

REQUEST FOR PROPOSALS NO. 23-099A

FOR

DIGITAL MARQUEE INSTALLATION SERVICES



CITY OF SANTA ANA

KEY RFP DATES: *The schedule below is tentative and subject to change at the discretion of City, with appropriate notice to prospective Proposers.*

| | |
|-----------------------------------|---|
| Issue Date: | Tuesday, July 11, 2023 |
| Pre-Proposal Meeting and Job Walk | Wednesday, July 26, 2023 at 8:30 AM |
| Deadline for Questions: | Thursday, August 2, 2023, 4:00 PM |
| Proposal Due Date: | Friday, August 11, 2023, 4:00 PM |



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EXHIBITS

Exhibits provided herein for Proposers' reference only.

EXHIBIT I – SCOPE OF SERVICES

EXHIBIT II – SAMPLE AGREEMENT

EXHIBIT III – FEDERAL REGULATIONS

EXHIBIT IV – MAP OF PRE-PROPOSAL MEETING LOCATIONS AND DRIVING DIRECTIONS

ATTACHMENTS

A PROPOSER'S CERTIFICATION, PROPOSAL ITEM PRICING

B REFERENCES

C PROPOSER'S STATEMENT

D NON-COLLUSION AFFIDAVIT

E NON-LOBBYING CERTIFICATION

F NON-DISCRIMINATION CERTIFICATION

G SAM.GOV UEI VERIFICATION

H CERTIFICATE OF DEBARMENT



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I. BACKGROUND

Incorporated in 1886, Santa Ana, a Charter City, established a Council-Manager form of government in 1952. The City Council is composed of seven members; the Mayor elected at large and six Council members elected by ward, who appoint the City Manager, City Attorney and Clerk of the Council. The City of Santa Ana (City) is a full-service City with a diverse population of approximately 335,000.

The City's eleven agencies provide all the traditional municipal services, as well as water utility, library system, 20-acre zoo, City Jail, Police Department, and contracts with the Orange County Fire Authority for provision of fire services. The City employs 1,178 authorized full-time positions and has an annual citywide budget is \$646 million, including the General Fund budget of \$316 million.

The City of Santa Ana is located 10 miles inland from the Pacific Ocean, 33 miles southeast of Los Angeles and 90 miles north of San Diego. The City, which is the county seat of Orange County, encompasses an area of approximately 27 square miles and is the 11th largest by population in California.

II. MANDATORY PRE-PROPOSAL MEETING AND JOB WALK

A mandatory pre-proposal meeting will be held on the date and time specified on the cover page of this RFP. Attendees must visit all sites listed below. The Pre-proposal meeting will begin at Bowers Museum Parking South at the following address:

Location of meeting: Bowers Museum Parking South
 1910 N Main St.
 Santa Ana, CA 92706

Other park sites to be visited: Santiago Park, Rosita Park, Jerome Park, Centennial Park, Thornton Park, and Delhi Park.

See detailed map and driving directions in **Exhibit IV**. Please plan to spend at least 30 minutes at each site and then head to the next site in the order listed on Exhibit IV.

Failure to attend this meeting shall result in your firm being disqualified from proposing.

III. OVERVIEW OF PROJECT

The City of Santa Ana (City) is seeking proposals from qualified firms and organizations (Proposers) to provide and install digital marquees at up to six (6) locations across the City. As a part of the Revive Santa Ana program, the Expansion of Critical Communications Project aims to deliver important messages to our residents across the City in the most effective ways possible. As such, the City seeks to contract with a firm to source and install digital marquees at up to six high-traffic areas in the City upon which vital communications will be shared with the Santa Ana community.

The term "Vendor", "Proposer", and "Contractor" shall refer to any legal entity or entities submitting a proposal in response to this Request for Proposals (RFP).



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IV. **SCOPE OF SERVICES**

SEE EXHIBIT I – SCOPE OF SERVICES

Usage is not guaranteed. Execution of an agreement between the City and successful firm(s) and/or individual(s) does not guarantee work throughout the duration of the contract period. Numerous factors will be evaluated by the City in its delivery of project and assignments, including technical expertise required.

V. **TERM OF AGREEMENT**

The anticipated term of the agreement is for an initial period of two (2) years. The City may, at its discretion, extend the agreement with the same or more limited scope of required services for one (1) additional one (1) year period, upon mutual agreement contingent upon City Council approval, or City Manager or City Attorney authorization, as appropriate. The total term of the awarded agreement shall not exceed three (3) years.

VI. **MINIMUM QUALIFICATIONS**

- VII. Proposer should have experience in producing/procuring and installing high-quality digital signs in outdoor locations.

