforcement File
- Conduct employee interviews and reconcile with Certified Payrolls. Verify and document posting of federal notices on jobsite.
- Perform ongoing and timely monitoring reviews of the weekly Certified Payroll Reports and related submissions for compliance.
- Notify the prime contractor in writing of any labor discrepancies or suspected violations and define the corrective actions to be taken including restitution payments.
- Identify violations and investigate complaints of underpayment to workers.
- Prepare the Notice of Labor Standards Violation Report and HUD 5.7
- Enforcement Report for the underpayments to workers, if necessary.
- Maintain a Labor Standards Administration and Enforcement File.
- Prepare various reports for contract and labor compliance including but not limited to the Contract and Subcontract Activity Report, and Semi-Annual Labor Standards Enforcement Report.
- Review the final project file and participate in the final review meeting with HUD if necessary.

4. KEY PERSONNEL

It is imperative that the key personnel providing the consulting services have the background, experience, and qualifications to complete the project. The City reserves the right to approve all key personnel individually for work on this contract. All key staff shall be named in the contract. After the contract is signed, the consultant may not replace key staff unless their employment is terminated or agreed upon by the City. The City must approve replacement staff before a substitute person is assigned to the Project. The City reserves the right to request that the consultant replace a staff

person assigned to the contract should the City consider such a replacement to be for the good of the project.

5. CITY'S STANDARD PROFESSIONAL SERVICES AGREEMENT

Please see ATTACHMENT 2 – CITY'S STANDARD PROFESSIONAL SERVICE AGREEMENT.

6. INSURANCE REQUIREMENTS

Please see ATTACHMENT 3 - CITY'S STANDARD INSURANCE REQUIREMENTS.

7. EVALUATION CRITERIA

Each proposal shall be evaluated on the basis of the consultant's expertise, experience and training and the expertise of its key personnel along with prior contracting history, approach to the project, cost, proposed schedule and compliance with the RFP requirements including the terms of the attached PSA. Each such factor shall be weighted by the City as follows:

- Expertise, Experience and Training Plus Prior Contracting History (65%) – The expertise, experience and training of the consultant and its key personnel and the previous experience with similar work in similar fields and qualifications and depth of staff that will perform the work on this project. This factor includes evaluation of the consultant's prior contracting history, including the review of the consultant's certifications relating to false claims, debarment and civil litigation.
- Project Approach (25%) – The consultant's responsiveness in developing a comprehensive plan to oversee the completion of the project while meeting regulatory requirements and the City's specific needs.
- Compliance with RFP (10%) – The ability of the consultant to comply with all instructions set forth under this RFP as well as the consultant's ability to agree to all of the terms and conditions of the attached PSA without modification, particularly as relates to indemnification, insurance requirements and standards of care.

*** Use of the City of Huntington Park City Seal is prohibited.**

8. SELECTION PROCESS

A selection committee comprised of the City staff and/or consultants may review the proposals. Proposals will be ranked on qualifications and the selection committee may choose to interview several of the top ranked consultants. However, at its sole discretion the selection committee may dispense with interviews and select a consultant to perform the work.

- Negotiations regarding a fair and reasonable price may occur subsequent to consultant selection.

9. REQUIRED FORMAT FOR TECHNICAL PROPOSAL SUBMITTAL

All proposals shall include the following information and comply with the associated page limit restrictions. Note that 1 page includes the front side of an 8.5" x 11" sheet of paper and the cover does not constitute a page:

Cover Letter: Maximum 1-page cover letter signed by an officer of the firm, binding the consultant to all of the commitments made in the submittal. The letter shall include name, address and phone number of the person authorized to represent the consultant and shall include the following Statement:

I HAVE READ, UNDERSTOOD, AND AGREED TO ALL STATEMENTS IN THIS REQUEST FOR PROPOSAL AND ACKNOWLEDGE RECEIPT OF ALL ADDENDUMS/AMENDMENTS AS WELL AS TO THE TERMS, CONDITIONS, AND ATTACHMENTS REFERENCED.

Consultant's Background: Maximum 2-page background on the consultant and its area(s) of professional expertise relevant to this RFP. An additional 1 page may be included to highlight the background of each proposed subconsultant to be used by the consultant and the specific task(s) or functions the subconsultant will perform.

Qualifications and Experience of Consultant's Personnel: Maximum 3-page summary of the relevant work experience, work history, training, education, and special certifications of the consultant's personnel who will be performing the professional services contemplated under this RFP on the consultant's behalf. Briefly discuss the Consultant team's qualification and experience with projects of similar magnitude and nature. Consultants shall provide identical information for all subconsultants performing any of the tasks or services contemplated under this RFP on the consultant's behalf. The summary shall also include the office location of key personnel proposed to work on this contract. Relevant experience can include your company's overall experience, experience with similar projects and the experience of individuals on your proposed team. Show how your experience relates to the demands of this project.

Project Approach: Maximum 2-page of the proposed approach to providing labor compliance for this improvement project. The proposer shall explain the way in which the proposer will timely complete all of the tasks called for under this RFP along with any estimate of the time it will take to complete each task. Include a brief overview of the Consultant's understanding of the project. The content will reflect the particular viewpoint of the Consultant.

Proposed Personnel: Maximum 2-page resume for the project manager and 1-page resume for each of the other key personnel, including subconsultants, which will be performing the majority of the work on this project/contract. Resumes for corporate leadership should not be included unless

said individuals will be performing substantial work on this project. The designated Project manager shall be the primary contact with the City during the contract period and shall function in that capacity while employed by the firm. In addition, the City must approve changes of personnel.

References: Each consultant must include at least 3 public agency references going back not more than five (5) years from the issuance of this RFP in which the consultant was engaged to perform tasks similar to those requested under this RFP. References should place an emphasis on past projects in which the personnel to be used by consultant for this project were deployed. The references should include the name, title and contract information of the public agency officer or employee responsible for overseeing the consultant's work.

Fee Schedule/Cost Proposal: Maximum 1-page detailed cost estimate for performing specific Tasks identified in the RFP and a schedule of rates for each proposed personnel that may be tasked to complete the project. The Task-specific cost estimate shall include an estimate of the number of hours per staff member by proposed task and clearly identify and hourly rate schedule for proposed staff. The proposal shall include the compensation structure for performing specific services identified in Task 1. The proposal shall also include costs and expenses related to photocopying, postage, travel, etc. (i.e. Reimbursement expenses, if any). To the extent that a proposal contemplates the use of the subconsultants to perform any one or more of the above described tasks on the consultant's behalf, the proposal shall include a List of Subconsultants identifying all subconsultants and state the fee for each subconsultant in the Fee Schedule under the appropriate Task under which the service will be provided. In so far as the proposer's proposal contemplates an increase in compensation rates or charges prior to the completion of Task 1, and during the term of the portion of the PSA or any extension term the proposal shall clearly indicate when such increases will take effect and by how much.

10. FEE

The Fee Schedule/Cost Proposal shall be delivered in a separate sealed envelope which is plainly marked on the outside "CIP 2021-01 SB1 CDBG Street Reconstruction Project FY 21/22" and addressed to the above-mentioned location. The envelope shall contain the name and address of the consultant clearly marked on the outside.

11. QUESTIONS REGARDING THIS RFP

All questions regarding this RFP must be submitted via email:

Cesar Roldan, Director of Public Works

E-mail: croidan@hpca.gov

Questions regarding this proposal shall be submitted via email by **5:00 PM, MARCH 1, 2021**. In response to all questions received by this date, City may issue an Addendum and/or send out an

email to all of the individuals that downloaded the RFP no later than March 8, 2022. The addendum and/or responses will be emailed to all RFP recipients on record.

12. PROPOSAL SUBMITTAL PROTOCOL

In order to be considered in the selection process, interested parties shall submit two (2) hard copies and one (1) electronic copy (flash drive) of their Proposals no later than **2:00 PM, MARCH 16, 2022**, to:

City of Huntington Park – City Clerk's Office
Attn: Cesar Roldan, Director of Public Works
6550 Miles Avenue
Huntington Park, CA 90255

Late proposals will not be accepted.

13. PRE-CONTRACTUAL EXPENSES IN RESPONDING TO THE RFP PREPARATION

The City shall not be liable for any pre-contractual expenses incurred by any consultant or by any selected consultant. Each consultant shall protect, defend, indemnify, and hold harmless the City from any and all liability, claims, or expenses whatsoever incurred by, or on behalf of, the entity participating in the preparation of its response to this RFP. Pre-contractual expenses are defined as expenses incurred by consultants and the selected consultant, if any, in:

- Preparing and submitting information in response to this RFP
- Negotiations with the City on any matter related to this procurement
- Costs associated with interviews, meetings, travel or presentations
- All other expenses incurred by a consultant prior to the date of award and a formal notice to proceed.

The City reserves the right to amend, withdraw and cancel this RFP. The City reserves the right to reject all responses to this request at any time prior to contract execution, or only award a partial contract for a limited scope of work. The City reserves the right to request or obtain additional information about any and all proposals.

ATTACHMENTS:

ATTACHMENT 1 – IMPORTANT DATES

ATTACHMENT 2 – CITY'S STANDARD PROFESSIONAL SERVICE AGREEMENT

ATTACHMENT 3 – CITY'S STANDARD INSURANCE REQUIREMENTS

ATTACHMENT 1 – IMPORTANT DATES

RFP ISSUED	February 18, 2022
REQUEST FOR INFORMATION DEADLINE: 5:00 PM	March 1, 2022
RELEASE OF INFORMATION REQUESTED: 5:00 PM	March 8, 2022
PROPOSAL DUE DATE/SUBMISSION DEADLINE: 2:00 PM	March 16, 2022
TENTATIVE CITY COUNCIL AWARD DATE	April 5, 2022
APPROXIMATE NOTICE TO PROCEED DATE	April 18, 2022

ATTACHMENT 2 - CITY'S STANDARD PROFESSIONAL SERVICE AGREEMENT



PROFESSIONAL SERVICES AGREEMENT

(Engagement: [SERVICE BEING PROVIDED])

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this [DATE] (hereinafter, the "Effective Date"), by and between the CITY OF HUNTINGTON PARK, a California municipal corporation ("CITY") and [NAME OF CONSULTANT], a California Corporation <INSERT OTHER FORM OF ENTITY> (hereinafter, "CONSULTANT"). For the purposes of this Agreement CITY and CONSULTANT are sometimes hereinafter individual referred to as a "Party" and collectively referred to as "Parties."

RECITALS

This AGREEMENT is made and entered into with respect to the following facts:

WHEREAS, CITY has determined that it requires professional services from a consultant to [BRIEFLY DESCRIBE THE CONSULTING SERVICES TO BE PERFORMED].

WHEREAS, on Effective Date, the CITY entered into a Professional Services Agreement (the "Master Agreement") with [NAME OF CONSULTANT] to provide [SERVICES]; and

WHEREAS, CONSULTANT represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees; and

WHEREAS, CONSULTANT further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement; and

WHEREAS, the execution of this Agreement was approved by the Huntington Park City Council at its Regular Meeting of [DATE].

NOW, THEREFORE, for and in consideration of performance by the Parties of the mutual covenants and conditions herein contained, the CITY and CONSULTANT agree as follows:

I.
ENGAGEMENT TERMS

- 1.1 SCOPE OF SERVICES: Subject to the terms and conditions set forth in this Agreement and all exhibits attached and incorporated hereto, CONSULTANT agrees to perform the services and tasks set forth in that certain document entitled "Scope of Services" and attached hereto as **Exhibit "A"** (hereinafter referred to as the "**Scope of Services**"). CONSULTANT further agrees to furnish to CITY all labor, materials, tools, supplies, equipment, services, tasks and work necessary to competently perform and timely complete the services and tasks as set forth in the Scope of Services. For the purposes of this Agreement the aforementioned services and tasks set forth in the Scope of Services shall hereinafter be referred to generally by the capitalized term "Work."
- 1.2 TERM: The term of this Agreement shall commence at 12:00 a.m. on the Effective Date. This Agreement shall have an initial term of [NUMBER] years commencing from the Effective Date unless terminated as provided elsewhere in this Agreement (hereinafter, the "Term"). The term of this Agreement shall expire at 11:59 p.m. on [INSERT DATE] (hereinafter, the "Expiration Date"), unless extended by written agreement or terminated in accordance with this Agreement. Upon the conclusion of the Term, this Agreement may be renewed for a [YEARS] year extension term, upon mutual agreement of the Parties and approval from City Council, unless either Party issues written notice sixty (60) days in advance of its intent not to authorize an additional extension term. Nothing in this Section shall operate to prohibit or otherwise restrict the CITY's ability to terminate this Agreement at any time for convenience or for cause as further set out herein.
- 1.3 COMPENSATION: During the term of this Agreement and any extension term provided herein, CONSULTANT shall perform the Services set forth in Section 1.2 above, at the rates of compensation set forth in the Rate Schedule reflected in **Exhibit "B"**. Subject to the CPI Index Adjustment section of **Exhibit "B"**, CONSULTANT further agrees that the total compensation for the Work shall not exceed the sum total of \$ [AMOUNT], (hereinafter, the "Contract Price"), and also not exceed the total sum of \$[AMOUNT] DOLLARS per year / (\$[AMOUNT]) per month (hereinafter, the "Base Fee"). CONSULTANT shall not exceed the Contract Price unless such added expenditure is first approved by the CITY Council acting in consultation with the City Manager. In the event CONSULTANT's charges are projected to exceed the Contract Price prior to the expiration of the Term or any single extension term, CITY may suspend CONSULTANT's performance of any additional Work outside the Work as defined in Exhibit A, pending CITY approval of any anticipated expenditures in excess of the Contract Price or any other CITY-approved amendment to the compensation terms of this Agreement.
- 1.4 PAYMENT OF COMPENSATION: On the first of each month, CONSULTANT shall submit to CITY an itemized invoice for that month's Base Fee and indicating the additional services and tasks performed during the recently concluded calendar month, including services and tasks performed and the reimbursable out-of-pocket expenses incurred. If the amount of CONSULTANT's monthly compensation is a

function of hours worked by CONSULTANT's personnel, the invoice shall indicate the number of hours worked in the recently concluded calendar month, the persons responsible for performing the Work, the rate of compensation at which such services and tasks were performed, the subtotal for each task and service performed and a grand total for all services performed. Within thirty (30) calendar days of receipt of each invoice, CITY shall pay any undisputed amounts. Within thirty (30) calendar days of receipt of each invoice, CITY shall notify CONSULTANT in writing of any disputed amounts included in the invoice. CITY shall not withhold applicable taxes or other authorized deductions from payments made to CONSULTANT.

1.5 ACCOUNTING RECORDS: CONSULTANT shall maintain complete and accurate records with respect to all matters covered under this Agreement for a period of three (3) years after the expiration or termination of this Agreement. CITY shall have the reasonable right to access and examine such records, without charge. CITY shall own and further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

1.6 ABANDONMENT BY CONSULTANT: In the event CONSULTANT ceases to perform the Work agreed to under this Agreement or otherwise abandons the undertaking contemplated herein prior to the expiration of this Agreement or prior to completion of any or all tasks set forth in the Scope of Services, CONSULTANT shall deliver to CITY immediately and without delay, all written materials, including any electronic communications, records and other work product prepared or obtained by CONSULTANT in the performance of this Agreement. Furthermore, CONSULTANT shall only be compensated for the reasonable value of the services, tasks and other work performed up to the time of cessation or abandonment, less a deduction for any damages, costs or additional expenses which CITY may incur as a result of CONSULTANT's cessation or abandonment.