VIII. **RESPONSE TO RFP**

A. SUBMITTAL INSTRUCTIONS

It is the responsibility of the Proposer to ensure that any proposals submitted have been uploaded to PlanetBids prior to the RFP due date and time. Proposals, including all required sections and forms, shall be submitted electronically via the City's Bid Management System, PlanetBids. No other form of submittal will be accepted.

PlanetBids will not accept late proposals and no exceptions shall be made. Proposers will receive an e-bid confirmation number with a time stamp from PlanetBids indicating that their proposal was submitted successfully. The City will only receive and consider those proposals that were transmitted successfully. Submit proposal online at:

<http://www.planetbids.com/portal/portal.cfm?CompanyID=20137>.

Proposer shall be solely responsible for informing itself with respect to the proper utilization of the bid management system, for ensuring the capability of their computer system to upload the required documents, and for the stability of their internet service. Failure of the Proposer to successfully submit an electronic proposal shall be at the Proposer's sole risk and no relief will be given for late and/or improperly submitted proposals. Proposers experiencing any technical difficulties with the bid submission process may contact PlanetBids at (818) 992-1771. Questions of an operational nature may be directed to the City's assigned Buyer. Neither the City, nor PlanetBids, makes any guarantee as to the timely availability of assistance, or assurance that any given problem will be resolved by the bid submission deadline.

Proposals shall NOT be sent via telegraphic, electronic, or facsimile means.

All notifications, updates and addenda will be posted online on PlanetBids at <https://www.planetbids.com/portal/portal.cfm?CompanyID=20137>. Proposers shall be



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responsible for monitoring the site to obtain information regarding this solicitation. Failure to respond to required updates may result in a determination of a nonresponsive proposal.

B. COMMUNICATION / CONTACT WITH CITY STAFF

Unless otherwise authorized herein, Proposers who are considering submitting a proposal in response to this RFP, or who submit a proposal in response to this RFP, are only to communicate with the assigned Project Coordinator(s), and no other City staff about this RFP from the date this RFP is issued until a contract is awarded. The City will provide all official communication concerning this RFP in writing via the City's Bid Management System, PlanetBids.

The City will not be responsible for or bound by any oral communication or any other information or contact that occurs outside the official communication process specified herein, unless confirmed in writing by the designated Project Manager(s).

C. REQUEST FOR INFORMATION OR CLARIFICATION / QUESTIONS

Questions regarding this RFP shall be submitted via PlanetBids. Responses to all questions will be posted on PlanetBids no later than the date and time shown at the schedule of key RFP dates on the cover page of this RFP. All prospective Proposers are advised to visit PlanetBids on a regular basis as responses may be posted earlier than the date above (if applicable). No verbal requests or responses will be accepted. Significant interpretations or clarifications will be addressed via addenda to this RFP.

Significant interpretations or clarifications and responses to questions received by the deadline will be addressed via addenda to this RFP, which will be released and posted on PlanetBids under the "Addenda/Emails" tab.

General process questions may be directed to the following:

Jacques Lam

Buyer

JLam@santa-ana.org

D. EXCEPTIONS

Requests submitted for City's consideration of proposed terms and conditions, including modifications to the City's RFP and/or Contract terms and conditions must be submitted by the deadline for questions. Such requests should include an attachment in Word or PDF format on formal company letterhead that shows the requested modifications. City may reject or strike any requests for exceptions or additional terms and conditions related to Agreement, RFP, and insurance and indemnification terms and conditions.

E. ADDENDA

Any changes in RFP from the date of release to date of submittal will result in an addendum or amendment. Notification of such addendum or amendment shall be posted on City's PlanetBids system, <https://www.planetbids.com/portal/portal.cfm?CompanyID=20137>. Proposers shall be responsible for monitoring the site to obtain information regarding this solicitation.

F. UNDERSTANDING PROPOSAL

It is the responsibility of each Proposer to inquire about any criteria, condition, term, provision, or requirement of the RFP that the Proposer does not understand. Responses to inquiries, if they significantly change or clarify the RFP requirements or any aspect of the procurement



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process, will be forwarded by addenda to all Proposers. The City will not be bound by any oral responses to inquiries. By submitting proposals, Proposers assert that they have fully read the RFP and any addenda issued by the City, the proposed Contract and any other Contract Documents, and affirm that the terms and conditions stated therein are fully understood and are acceptable to the Proposer. Each Proposer accepts the terms and conditions of the Contract Documents and indicates their ability and willingness to perform the requested services under such terms and conditions. Any exceptions to the terms and conditions set forth in the Contract Document shall be submitted to the City by the deadline to submit requests for information or clarification/questions set forth herein.