II.

PERFORMANCE OF AGREEMENT

2.1 CITY'S REPRESENTATIVES: The CITY hereby designates the City Manager (hereinafter, the "CITY Representative") to act as its representative for the performance of this Agreement. The City Manager shall be the chief CITY Representative. The CITY Representative or their designee shall act on behalf of the CITY for all purposes under this Agreement. CONSULTANT shall not accept directions or orders from any person other than the CITY Representative or their designee.

2.2 CONSULTANT REPRESENTATIVE: CONSULTANT hereby designates [WHO CONSULTANT DESIGNATES] to act as its representative for the performance of this Agreement (hereinafter, "CONSULTANT Representative"). CONSULTANT Representative shall have full authority to represent and act on behalf of the CONSULTANT for all purposes under this Agreement. CONSULTANT Representative or his designee shall supervise and direct the performance of the Work, using his best skill and attention, and shall be responsible for all means, methods, techniques, sequences and procedures and for the satisfactory coordination of all portions of the Work under this Agreement. Notice to the

CONSULTANT Representative shall constitute notice to CONSULTANT. CONSULTANT may, by written notice to CITY, advise CITY of any change in CONSULTANT Representative.

2.3 COORDINATION OF SERVICE; CONFORMANCE WITH REQUIREMENTS:

CONSULTANT agrees to work closely with CITY staff in the performance of the Work and this Agreement and shall be available to CITY staff and the CITY Representatives at all reasonable times. All work prepared by CONSULTANT shall be subject to inspection and approval by CITY Representatives or their designees.

2.4 STANDARD OF CARE; PERFORMANCE OF EMPLOYEES: CONSULTANT represents, acknowledges and agrees to the following:

- A. CONSULTANT shall perform all Work skillfully, competently and in accordance with industry standards of CONSULTANT's profession;
- B. CONSULTANT shall perform all Work in a manner in accordance with this Agreement;
- C. CONSULTANT shall comply with all applicable federal, state and local laws and regulations, including the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act (Government Code Section 81000 *et seq.*);
- D. CONSULTANT shall be knowledgeable and subject to CITY ordinances, rules and regulations, standard operating procedures, and the supervisory chain of command;
- E. CONSULTANT understands the nature and scope of the Work to be performed under this Agreement as well as any and all schedules of performance;
- F. All of CONSULTANT's employees and agents possess sufficient skill, knowledge, training and experience to perform those services and tasks assigned to them by CONSULTANT; and
- G. Except as otherwise set forth in this Agreement, all of CONSULTANT's employees and agents (including but not limited to subCONSULTANTS and subconsultants) possess all licenses, permits, certificates, qualifications and approvals of whatever nature that are legally required to perform the tasks and services contemplated under this Agreement and all such licenses, permits, certificates, qualifications and approvals shall be maintained throughout the term of this Agreement and made available to CITY for copying and inspection.

The Parties acknowledge and agree that CONSULTANT shall perform, at CONSULTANT's own cost and expense and without any reimbursement from CITY, any services necessary to correct any errors or omissions caused by CONSULTANT's failure to comply with its obligation set out herein or failure on the part of CONSULTANT's employees, agents, CONSULTANTS, subCONSULTANTS and subconsultants to fulfill its obligations herein. Such effort by CONSULTANT to

correct any errors or omissions shall be commenced as soon as reasonably practicable upon their discovery or notice by either Party and shall be completed within seven (7) calendars days from the date of discovery or such other extended period of time authorized by the CITY Representatives in writing, in accordance with applicable industry standards. The Parties acknowledge and agree that CITY's acceptance of any work performed by CONSULTANT or on CONSULTANT's behalf shall not constitute a release of any deficiency or delay in performance. The Parties further acknowledge, understand and agree that CITY has relied upon the foregoing representations of CONSULTANT, including but not limited to the representation that CONSULTANT possesses the skills, training, knowledge and experience necessary to perform the Work skillfully, competently and in accordance with applicable industry standards of CONSULTANT's profession.

2.5 ASSIGNMENT: The skills, training, knowledge and experience of CONSULTANT are material to CITY's willingness to enter into this Agreement. Accordingly, CITY has an interest in the qualifications and capabilities of the person(s) who will perform the services and tasks to be undertaken by CONSULTANT or on behalf of CONSULTANT in the performance of this Agreement. In recognition of this interest, CONSULTANT agrees that it shall not assign or transfer, either directly or indirectly or by operation of law, this Agreement or the performance of any of CONSULTANT's duties or obligations under this Agreement without the prior written consent of the CITY, which consent shall not be unreasonably withheld. CITY shall have up to sixty (60) calendar days to consider any proposed assignment by CONSULTANT. CONSULTANT can withhold consent where the CITY determines that the proposed assignee does not have the financial capacity to comply with the terms of this Agreement. In the absence of CITY's prior written consent, any attempted assignment or transfer shall be ineffective, null and void and shall constitute a material breach of this Agreement. CITY shall not be obligated or liable under this Agreement to any party other than CONSULTANT.

2.6 CONTROL AND PAYMENT OF SUBORDINATES; INDEPENDENT CONSULTANT: The Work shall be performed by CONSULTANT or under CONSULTANT's strict supervision. CONSULTANT will determine the means, methods and details of performing the Work subject to the requirements of this Agreement. CITY retains CONSULTANT on an independent CONSULTANT basis and not as an employee. CONSULTANT reserves the right to perform similar or different services for other principals during the term of this Agreement, provided such work does not unduly interfere with CONSULTANT's competent and timely performance of the Work contemplated under this Agreement and provided the performance of such services does not result in the unauthorized disclosure of CITY's confidential or proprietary information. Any additional personnel performing the Work under this Agreement on behalf of CONSULTANT are not 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 and shall assume responsibility for all benefits, payroll taxes, Social Security and Medicare payments and the like. 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, workers' compensation insurance and the like.

2.7 REMOVAL OF EMPLOYEES OR AGENTS: If any of CONSULTANT's officers, employees, agents, CONSULTANTS, subCONSULTANTS or subconsultants is determined by the CITY Representatives to be uncooperative, incompetent, a threat to the adequate or timely performance of the tasks assigned to CONSULTANT, a threat to persons or property, or if any of CONSULTANT's officers, employees, agents, CONSULTANTS, subCONSULTANTS or subconsultants fail or refuse to perform the Work in accordance with this Agreement, such officer, employee, agent, CONSULTANT, subCONSULTANT or subconsultant shall be promptly removed by CONSULTANT and shall not be reassigned to perform any of the Work.

2.8 BUSINESS LICENSE: Consultant shall obtain a City business license prior to commencing performance under this Agreement.

2.9 COMPLIANCE WITH LAWS: CONSULTANT shall keep itself informed of and in compliance with all applicable federal, State or local laws to the extent such laws control or otherwise govern the performance of the Work. CONSULTANT shall at all times comply with such laws, ordinances, codes and regulations. Without limiting the generality of the foregoing, if CONSULTANT is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of California pursuant to section 2105 and 17451 of the California Corporations Code. The CITY, its officers and employees shall not be liable at law or equity occasioned by failure of CONSULTANT to comply with this Section. CONSULTANT's compliance with applicable laws shall include without limitation compliance with all applicable Cal/OSHA requirements. To the extent that any changes in applicable law result in an increase in CONSULTANT's cost of performance, the Parties shall negotiate in good faith to reach a mutually agreeable price adjustment. Should the Parties fail to reach such an agreement within 30 days (or such other agreeable time period) of CONSULTANT's notice to CITY of its increased cost of performance, either Party may terminate this Agreement upon 60 days' written notice.

- I. In the event that water treatment violations occur following the effective date of this Agreement, subject to Sub-Section (b) of Section 7.25 below and the applicable Force Majeure provisions, the CONSULTANT shall, in respect of violations that may be imposed by Applicable Law and to the extent due to CONSULTANT's fault, be responsible for: fines, penalties, or damages. Prior to settlement or payment of any such fines, penalties or damages, the CONSULTANT reserves the right to contest government or private actions, suits or proceedings for violations through administrative procedures or otherwise.
- II. To the extent that violations of applicable laws, rules, regulations or permits are caused by failures in the facilities or causes beyond CONSULTANT's control, including the CITY's failure to approve recommended repairs or maintenance, CONSULTANT will use its best efforts to maximize performance of the Facilities but shall not be responsible for associated violations or damages, fines or penalties which result.

- 2.10 NON-DISCRIMINATION: In the performance of this Agreement, CONSULTANT shall not discriminate against any employee, subCONSULTANT, subconsultant, or applicant for employment because of race, color, creed, religion, sex, marital status, sexual orientation, national origin, ancestry, age, physical or mental disability or medical condition or sexual orientation. CONSULTANT will, in all solicitations or advertisements for employees placed by or on behalf of CONSULTANT state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation. CONSULTANT will cause the foregoing provision to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.
- 2.11 CONFLICTS OF INTEREST: CONSULTANT covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by CONSULTANT under this Agreement, or which would conflict in any manner with the performance of its services hereunder. During the term of this Agreement, CONSULTANT shall not perform any work for another person or entity for whom CONSULTANT was not working at the Effective Date if both (i) such work would require CONSULTANT to abstain from a decision under this Agreement pursuant to a conflict of interest statute; and (ii) CITY has not consented in writing prior to CONSULTANT'S performance of such work.
- 2.12 PERSONNEL: CONSULTANT represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by CONSULTANT or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. CONSULTANT reserves the right to determine the assignment of its own employees to the performance of CONSULTANT'S services under this Agreement, but CITY reserves the right, for good cause, to require CONSULTANT to exclude any employee from performing services on CITY'S premises. <Name of individual> shall be CONSULTANT'S project administrator and shall have direct responsibility for management of CONSULTANT'S performance under this Agreement. No change shall be made in CONSULTANT'S project administrator without CITY'S prior written consent.
- 2.13 OWNERSHIP OF WRITTEN PRODUCTS: All reports, documents or other written material ("written products") developed by CONSULTANT in the performance of this Agreement shall be and remain the property of CITY without restriction or limitation upon its use or dissemination by CITY. CONSULTANT may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by CONSULTANT.
- 2.14 CITY RESPONSIBILITIES: During the term of this Agreement, the CITY shall:

- a) obtain and maintain all state, federal, and local permits and licenses required for ownership, operation and maintenance of the Facilities, including without limitation, the CITY's Permits;
- b) comply with Applicable Law relating to the management, ownership, operation, maintenance, repair and replacement of the Facilities (to the extent that the responsibility of complying with those laws is not specifically assumed by the CONSULTANT under this Agreement). The CONSULTANT shall not be responsible for the CITY's failure to comply with any provision of Applicable Law that is not otherwise specifically assumed by the CONSULTANT hereunder.

III.
INDEPENDENT CONTRACTOR

- 3.1 INDEPENDENT CONSULTANT STATUS: The Parties acknowledge, understand and agree that CONSULTANT and all persons retained or employed by CONSULTANT are, and shall at all times remain, wholly independent CONSULTANTS and are not officials, officers, employees, departments or subdivisions of CITY. CONSULTANT shall be solely responsible for the negligent acts and/or omissions of its employees, agents, CONSULTANT, and SUBCONSULTANT. CONSULTANT and all persons retained or employed by CONSULTANT shall have no authority, express or implied, to bind CITY in any manner, nor 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 to CONSULTANT under this Agreement or is otherwise expressly conferred by CITY in writing. Neither the CITY nor any of its elected officials, officers or agents shall have control over the conduct of the CONSULTANT except as expressly set forth in this Agreement. The CONSULTANT shall not at any time or in any manner represent that he is in any manner an elected official, officer, employee or agent of the CITY. Except as provided in this Agreement, CITY shall not pay salary, wages, or other compensation to CONTRACTOR for performance hereunder for CITY. CITY shall not be liable for compensation to CONSULTANT, CONSULTANT'S employees or CONSULTANT'S subcontractors for injury or sickness arising out of performing services hereunder. Further, the CONSULTANT is not entitled to any benefit typically associated with an employee, such as medical, sick leave or vacation benefit.
- 3.2 The parties further acknowledge and agree that nothing in this Agreement shall create or be construed to create a partnership, joint venture, employment relationship or any other relationship except as set forth in this Agreement.
- 3.3 CITY shall not deduct from the compensation paid to CONSULTANT any sums required for Social Security, withholding taxes, FICA, state disability insurance or any other federal, state or local tax or charge which may or may not be in effect or hereinafter enacted or required as a charge or withholding on the compensation paid to CONSULTANT. CITY shall have no responsibility to provide CONSULTANT, its employees or subcontractors with workers' compensation or any other insurance.

IV.
INSURANCE

4.1 DUTY TO PROCURE AND MAINTAIN INSURANCE: Prior to the beginning of and throughout the duration of the Work, CONSULTANT will procure and maintain policies of insurance that meet the requirements and specifications set forth under this Article. CONSULTANT shall procure and maintain the following insurance coverage, at its own expense:

- A. Commercial General Liability Insurance: CONSULTANT shall procure and maintain Commercial General Liability Insurance ("CGL Coverage") as broad as Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001) or its equivalent. Such CGL Coverage shall have minimum limits of no less than Two Million Dollars (\$2,000,000.00) per occurrence and Four Million Dollars (\$4,000,000.00) in the general aggregate for bodily injury, personal injury, property damage, operations, products and completed operations, and contractual liability.
- B. Automobile Liability Insurance: CONSULTANT shall procure and maintain Automobile Liability Insurance as broad as Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto). Such Automobile Liability Insurance shall have minimum limits of no less than One Million Dollars (\$1,000,000.00) per accident for bodily injury and property damage.
- C. Workers' Compensation Insurance/ Employer's Liability Insurance: A policy of workers' compensation insurance in such amount as will fully comply with the laws of the State of California. However, if the CONSULTANT has no employees, for example a sole practitioner or a partner in a firm with only contracted support staff, then Workers' Compensation is not required by the State. CONSULTANT shall the city's form stating they are either the owner of the organization or a partner, and are exempt from the State's workers' compensation requirements because they have no employees and agree to hold the Entity harmless from loss or liability for such. A waiver must be signed.

4.2 ADDITIONAL INSURED REQUIREMENTS: The CGL Coverage and the Automobile Liability Insurance shall contain an endorsement naming the CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers as additional insureds.

4.3 The Entity, its officers, officials, employees, and volunteers are to be covered as additional insureds on the CGL policy with respect to liability arising out of work or operations performed by or on behalf of the CONSULTANT including materials, parts or equipment furnished in connection with such work or operations. General liability coverage can be provided in the form of an endorsement to the CONSULTANT's insurance (at least as broad as ISO Form CG 20 10 11 85 or both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 forms if later revisions used).

4.4 REQUIRED CARRIER RATING: All varieties of insurance required under this Agreement shall be procured from insurers admitted in the State of California and

authorized to issue policies directly to California insureds. Except as otherwise provided elsewhere under this Article, all required insurance shall be procured from insurers who, according to the latest edition of the Best's Insurance Guide, have an A.M. Best's rating of no less than A:VII. CITY may also accept policies procured by insurance carriers with a Standard & Poor's rating of no less than BBB according to the latest published edition the Standard & Poor's rating guide. As to Workers' Compensation Insurance/ Employer's Liability Insurance, the CITY Representatives are authorized to authorize lower ratings than those set forth in this Section.