G. PROPOSAL CONTENTS

Proposals are to be prepared in such a way as to provide a straightforward, concise delineation of capabilities to satisfy the requirements of this RFP. Colored displays, promotional materials, photographs etc., are not necessary or desired. Emphasis should be concentrated on conformance to RFP instructions, responsiveness to the RFP requirements, and on completeness and clarity of content. Digital dividers and clear organization of content and material are encouraged.

1. Statement of Qualifications (SOQ)

SOQ must include a Table of Contents and be limited to a **maximum of 20 pages** (**excluding** section dividers and exhibits). The page limitation includes all appendices, attachments, and supplemental information. Additionally, SOQ must include the following:

a. Cover Letter

Proposals shall include a letter signed by a principal or authorized representative who can make legally binding commitments for the entity. Include type of business entity. Cover Letter shall not exceed one page.

Cover letter must be addressed to the following City Project Manager:

Lauren Matthews, Management Aide
City of Santa Ana – City Manager's Office
20 Civic Center Plaza
Santa Ana, CA 92701

b. Services Provided

A description of proposed services to be provided and how they meet the needs of the City as described in **Section III – Scope of Services** (Above).

c. Agreement Statement

Proposal shall include a statement outlining your concurrence or concerns with any and all provisions as contained in **EXHIBIT II – Sample Agreement** of this RFP (if any).

d. Firm and Team Experience

Proposal shall include a profile of the firm's experience including the following:

- i. A general description of the firm, including size and number of employees working directly with the City on this agreement.
- ii. Firm's nearest address serving the City of Santa Ana and headquarters address.



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- iii. Name and contact information of the supervising Project Manager/Principal Agent, to be assigned to the agreement. The Project Manager/Principal Agent shall be the primary contact person to represent your firm and will be the person to conduct the presentation, if invited to an interview.
- iv. Federal Funding: (1-page maximum) Proposal shall include a listing that contains the items below of Federal grants received (directly or from a Pass-through Agency) within the past five (5) years.
 - a. Name of Federal Awarding Agency
 - b. Name of Grant
 - c. Grant Agreement Number
 - d. Federal Catalog Number
 - e. Project Period
 - f. Award Amount
 - g. Scope of work

e. Proposed Work Plan

Proposal shall include a statement demonstrating the firm's understanding of the Scope of Services.

Additionally, proposed work plan shall include Proposers':

- i. Anticipated approach to performing services as specified herein;
 - ii. Schedule of delivery
 - iii. Suggestions or special concerns the evaluation committee should take into consideration (if any);
 - iv. Description of deliverables and implementation plan. Proposer shall submit a general description of the deliverables, implementation plan, and timeline.
- f. References: Attachment B – References shall be submitted for similar projects performed for state and/or similar government clients.

2. Cost Proposal

All Proposers are required to submit an itemized Cost Proposal. Pricing instructions should be clearly defined to ensure fees proposed can be compared and evaluated. Cost Proposal must include a payment schedule if applicable. City reserves the right to negotiate compensation and/or payment schedule prior to award of any resulting agreement.

The City shall not provide reimbursement for travel-related expenses, mileage, parking, lodging, meals, incidental fees, insurance, freight/shipping and handling/delivery, and any other business expenses, supplies and materials related to providing services as specified herein. Additional costs will not be considered and will not be reimbursed by the City, therefore, such costs must be absorbed in Proposer's cost proposal fee structure. Any language related to travel reimbursement shall be stricken from the document by the City and if not stricken, shall be deemed invalid.

If providing hourly rate sheets, Proposer shall not include rate ranges or averages.



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Proposals shall be valid for a minimum of one hundred eighty (180) days following Proposal deadline. The cost for developing the Proposal is the sole responsibility of the Proposer. All Proposals submitted become property of the City.

IX. CERTIFICATIONS (ATTACHMENTS)

In addition to the SOQ, Narrative/Technical Proposal, and Cost Proposal, the following forms, included in this RFP, shall be signed and included as part of the proposal submittal package:

- Attachment A: Proposer's Certification and Proposal Item Pricing
- Attachment B: References
- Attachment C: Proposer's Statement
- Attachment D: Non-Collusion Affidavit
- Attachment E: Non-Lobbying Certification
- Attachment F: Non-Discrimination Certification
- Attachment G: SAM.gov UEI verification
- Attachment H: Certificate of Debarment

The proposal must be completely responsive to the RFP. Incomplete proposals will be deemed as nonresponsive and will be rejected. The City reserves the right to reject any or all proposals submitted and no representation is made hereby that any commitment will be awarded pursuant to this RFP or otherwise.

PLEASE NOTE: City will not waive notarization requirement when applicable on any of the required attachments.

X. REFERENCES

Contractor shall provide three (3) references from other similar public agencies for which services similar to those specified in this RFP have been performed, including contact names and telephone numbers. Use **ATTACHMENT B – References**. The respondent grants permission for the City to contact any individuals listed as references.

City may disqualify a Proposer if:

- References fail to substantiate Proposer's description of services and deliverables provided; or
- References fail to support that Proposer has a continuing pattern of providing capable, productive, and skilled personnel, or
- City is unable to reach the point of contact with reasonable effort. It is the Proposer's responsibility to inform the point of contact(s) of normal City working hours.

XI. MINIMUM SCOPE AND LIMIT OF INSURANCE

The selected Proposer shall provide the required evidence of insurance coverage as set forth in the standard agreement within ten (10) business days after receipt of Notice of Intent to Award. Contractor must maintain, for the duration of its contract, insurance coverages as required by the City.



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Additionally, Contractor shall provide the following insurance coverage:
Coverage shall be at least as broad as:

- **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.
- **Workers' Compensation:** as 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.
- **Professional Liability (Errors and Omissions)** Insurance appropriate to the Consultant's profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate.

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

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 Contractor 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 Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this



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waiver of subrogation, but this provision applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

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.

Claims Made Policies (note – should be applicable only to professional liability, see below)

If any of the required policies provide claims-made coverage:

1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
2. Insurance must be maintained and evidence of insurance must be provided *for at least five (5) years* after completion of the contract of work.
3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

Verification of Coverage

Contractor shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

XII. SELECTION PROCEDURES & CRITERIA

- A. The City will establish a proposal review committee. The review committee will evaluate proposals based on the response to the RFP, which includes adherence to outlined directions and format, and the City evaluation criteria set forth below.



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B. Proposers will be ranked by the review committee based on the following criteria:

| CATEGORY | POINTS |
|---|--------|
| Responsiveness to RFP <ul style="list-style-type: none">Proposal's compliance with the requirements of this RFP.Scope of Services offered including ability to provide optional services.The value to any new and/or innovative product or service suggestions or other new ideas and enhancements. | 15 |
| Experience of Firm and Personnel <ul style="list-style-type: none">The experience, resources, and qualifications of the firm and individuals assigned to this account, including manager, supervisor and assigned staff. | 50 |
| Relevant Project Experience | 25 |
| References <ul style="list-style-type: none">References that are similar in size and project scope to the City. | 10 |
| TOTAL POSSIBLE SCORE | 100 |

C. A final score will be calculated for each submitted proposal and used to rank Proposers. Based upon the foregoing criteria, all proposals shall be ranked by score. Only those proposals receiving a score above 70 will be considered for award. The City reserves the right to award the contract to any proposer(s) with a score above 70. The review committee will evaluate proposers based on their response to the RFP and the City evaluation criteria set forth above.

D. The City is under no obligation to accept any proposal and reserves the right to negotiate with respondents as to fees and terms. The City may reject proposals at its sole discretion. If proposal fails to satisfy any requirements outlined in this RFP, it may be considered non-responsive and may be rejected.

The City shall not be obligated to accept the lowest priced proposals, but will make awards in the best interests of the City after all factors have been evaluated.

The review committee will recommend the qualified Proposers to the City Council or City Manager for award of contract, as appropriate.

E. The review committee may invite the proposers to interview. The City reserves the right to seek additional information from any or all Proposers invited to present proposals. A final score will be calculated for each submitted proposal and used to rank Proposers. City reserves the right to begin negotiations and enter into a contract without holding interviews, or further discussions.



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XIII. WITHDRAWALS

Proposers are responsible for verifying all prices and information before submitting a proposal. Prior to the proposal due date, the Proposer or Proposer's representative may withdraw the proposal by providing written notice of the proposal withdrawal to the City Contact/Project Manager. Verbal or telephonic withdrawals are not permissible.

XIV. GENERAL TERMS AND CONDITIONS

A. AMERICANS WITH DISABILITIES ACT

The awarded Contractor hereby certifies that it will comply, as applicable, with the Americans with Disabilities Act of 1990 ("ADA"), 42 USC §§ 12101 et seq., and its implementing regulations, including Subtitle A, Title II of the ADA. Contractor will not discriminate against persons with disabilities nor against persons due to their relationship to or association with a person with a disability. Any contract entered into by the awarded Contractor (or any subcontract thereof), relating to this RFP, shall be subject to the provisions of this paragraph.

B. CITY BUSINESS LICENSE

The selected proposer shall be required to obtain a City of Santa Ana Business license within thirty (30) days of selection and must provide a copy to the City projects manager or designee prior to commencing any work in Santa Ana.