- 4.5 PRIMACY OF CONSULTANT'S INSURANCE: All policies of insurance provided by CONSULTANT shall be primary to any coverage available to CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers. Any insurance or self-insurance maintained by CITY or CITY's elected or appointed officials, officers, employees, agents or volunteers shall be in excess of CONSULTANT's insurance and shall not contribute with it.
- 4.6 WAIVER OF SUBROGATION: All insurance coverage provided pursuant to this Agreement shall not prohibit CONSULTANT or CONSULTANT's officers, employees, agents, subCONSULTANTS or subconsultants from waiving the right of subrogation prior to a loss. CONSULTANT hereby waives all rights of subrogation against CITY.
- 4.7 VERIFICATION OF COVERAGE: CONSULTANT acknowledges, understands and agrees, that CITY's ability to verify the procurement and maintenance of the insurance required under this Article is critical to safeguarding CITY's financial well-being and, indirectly, the collective well-being of the residents of the CITY. Accordingly, CONSULTANT warrants, represents and agrees that it shall furnish CITY with original certificates of insurance and endorsements evidencing the coverage required under this Article. **The certificates of insurance and endorsements for each insurance policy shall be signed by a person authorized by that insurer to bind coverage on its behalf.** All certificates of insurance and endorsements shall be received and approved by CITY as a condition precedent to CONSULTANT's commencement of any work or any of the Work. Upon CITY's written request, CONSULTANT shall also provide CITY with certified copies of all required insurance policies and endorsements.

V. INDEMNIFICATION

- 5.1 The Parties agree that CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers (hereinafter, the "CITY Indemnitees") should, to the fullest extent permitted by law, be protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to this Agreement subject to Paragraph 5.2 and 5.3. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the CITY Indemnitees with the fullest protection possible under the law. CONSULTANT acknowledges that CITY would not

enter into this Agreement in the absence of CONSULTANT's commitment to indemnify, defend and protect CITY as set forth herein.

5.2 Work of CONSULTANT's Design Professionals Services: Except for direct claims by the Parties against each other, the duty to indemnify, defend and hold harmless as set forth under this subsection shall apply to the negligence, recklessness or willful misconduct of any individual who qualifies as a "design professional" within the meaning of subsection (c)(2) of section 2782.8 of the California Civil Code in so far as such negligence, recklessness or willful misconduct occurs in the performance work or activities that must be performed by a "design professional." Subject to the limitation of the preceding sentence, to the fullest extent permitted by law, CONSULTANT shall immediately defend and indemnify and hold harmless the CITY Indemnities, defined above, from and against any and all liability, loss, damage, expense, cost (including without limitation reasonable attorneys' fees, expert fees and all other costs and fees of litigation) of every nature arising out of the negligence, recklessness, or willful misconduct of CONSULTANT or any of CONSULTANT's officers, employees, servants, agents, CONSULTANTS, subCONSULTANTS or authorized volunteers or any other person or entity involved by, for, or with or on behalf of CONSULTANT in the performance of design professional services under this Agreement. The Parties understand and agree that the duty of CONSULTANT to indemnify, defend and hold harmless pursuant to this subsection includes the duty to defend as set forth in section 2778 of the California Civil Code. CONSULTANT's obligation to indemnify applies except to the extent that it is finally adjudicated that the liability was caused by the active negligence or sole willful misconduct of an indemnified party. If it is finally adjudicated that liability is caused by the comparative active negligence or willful misconduct of an indemnified party, then CONSULTANT's indemnification obligation shall be reduced in proportion to the established comparative liability.

5.3 Work of All Other Persons/Non-Design Professionals: Except for direct claims by the Parties against each other and as otherwise provided under Section 5.2 of this Article, above, to the fullest extent permitted by law, CONSULTANT shall indemnify, defend (with counsel of the CITY'S choosing) and hold harmless the CITY Indemnitees from and against all claims, demands, lawsuits, defense costs, civil, penalties, expenses, causes of action, and judgments at law or in equity, or liability of any kind or nature which the CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers may sustain or incur or which may be imposed upon them for injuries or deaths of persons, or damage to property of every nature arising out of, pertaining to, or caused by CONSULTANT's negligent performance under this Agreement, including but not limited to the negligent acts, errors or omissions of CONSULTANT or CONSULTANT's officers, employees, agents, servants, CONSULTANT, SUBCONSULTANTS or the failure of the same to comply with any of the duties, obligations or standards of care set forth herein. The duty to indemnify, defend and hold harmless under this subsection shall not encompass a duty to indemnify, defend or hold harmless for liability, loss, suit, damage, expense, or cost to the extent caused by the negligence or willful misconduct of any or all of the City Indemnitees. The duty to indemnify, defend and hold harmless as set forth under this

subsection is intended to encompass liabilities, losses, damages, expense and costs not otherwise subject to subsection 4.2, above.

- 5.4 CONSULTANT shall reimburse CITY Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. CITY shall have the right to offset against the amount of any compensation due CONSULTANT under this Agreement any amount due CITY from CONSULTANT as a result of CONSULTANT's failure to pay CITY promptly any indemnification arising under this Article and related to CONSULTANT's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 5.5 The obligations of CONSULTANT under this Article will 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 and CITY's elected and appointed officials, officers, employees, agents and volunteers.
- 5.6 CONSULTANT agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Article from each and every subCONSULTANT or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. In the event CONSULTANT fails to obtain such indemnity obligations from others as required herein, CONSULTANT agrees to be fully responsible and indemnify, hold harmless and defend CITY and CITY's elected and appointed officials, officers, employees, agents and volunteers from and against any and all claims and losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of CONSULTANT's subCONSULTANTS or any other person or entity involved by, for, with or on behalf of CONSULTANT in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of CITY's choice.
- 5.7 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. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.
- 5.8 This Article and all provisions contained herein (including but not limited to the duty to indemnify, defend and hold free and harmless) shall survive the termination or normal expiration of this Agreement and is in addition to any other rights or remedies which the CITY may have at law or in equity.
- 5.9 PERS ELIGIBILITY INDEMNITY: In the event that the CONSULTANT or any employee, agent, or subcontractor of the CONSULTANT providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the CITY, the CONSULTANT shall indemnify, defend,

and hold harmless the CITY for the payment of any employee and/or employer contributions for PERS benefits on behalf of the CONSULTANT or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the CITY. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, the CONSULTANT and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by the CITY, including but not limited to eligibility to enroll in PERS as an employee of the CITY and entitlement to any contribution to be paid by the CITY for employer contribution and/or employee contributions for PERS benefits.

VI.

TERMINATION

6.1 TERMINATION WITHOUT CAUSE: CITY may terminate this Agreement at any time for convenience and without cause by giving CONSULTANT a minimum of five (5) calendar day's prior written notice of CITY's intent to terminate this Agreement. CONSULTANT shall have the right to terminate this Agreement for any reason on sixty (60) calendar days' written notice CITY. CONSULTANT'S notice of termination without cause shall specify the effective date of such termination, which effective date shall not be less than 90 days from the written notice. Upon such termination for convenience, CONSULTANT shall be compensated only for those services and tasks which have been performed by CONSULTANT up to the effective date of the termination. If this Agreement is terminated as provided herein, CITY may require CONSULTANT to provide all finished or unfinished Documents and Data, as defined in Section 7.1 below, and other information of any kind prepared by CONSULTANT in connection with the performance of the Work. CONSULTANT shall be required to provide such Documents and Data within fifteen (15) calendar days of CITY's written request. No actual or asserted breach of this Agreement on the part of CITY pursuant to Section 6.2, below, shall operate to prohibit or otherwise restrict CITY's ability to terminate this Agreement for convenience as provided under this Section.

6.2 EVENTS OF DEFAULT: BREACH OF AGREEMENT:

A. In the event either Party fails to perform any duty, obligation, service or task set forth under this Agreement (or fails to timely perform or properly perform any such duty, obligation, service or task set forth under this Agreement), an event of default (hereinafter, "Event of Default") shall occur. For all Events of Default, the Party alleging an Event of Default shall give written notice to the defaulting Party (hereinafter referred to as a "Default Notice") which shall specify: (i) the nature of the Event of Default; (ii) the action required to cure the Event of Default; (iii) a date by which the Event of Default shall be cured, which shall not be less than the applicable cure period set forth under Sections 6.2.B and 6.2C below or if a cure is not reasonably possible within the applicable cure period, to begin such cure and diligently prosecute such cure to completion. The Event of Default shall constitute a breach of this Agreement if the defaulting Party fails to cure the Event

of Default within the applicable cure period or any extended cure period allowed under this Agreement.

B. CONSULTANT shall cure the following Events of Defaults within the following time periods:

- i. Within three (3) business days of CITY's issuance of a Default Notice for any failure of CONSULTANT to timely provide CITY or CITY's employees or agents with any information and/or written reports, documentation or work product which CONSULTANT is obligated to provide to CITY or CITY's employees or agents under this Agreement. Prior to the expiration of the 3-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 3-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 5.2 B.i. that exceeds seven (7) calendar days from the end of the initial 3-day cure period; or
- ii. Within thirty (30) calendar days of CITY's issuance of a Default Notice for any other Event of Default under this Agreement. Prior to the expiration of the 30-day cure period, CONSULTANT may submit a written request for additional time to cure the Event of Default upon a showing that CONSULTANT has commenced efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 30-day cure period. The foregoing notwithstanding, CITY shall be under no obligation to grant additional time for the cure of an Event of Default under this Section 6.2B.ii that exceeds thirty (30) calendar days from the end of the initial 30-day cure period.

In addition to any other failure on the part of CONSULTANT to perform any duty, obligation, service or task set forth under this Agreement (or the failure to timely perform or properly perform any such duty, obligation, service or task), an Event of Default on the part of CONSULTANT shall include, but shall not be limited to the following: (i) CONSULTANT's refusal or failure to perform any of the services or tasks called for under the Scope of Services; (ii) CONSULTANT's failure to fulfill or perform its obligations under this Agreement within the specified time or if no time is specified, within a reasonable time; (iii) CONSULTANT's and/or its employees' disregard or violate any federal, state, local law, rule, procedure or regulation; (iv) the initiation of proceedings under any bankruptcy, insolvency, receivership, reorganization, or similar legislation as relates to CONSULTANT, whether voluntary or involuntary; (v) CONSULTANT's refusal or failure to perform or observe any material covenant, condition, obligation or provision of this Agreement; and/or (vi) CITY's discovery that a statement representation or warranty by CONSULTANT relating to this Agreement is false, misleading or erroneous in any material respect.

- C. CITY shall cure any Event of Default asserted by CONSULTANT within forty-five (45) calendar days of CONSULTANT's issuance of a Default Notice, unless the Event of Default cannot reasonably be cured within the 45-day cure period. Prior**

to the expiration of the 45-day cure period, CITY may submit a written request for additional time to cure the Event of Default upon a showing that CITY has commenced its efforts to cure the Event of Default and that the Event of Default cannot be reasonably cured within the 45-day cure period. The foregoing notwithstanding, an Event of Default dealing with CITY's failure to timely pay any undisputed sums to CONSULTANT as provided under Section 1.4, above, shall be cured by CITY within five (5) calendar days from the date of CONSULTANT's Default Notice to CITY.

- D. Either Party may also immediately suspend performance under this Agreement pending the Defaulting Party's cure of any Event of Default by giving said Party written notice of the Party's intent to suspend performance (hereinafter, a "Suspension Notice"). A Party may issue the Suspension Notice at any time upon the occurrence of an Event of Default. Upon such suspension, CONSULTANT shall be compensated only for those services and tasks which have been rendered by CONSULTANT in accordance with this Agreement up to the effective date of the suspension. No actual or asserted breach of this Agreement on the part of CITY shall operate to prohibit or otherwise restrict CITY's ability to suspend this Agreement as provided herein.
- E. No waiver of any Event of Default or breach under this Agreement shall constitute a waiver of any other or subsequent Event of Default or breach. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- F. The duties and obligations imposed under this Agreement and the rights and remedies available hereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law. In addition to any other remedies available to CITY at law or under this Agreement in the event of any breach of this Agreement, CITY, in its sole and absolute discretion, may also pursue any one or more of the following remedies:
 - i. Upon a thirty (30) day written notice to CONSULTANT, the CITY may terminate this Agreement in whole or in part;
 - ii. Upon written notice to CONSULTANT, the CITY may extend the time of performance;
 - iii. The CITY may proceed by appropriate court action to enforce the terms of the Agreement to recover damages for CONSULTANT's breach of the Agreement or to terminate the Agreement; or
 - iv. The CITY may exercise any other available and lawful right or remedy.
- G. In the event CITY is in breach of this Agreement, CONSULTANT's sole remedy shall be the suspension or termination of this Agreement and/or the recovery of any unpaid sums lawfully owed to CONSULTANT under this Agreement for completed services and tasks.

- 6.3 SCOPE OF WAIVER: No waiver of any default or breach under this Agreement shall constitute a waiver of any other default or breach, whether of the same or other covenant, warranty, agreement, term, condition, duty or requirement contained in this Agreement. No waiver, benefit, privilege, or service voluntarily given or performed by a Party shall give the other Party any contractual rights by custom, estoppel, or otherwise.
- 6.4 SURVIVING ARTICLES, SECTIONS AND PROVISIONS: The termination of this Agreement pursuant to any provision of this Article or by normal expiration of its term or any extension thereto shall not operate to terminate any Article, Section or provision contained herein which provides that it shall survive the termination or normal expiration of this Agreement.

VII.
MISCELLANEOUS PROVISIONS

- 7.1 DOCUMENTS & DATA; LICENSING OF INTELLECTUAL PROPERTY: All Documents and Data shall be and remain the property of CITY without restriction or limitation upon their use or dissemination by CITY. For purposes of this Agreement, the term "Documents and Data" means and includes all materials, equipment, reports, analyses, correspondence, plans, drawings, designs, renderings, specifications, notes, summaries, strategies, charts, schedules, spreadsheets, calculations, lists, data compilations, documents or other materials developed and/or assembled by or on behalf of CONSULTANT in the performance of this Agreement and fixed in any tangible medium of expression, including but not limited to Documents and Data stored digitally, magnetically and/or electronically. This Agreement creates, at no cost to CITY, a perpetual license for CITY to copy, use, reuse, disseminate and/or retain any and all copyrights, designs, and other intellectual property embodied in all Documents and Data. CONSULTANT shall require all subCONSULTANTS and subCONSULTANT working on behalf of CONSULTANT in the performance of this Agreement to agree in writing that CITY shall be granted the same right to copy, use, reuse, disseminate and retain Documents and Data prepared or assembled by any subCONSULTANT or subCONSULTANT as applies to Documents and Data prepared by CONSULTANT in the performance of this Agreement.
- 7.2 CONFIDENTIALITY: All data, documents, discussion, or other information developed or received by CONSULTANT or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONSULTANT without prior written consent by CITY. CITY shall grant such consent if disclosure is legally required. Upon request, all CITY data shall be returned to CITY upon the termination or expiration of this Agreement. CONSULTANT shall not use CITY's name or insignia, photographs, or any publicity pertaining to the Work in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of CITY.
- 7.3 NON-LIABILITY OF OFFICIAL AND EMPLOYEES OF THE CITY: No official or employee of CITY shall be personally liable to CONSULTANT in the event of any default or breach by CITY, or for any amount which may become due to CONSULTANT.