C. CITY RIGHT TO REJECT

The City reserves the right to reject any or all proposals submitted and no representation is made hereby that any agreement will be awarded pursuant to this RFP or otherwise. The City reserves the right to accept or reject the combined or separate components of this proposal in part or in its entirety or to waive any minor inconsistency, informality or technical defect in the proposal.

D. CONFLICT OF INTEREST

Contractor shall exercise reasonable care and diligence to prevent any actions or conditions that could result in a conflict with the best interests of the City. This obligation shall apply to the Contractor; the Contractor's employees, agents, and Subcontractors associated with accomplishing work and services hereunder. The Contractor's efforts shall include, but not be limited to, establishing precautions to prevent its employees, agents, and Subcontractors from providing or offering gifts, entertainment, payments, loans or other considerations which could be deemed to influence or appear to influence City staff or elected officers from acting in the best interests of the City.

Each Proposer must disclose any existing or potential conflict of interest relative to the performance of the contractual services resulting from this RFP. Any such relationship that might be perceived or represented as a conflict should be disclosed. The City reserves the right to disqualify any Proposer on the grounds of actual or apparent conflict of interest.

No person, firm, or subsidiary thereof who has been awarded this Contract may be awarded a Contract for the provision of services, the delivery of supplies, or the provision of any other related action which is required, suggested, or otherwise deemed appropriate as an end product of this Contract. Therefore, Contractor is precluded from contracting for any work recommended as a result of this Contract.



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E. CONTRACTOR'S EXPENSE

Pre-Contractual Expenses: The City is not liable for any costs incurred by Proposers prior to entering into a formal contract. Costs of developing a response to this RFP, are entirely the responsibility of the Proposer, and shall not be reimbursed in any manner by the City. Pre-contractual expenses are not to be included in the cost proposal. Pre-contractual expenses include, but are not limited to, preparation of the proposal, submission of the proposal and additional information, attendance at pre-proposal conference, negotiating any matter related to this RFP with City, and/or any other expenses incurred by the Proposer prior to the date of award and execution, if any, of the contract.

Other Expenses: The Contractor will be responsible for all costs related to photo copying, telephone communications, fax communications, and parking while on City sites during the performance of work and services under this Contract.

F. CONTRACTOR'S PROJECT MANAGER/KEY PERSONNEL

Except as formally approved by the City, the key personnel identified in Contractor's proposal shall be the individuals who will actually complete the work. Changes in staffing must be reported in writing and approved by the City. The City shall have the right to require the removal and replacement of the Contractor's Project Manager and key personnel under the awarded contract. The City shall notify the Contractor in writing of such action. The City is not required to provide any reason, rationale, or additional factual information if it elects to request any specific key personnel be removed from performing services under the awarded contract. The City shall review and approve the appointment of the replacement for the Contractor's personnel. Said approval shall not be unreasonably withheld.

Standards of Conduct: Contractor's personnel shall be courteous and maintain good working relationships with all stakeholders, state or outside agencies, other team members and staff within the City.

G. COST PROPOSAL

The awarded Contractor agrees to provide the purchased services at the costs, rates, and fees as set forth in their Fee Schedule in response to this RFP. No other costs, rates or fees shall be payable to the awarded Subcontractor for implementation of their proposal.

H. DATA RETENTION

Contractor shall be responsible for retaining data, records, and documentation for the preparation of required items. These materials shall be made available to and as requested by City.

All materials, documents, data or information obtained from the City Data files or any City medium furnished to Contractor in the performance of an awarded contract will at all times remain the property of the City. Such data or information may not be used or copied for direct or indirect use by Contractor after completion or termination of this Contract without the express written consent of the City. All materials, documents, data or information, including copies, must be returned to the City at the end of the contract.

All data, documents and other products used, developed, or produced during response preparation of the RFP will become property of the City. All responses to the RFP shall become property of the City. Proposer information identified as proprietary shall be maintained confidential, to the extent allowed under the California Public Records Act.



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I. DRUG-FREE WORKPLACE

The awarded Contractor certifies compliance with Government Code Section 8355 in matters relating to providing a drug-free workplace. Failure to comply with these requirements may result in suspension of payments under the Contract or termination of the contract or both, and the Contractor may be ineligible for award of any future City contracts.

J. EXAMINATION

Proposer represents that it has thoroughly examined and become familiar with the services and responsibilities required this RFP and that it is capable of effectively and efficiently performing quality work to achieve the City's objectives. Any attachments referenced herein or any interpretations, clarifications or amendments subsequently posted in relation to this RFP are fully incorporated.

Any irregularities or lack of clarity in the RFP should be brought to the designated City Contact/Project Manager's attention as soon as possible so that corrective addenda may be furnished to prospective Proposers.

Proposals which appear unrealistic in the terms of technical commitments, lack of technical competence, or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected.

K. EXECUTION OF AGREEMENT

Upon successful negotiations, the City and the selected Proposer will enter into an Agreement similar to that as shown in **EXHIBIT II – Sample Agreement** of this RFP. If a Proposer is unwilling or unable to execute an Agreement within thirty (30) days after being notified of selection under this RFP, the City reserves the right to disqualify them without any further obligation

L. FEDERAL GRANT CONTRACT PROVISIONS

Proposer must agree to the federal contract provisions outlined in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR Part 200.326. These provisions will become part of the agreement resulting from this bid.

M. FISCAL NONFUNDING CLAUSE

In the event sufficient budgeted funds are not available for a new fiscal period, the City shall retain the right to notify the provider of such occurrence in writing at least thirty (30) days before the end of the current fiscal period and terminate the contract on the last day of the current fiscal period without penalty or expense to the City.

N. JOINT OFFERS/SUBCONSULTANTS

Where two or more Proposers desire to submit a single proposal in response to this RFP, they should do so on a prime sub-consultant basis. The City intends to contract with a single firm, also known as the prime, and not with multiple firms doing business as a joint venture. Should the use of sub-consultants be offered, the Proposer shall provide the same assurances of competence for the sub-consultant plus the demonstrated ability to manage and supervise the subcontracted work. Sub-consultants shall not be allowed to further subcontract with others for work under the Agreement. The provisions of the Agreement shall apply to all sub-consultants in the same manner as the Proposer. The proposer is responsible for all the actions taken by their sub-contractor.

The City reserves the right to reject, replace and approve any and all Subcontractors. All Subcontractor(s) shall be identified in the response to the RFP and the City reserves the right



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to reject any proposed Subcontractor(s). Subcontractors shall be the responsibility of the prime Contractor and the City shall assume no liability of such Subcontractors.

O. INDEPENDENT CONTRACTOR

Contractor is considered an independent Contractor and neither Contractor, its employees, nor anyone working under Contractor will be considered an agent or an employee of City. Neither Contractor, its employees, nor anyone working under Contractor, will qualify for workers' compensation or other fringe benefits of any kind through City.

P. JOINT OFFERS/SUBCONSULTANTS

Where two or more Proposers desire to submit a single Proposal in response to this RFP, they should do so on a prime sub-consultant basis. The City intends to contract with a single firm and not with multiple firms doing business as a joint venture. Should the use of sub-consultants be offered, the Proposer shall provide the same assurances of competence for the sub-consultant plus the demonstrated ability to manage and supervise the subcontracted work. Sub-consultants shall not be allowed to further subcontract with others for work under the Agreement. The provisions of the Agreement shall apply to all sub-consultants in the same manner as the Proposer.

The City reserves the right to reject, replace and approve any and all Subcontractors. All Subcontractor(s) shall be identified in the response to the RFP and the City reserves the right to reject any proposed Subcontractor(s). Subcontractors shall be the responsibility of the prime Contractor and the City shall assume no liability of such Subcontractors.

Q. LITIGATION STATUS

Each Proposer must include in its proposal a complete disclosure of any alleged significant prior or ongoing contract failures, any civil or criminal litigation or investigation pending which involves the Proposer or in which the Proposer has been judged guilty or liable. Failure to comply with the terms of this provision will disqualify any proposal. The City reserves the right to reject any proposal based upon the Proposer's prior history with the City or with any other party, which documents, without limitation, unsatisfactory performance, adversarial or contentious demeanor, significant failure(s) to meet contract milestones or other contractual failures.

R. NEGOTIATIONS

The City reserves the right to negotiate final contract terms with any Proposer selected. The contract between the parties will consist of the RFP together with any modifications thereto, and the awarded Contractor's proposal, together with any modifications and clarifications thereto that are submitted at the request of the City during the evaluation and negotiation process. In the event of any conflict or contradiction between or among these documents, the documents shall control in the following order of precedence: the final executed contract, the RFP, any modifications and clarifications to the awarded Contractor's proposal, and the awarded Contractor's proposal. Specific exceptions to this general rule may be noted in the final executed contract.

Negotiations shall be confidential and not subject to disclosure to competing Contractors unless and until an agreement is reached. If contract negotiations cannot be concluded successfully, the City reserves the right to negotiate a contract with another Contractor or withdraw the RFP.



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S. NON-PAYMENTS

Note that payments will NOT be made for any unsatisfactory work until corrected. In the event of nonpayment of undisputed sums by the City, Contractor shall give the City thirty (30) working days to cure the alleged breach.

T. OWNERSHIP OF DOCUMENTS

The City has permanent ownership of all directly connected and derivative materials produced under this contract by the Contractor. All documents, reports and other incidental or derivative work or materials furnished hereunder shall become and remains the sole property of the City and may be used by the City as it may require without additional cost to the City. Contractor shall provide the City copies of documents upon its request at any time. None of the documents, reports and other incidental or derivative work or furnished materials shall be used by the Contractor without the express written consent of the City.

U. PARKING

The City will not provide free parking and/or reimbursement for the cost of parking while providing services and conducting business with the City.

V. PROFESSIONAL STANDARDS

Contractor staff shall be courteous to the public and City staff utilizing facilities where Contractor is performing work, but shall be responsive only to the requests of the City's Project Manager or designee. Contractor staff shall direct all inquiries to Project Manager or designee.

Contractor acknowledges that City locations consist of public-use facilities and recognizes the obligation to ensure Contractor personnel and agents maintain the highest level of professional standards in attire, decorum, and interaction with the public and City personnel.

W. PROJECT MANAGER

The selected Proposer will assume responsibility for all services in its proposal. The selected Proposer shall identify a sole point of contact, Project Manager, with the greatest knowledge in regard to the required service operations and contractual matters, including payment of any and all charges resulting from the Agreement.

X. PROPOSAL VALIDITY

Services, pricing, and warranties indicated in a Proposer's Proposal must be valid for a period of 180 days at minimum after the submission of the Proposal.

Y. PUBLIC AGENCIES

Other public agencies, as defined by California Government Code Section 6500, may choose to use the terms of this Contract, subject to Contractor's acceptance. The City is not liable or responsible for any obligations related to a subsequent contract between Contractor and another public agency.

Z. PUBLIC RECORDS

Proposals will become public record after the award of a contract unless the proposal or specific parts of the proposal can be shown to be exempt by law. Each Proposer may clearly label all or part of a proposal as "CONFIDENTIAL" provided that the Proposer thereby agrees to indemnify and defend the City for honoring such a designation. The failure to so label any information that is released by the City shall constitute a complete waiver of any and all claims for damages caused by any release of the information. Proposer information identified as



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proprietary shall be maintained confidential, to the extent allowed under the California Public Records Act.

AA.SUBCONTRACTORS

Proposals in response to this RFP must identify any Subcontractors, and outline the contractual relationship between the Awarded Subcontractor and each Subcontractor. An official of each proposed Subcontractor must sign, and include as part of the proposal submitted by the Prime Contractor, a statement to the effect that the Subcontractor has read and will agree to abide by the awarded Contractor's obligations. Any Subcontractor proposed after award of contract must be approved by the City before commencement of work.

The City will look solely to the awarded Contractor for the performance of all contractual obligations which may result from an award based on this RFP, and the awarded Contractor shall not be relieved for the non-performance of any or all Subcontractors.

BB.PREVAILING WAGE

The Director of the Department of Industrial Relations of the State of California has ascertained the prevailing rate of per diem wages in dollars, based on a working day of eight hours, for each craft or type of worker or mechanic needed to execute any construction or maintenance contract, which may be awarded by Public Works. The current prevailing wage rates as adopted by the Director of the Department of Industrial Relations are incorporated herein by reference and may be accessed at <http://www.dir.ca.gov/> (General Prevailing Wage determination made by the Director of Industrial Relations / Pursuant to California Labor Code Part 7, Chapter 1, Article 2, Section 1770, 1773 and 1773.1).

Contractor is required to pay the prevailing wage rate referred to above and is responsible for selecting the craft/classification of workers which will be required to perform this service in accordance with the Contractor's method of performing the work. Pursuant to Section 1775 of the Labor Code (State of California) Contractor shall forfeit \$50 for each calendar day, or portion thereof, for each worker paid less than the stipulated prevailing wage rates for any public work done under this Contract or by any subcontractor.

Prevailing Wage Compliance and Monitoring

Contractor is aware of the requirements of the California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., ("Prevailing Wage Laws"), which require the payment of prevailing wage rates and the performance of other requirement on "public works" and "maintenance" projects. Since the services are being performed as part of an applicable "public works" or "maintenance" project, as defined by Prevailing Wage Laws and since the total compensations is \$1,000 or more, Contractor agrees to fully comply with such Prevailing Wage Laws. City shall provide Contractor with a copy of the prevailing rates of per diem wages in effect at the commencement of this Agreement/Contract. Contractor shall make copies of the prevailing rates of per diem wages for each craft, classification or type of worker needed to execute the Services available to interested parties upon request, and shall post copies at the Contractor's principal place of business and at the job site. Contractor shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.



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XV. AWARD OF AGREEMENT

Selected Contractor(s) will be notified in writing. Any award is contingent upon the successful negotiation of final contract terms.

A. EXECUTION OF AGREEMENT

A standard agreement is included as **EXHIBIT II Sample Agreement** of this RFP. "Proposer" will hereinafter be referred to as "Consultant" or "Contractor" in standard agreement. The term of the agreement will begin after the agreement is fully executed, and all required bonds, insurance documents and contents of the payment information packet have been received and approved.

XVI. IMPLEMENTATION

A. KICK-OFF MEETINGS

The successful proposer will be required to meet with City staff prior to commencement of services or at any time as required by the City, to discuss and agree on operational issues including transition of services and scheduling.



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EXHIBIT I

SCOPE OF SERVICES

Contractor shall perform services as set forth below:

A. Description of Services

1. Proposed Locations
 - a. Rosita Park
 - b. Centennial Park
 - c. Bowers Museum OR Santiago Park Entrance
 - d. Jerome Park
 - e. Delhi Park
 - f. Carl Thornton Park
2. Source digital marquees (screens)
 - a. High-quality 6-8mm marquee
 - b. Resolution 8 mm or better
 - c. Screen size approximately 8x11 feet
 - d. Optional/Preferred: Night mode to reduce light pollution from screen
 - e. All related engineering costs
 - f. 5+ year warranty
3. Source digital marquee structures
 - a. Minimum 8 feet tall
 - b. Required: 1-2 sided to display 1-2 screens; preferred: option of up to 3 sides/screens
 - c. Ability to provide a variety of design options, such as using the City logo, designs that reflect Santa Ana community/digital marquee location, and designs compatible with historically sensitive properties and neighborhoods.
 - d. Ability to provide anti-graffiti options or coating.
4. Install digital marquees
 - a. Structure acquisition and installation.
 - b. Construction/installation of structure, including all necessary excavation, electrical connection, concrete work and landscaping
 - c. Additional geotechnical services, if needed.
 - d. Traffic Control, wherever applicable.
 - e. Installation of screen
5. Maintenance
 - a. Long-term maintenance and service provision for screen: 5 years minimum, with option to extend service warranty for 10-15 years or longer
 - b. Maintenance, service and warranty options for structure.
 - c. Security options for design and operation.
6. Screen functionality, operation and services
 - a. Remote programming accessible to City operators via internet
 - b. Ability to enter text to display or upload designs
 - c. Ability to play static graphics and animations/video
 - d. Contractor provides training to staff



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- e. Optional: Content services such as creation of display templates and graphic design upon request.

B. SAFETY PROGRAM REQUIREMENTS: Work Site Safety shall be as defined by the Standard Specifications and these special provisions:

Contractor shall be solely responsible for ensuring that all work performed under the contract is performed in strict compliance with all applicable Federal, State and local occupational safety regulations. Consultant/Contractor shall provide at its expense all safeguards, safety devices and protective equipment, and shall take any and all actions appropriate to providing a safe Project site.

The following is required in addition to the requirements of the Standard Specification:

1. Contractor shall train all employees, or subcontractor personnel in the work practices necessary to safely perform their job.
2. Contractor shall identify all known potential hazards related to the work performed and train all employees and subcontractor personnel on how to handle the potential hazards.
3. Contractor, their employees and subcontractors shall follow all safety rules and safe work practices.
4. Contractor will immediately notify the City of any significant and/or unusual hazards found during the course of work.
5. Contractor shall submit copies of Safety Data Sheets (SDS) for all hazardous materials to be utilized on site in the performance of work.
6. Contractor is solely responsible for the legal disposal of hazardous waste generated in the performance of their work.

Safety Indemnification: To the extent allowed by law, the Contractor agrees to defend, indemnify and hold harmless the City, its officers, employees and agents from and against any and all investigations, complaints, citations, liability, expense (including defense costs and legal fees), claims and/or causes of action for damages of any nature whatsoever, including but not limited to injury or death to employees of the Contractor, its subcontractors or City, attributable to any alleged act or omission of the Contractor or its subcontractors which is in violation of any Cal OSHA regulation. The obligation to defend, indemnify and hold harmless includes all investigations and proceedings associated with purported violations of Section 336.10 of Title 8 of the California Code of Regulations pertaining to multi-employer work sites. The City may deduct from any payment otherwise due the Contractor any costs incurred or anticipated to be incurred by the Agency, including legal fees and staff costs, associated with any investigation or enforcement proceedings brought by Cal OSHA arising out of the assigned work.

C. OTHER SAFETY REQUIREMENTS: Contractor shall take all reasonable precautions, as directed by the City, or in the absence of such direction, in accordance with sound industrial practices, to safeguard and protect City property and adjacent property. Damages to properties caused by Contractor's negligence shall be repaired at no cost (both labor and material) to the City.

Contractor is responsible for advising and ensuring compliance by Contractor's employees with all applicable environmental and hazardous