7.4 WARRANTIES: Each of the Parties represents and warrants to one another as follows:

A. It has received independent legal advice from its attorneys with respect to the advisability of entering into and executing this Agreement;

B. In executing this Agreement, it has carefully read this Agreement, knows the contents thereof, and has relied solely on the statements expressly set forth herein and has placed no reliance whatsoever on any statement, representation, or promise of any other party, or any other person or entity, not expressly set forth herein, nor upon the failure of any other party or any other person or entity to make any statement, representation or disclosure of any matter whatsoever; and

C. It is agreed that each party has the full right and authority to enter into this agreement, and that the person executing this Agreement on behalf of either party has the full right and authority to fully commit and bind such party to the provisions of this Agreement.

7.5 FALSE CLAIMS ACT: CONSULTANT warrants and represents that neither CONSULTANT nor any person who is an officer of, in a managing position with, or has an ownership interest in CONSULTANT has been determined by a court or tribunal of competent jurisdiction to have violated the False Claims Act, 31 U.S.C., Section 3789 et seq. and the California False Claims Act, Government Code Section 12650 et seq.

7.6 NOTICES: All notices permitted or required under this Agreement shall be given to the respective Parties at the following addresses, or at such other address as the respective Parties may provide in writing for this purpose:

CONSULTANT:
[NAME AND ADDRESS]

CITY:
City of Huntington Park
[DEPARTMENT]
6550 Mile Avenue
Huntington Park, CA 90255
Attn: [REP FOR CITY, TITLE]
Phone: (626) XXXXX
Fax: (626) XXXXX

Such notices shall be deemed effective when personally delivered or successfully transmitted by facsimile as evidenced by a fax confirmation slip or when mailed, forty-eight (48) hours after deposit with the United States Postal Service, first class postage prepaid and addressed to the Party at its applicable address.

7.7 COOPERATION; FURTHER ACTS: The Parties shall fully cooperate with one another, and shall take any additional acts or sign any additional documents as is

reasonably necessary, appropriate or convenient to achieve the purposes of this Agreement.

7.8 SUBCONTRACTING: CONSULTANT shall not subcontract any portion of the Work required by this Agreement, except as expressly stated herein, without the prior written approval of CITY. Subcontracts (including without limitation subcontracts with subCONSULTANTS), if any, shall contain a provision making them subject to all provisions stipulated in this Agreement with the exception of provisions relating to insurance requirements and indemnification.

7.9 CITY'S RIGHT TO EMPLOY OTHER CONSULTANTS: CITY reserves the right to employ other CONSULTANTS in connection with the various projects worked upon by CONSULTANT.

7.10 PROHIBITED INTERESTS: CONSULTANT warrants, represents and maintains that it has not employed nor retained any company or person, other than a *bona fide* employee working solely for CONSULTANT, to solicit or secure this Agreement. Further, CONSULTANT warrants and represents that it has not paid nor has it agreed to pay any company or person, other than a *bona fide* employee working solely for CONSULTANT, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, CITY shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of CITY, during the term of his or her service with CITY, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

7.11 TIME IS OF THE ESSENCE: Time is of the essence for each and every provision of this Agreement.

7.12 GOVERNING LAW AND VENUE: This Agreement shall be interpreted and governed according to the laws of the State of California. In the event of litigation between the Parties, the venue, without exception, shall be in the Los Angeles County Superior Court of the State of California. If, and only if, applicable law requires that all or part of any such litigation be tried exclusively in federal court, venue, without exception, shall be in the Central District of California located in the City of Los Angeles, California.

7.13 ATTORNEYS' FEES: If either Party commences an action against the other Party, either legal, administrative or otherwise, arising out of or in connection with this Agreement, the prevailing Party in such litigation shall be entitled to have and recover from the losing Party reasonable attorneys' fees and all other costs of such action.

7.14 SUCCESSORS AND ASSIGNS: This Agreement shall be binding on the successors and assigns of the Parties.

7.15 NO THIRD PARTY BENEFIT: There are no intended third party beneficiaries of any right or obligation assumed by the Parties. All rights and benefits under this Agreement inure exclusively to the Parties.

- 7.16 CONSTRUCTION OF AGREEMENT: This Agreement shall not be construed in favor of, or against, either Party but shall be construed as if the Parties prepared this Agreement together through a process of negotiation and with the advice of their respective attorneys.
- 7.17 SEVERABILITY: If any section, subsection, sentence, clause or phrases of this Agreement, or the application thereof to any of the Parties, is for any reason declared invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall not be affected thereby and may be enforced by the Parties to the Agreement.
- 7.18 NON-WAIVER: The waiver by CITY or CONSULTANT of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term covenant or condition herein contained. In no event shall the making by CITY of any payment to CONSULTANT constitute or be construed as a waiver by CITY of any breach of covenant, or any default which may then exist on the part of CONSULTANT, and the making of any such payment by CITY with regard to such breach or default. No term, covenant or condition of this Agreement shall be deemed to have been waived by CITY or CONSULTANT unless in writing.
- 7.19 AMENDMENT; MODIFICATION: No amendment, modification or supplement of this Agreement shall be valid or binding unless executed in writing and signed by both Parties, subject to CITY approval. The requirement for written amendments, modifications or supplements cannot be waived and any attempted waiver shall be void and invalid.
- 7.20 CAPTIONS: The captions of the various articles, sections and paragraphs are for convenience and ease of reference only, and do not define, limits, augment, or describe the scope, content, or intent of this Agreement.
- 7.21 INCONSISTENCIES OR CONFLICTS: In the event of any conflict or inconsistency between the provisions of this Agreement and any of the exhibits attached hereto, the provisions of this Agreement shall control.
- 7.22 MISCELLANEOUS:
- A. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender, and the neuter and vice versa.
 - B. The representations and warranties made by the Parties to this Agreement shall survive the consummation of the transaction herein described.
 - C. The respective duties and obligations of the Parties hereunder shall be suspended while and so long as performance hereto is prevented or impeded by strikes, disturbances, riots, fire, severe weather, government action, war acts, acts of God, or any other cause similar or dissimilar to the foregoing which are beyond the control of the party from whom the affected performance was due.

D. Each Party has cooperated in the drafting and preparation of this Agreement. Therefore, this Agreement shall not be construed against any Party on the basis such Party drafted this Agreement or any provision within it.

7.23 **ENTIRE AGREEMENT:** This Agreement including all attached exhibits is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed herein and supersedes all other agreements or understandings, whether oral or written, or entered into between CITY and CONSULTANT prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid or binding. No amendment, modification or supplement to this Agreement shall be valid and binding unless in writing and duly executed by the Parties pursuant to Section 6.15, above.

7.24 **COUNTERPARTS:** This Agreement shall be executed in three (3) original counterparts each of which shall be of equal force and effect. No handwritten or typewritten amendment, modification or supplement to any one counterparts shall be valid or binding unless made to all three counterparts in conformity with Section 6.16, above. One fully executed original counterpart shall be delivered to CONSULTANT and the two remaining counterparts shall remain with the City for archiving and day-to-day reference by the department responsible for administering the Agreement on the City's behalf.

7.25 Notwithstanding any provision to the contrary contained in this Agreement, in no event shall either party be liable for punitive damages.

7.26 **FORCE MAJEURE:** A party's performance of any obligation under this Agreement shall be excused if, and to the extent that, the party is unable to perform because of any event of Force Majeure. In any such event, the party unable to perform shall be required to resume performance of its obligations under this Agreement upon the termination of the event or cause that excused performance hereunder. "Force Majeure" herein means an event which is beyond the reasonable control of a party, including without limitation: (a) acts of God; (b) flood, fire, earthquake, hurricane or explosion; (c) war, invasion, hostilities (whether war is declared or not), terrorist threats or acts, riot or other civil unrest; (d) government order or law that prevents CONSULTANT from performing its obligations as set forth in this Agreement; (e) actions, embargoes or blockades in effect on or after the date of this Agreement; (f) action by any governmental authority that prevents CONSULTANT from performing its obligations as set forth in this Agreement; (g) national or regional emergency; (h) strikes, labor stoppages or slowdowns or other industrial disturbances, other than those involving the affected parties employees; (i) shortage of adequate power or transportation facilities.

[SIGNATURE PAGE TO FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed the day and year first appearing in this Agreement, above.

CITY OF HUNTINGTON PARK:

[NAME OF CONSULTANT]

By: _____
[REP FOR CITY]
[TITLE]

By: _____

Name: _____

Title: _____

APPROVED AS TO FORM:

By: _____
City Attorney

EXHIBIT "A"
SCOPE OF WORK
(SEE ATTACHED)

ATTACHMENT 3 - CITY'S STANDARD INSURANCE REQUIREMENTS

Office of the City Clerk**INSURANCE REQUIREMENTS**

The City of Huntington Park requires that applicants must submit to the Office of the City Clerk proof of Liability Insurance in the following amounts.

Coverage shall be at least as broad as:

- **General Liability** – Minimum Limits of: *(Pending Event)*

- **\$1,000,000** per occurrence and **\$2,000,000** general aggregate;
- **\$2,000,000** per occurrence and **\$4,000,000** general aggregate; or
- Other: _____

for bodily injury, personal injury and property damage, including operations, products and completed operations

- **Automobile Liability** – if vendor has no owned autos, Code 8 (hired) and Code 9 (non-owned), with limits of no less than **\$1,000,000** per accident for bodily injury and property damage. (Note – required only if auto is used in performance of work)
- **Workers Compensation** – required by the State of California, with statutory limits, and employer's liability insurance with limit of no less than **\$1,000,000** per accident for bodily injury or disease. (Note – required only if vendor has employees)

Special Events serving/selling alcohol must also include **Liquor Liability (limits will vary depending on event type)*

The General Liability policy is to contain, or to be endorsed to contain the following:

- The City of Huntington Park, its officers, officials, employees, and volunteers are to be covered as additional insureds.

Special Event Holder or Permittee shall hold harmless, defend and indemnify Entity and its officers, officials, employees and volunteers from and against any and all liability, loss, damage, expense, costs (including without limitation costs and fees of litigation) of every nature arising out of or in connection with Contractor's performance of work hereunder or its failure to comply with any of its obligations contained in the agreement, except such loss or damage which was caused by the sole negligence or willful misconduct of the Entity.



Certificate Holder:

- City of Huntington Park, 6550 Miles Avenue, Huntington Park, CA 90255

Acceptability of Insurers:

- Insurance is to be placed with insurers authorized to conduct business in the state with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the Entity.

A typed legible name of the Authorized representative must accompany the signature on the certificate of insurance and/or the true and certified copy of the policy

**THE ENDORSEMENT PAGE MUST ACCOMPANY THE ACORD FORM
CERTIFICATE OF LIABILITY.**

DATE _____

Insurance
Company
Name(s)

ACORD		CERTIFICATE OF LIABILITY INSURANCE		DATE (MM/DD/YYYY)																						
THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER. IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed if SUBROGATION is WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).																										
AGENT/BROKER <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div> Name & Address		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td colspan="2" style="font-size: x-small;">CONTACT NAME</td> <td style="font-size: x-small;">FAX</td> </tr> <tr> <td style="font-size: x-small;">PHONE</td> <td style="font-size: x-small;">E-MAIL</td> <td style="font-size: x-small;">SEC. FAX</td> </tr> <tr> <td colspan="3" style="font-size: x-small;">ADDRESS</td> </tr> </table> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 80%; font-size: x-small;">INSURERS PROVIDING COVERAGE</td> <td style="width: 20%; font-size: x-small;">NAIC #</td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> <tr> <td> </td> <td> </td> </tr> </table>				CONTACT NAME		FAX	PHONE	E-MAIL	SEC. FAX	ADDRESS			INSURERS PROVIDING COVERAGE	NAIC #										
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PHONE	E-MAIL	SEC. FAX																								
ADDRESS																										
INSURERS PROVIDING COVERAGE	NAIC #																									
INSURED <div style="border: 1px solid black; height: 40px; margin-top: 5px;"></div> Insured Name & Address																										
COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:																						
THIS IS TO CERTIFY THAT THE POLICES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.																										
POLICY LTD.	TYPE OF INSURANCE	AGENCY INSURANCE	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	LIMITS																					
<input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIM-MADE <input checked="" type="checkbox"/> OCCUR DON'T AGGREGATE LIMITS AT LOWER PER. <input type="checkbox"/> POLICY <input type="checkbox"/> RET. <input type="checkbox"/> LOC. <input type="checkbox"/> COVER <input type="checkbox"/> AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNERS <input type="checkbox"/> RENTERS <input type="checkbox"/> MEDICAL MALPRACTICE <input type="checkbox"/> Hired Autos Only <input type="checkbox"/> Non-Owned Auto-Only <input type="checkbox"/> Autos Only <input type="checkbox"/> UMBRELLA LEB <input type="checkbox"/> EXCESS LEB LOC. <input type="checkbox"/> RESIDENTIAL	Policy Number		Current Policy Period		EACH OCCURRENCE \$ AGGREGATE PER POLICY \$ MED. EXP. - PHYSICAL DAMAGE \$ PERSONAL & ADJ. INJURY \$ GENERAL AGGREGATE \$ PRODUCTS & COMMODITY \$ Combined Single Limit \$1,000,000																					
	Policy Number		Current Policy Period		EACH OCCURRENCE \$ AGGREGATE \$ Combined Single Limit \$1,000,000																					
	Policy Number		Current Policy Period		EACH OCCURRENCE \$ AGGREGATE \$ Combined Single Limit \$1,000,000																					
	Policy Number		Current Policy Period		EACH OCCURRENCE \$ AGGREGATE \$ Combined Single Limit \$1,000,000																					
DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, ADDENDUM 1 typically Required, only be attached if more space is required)																										
<div style="border: 1px solid black; padding: 10px; text-align: center; font-size: 1.2em;"> "The City of Huntington Park, its officers, officials, employees, and volunteers are to be covered as additional insureds." </div>																										
CERTIFICATE HOLDER		CANCELLATION																								
<div style="border: 1px solid black; height: 60px; margin-top: 5px;"></div> City of Huntington Park 6550 Miles Avenue Huntington Park, CA 90255		SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. <div style="border: 1px solid black; width: 150px; height: 40px; float: right; margin-top: 10px;"></div> SIGNATURE																								

General Liab.
Each Occurrence: \$2,000,000
Damage to Rented
Premises: \$1,000,000
Med Exp: \$5,000
Personal & Adv
Injury \$1,000,000
General Aggregate: \$4,000,000
Products: \$1,000,000

Combined
Single
Limit:
\$1,000,000

Each Accident	\$1,000.00
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ACORD 25 (2016/03)

The ACORD name and logo are registered marks of ACORD

Must be in ACCORD 25 (2016/03) or ACCORD 25 (2014/01) any other form will NOT be acceptable

POLICY NUMBER:

COMMERCIAL GENERAL LIABILITY
CG 20 12 04 13

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

**ADDITIONAL INSURED – STATE OR GOVERNMENTAL
AGENCY OR SUBDIVISION OR POLITICAL
SUBDIVISION – PERMITS OR AUTHORIZATIONS**

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE**State Or Governmental Agency Or Subdivision Or Political Subdivision:**

"The City of Huntington Park, its officers, officials, employees, and volunteers are to be covered as additional insureds."

Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who is An Insured is amended to include as an additional insured any state or governmental agency or subdivision or political subdivision shown in the Schedule, subject to the following provisions:

1. This insurance applies only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization.

However:

- a. The insurance afforded to such additional insured only applies to the extent permitted by law; and
- b. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

2. This insurance does not apply to:

- a. "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or
- b. "Bodily injury" or "property damage" included within the "products-completed operations hazard".

B. With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance**:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations; whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations.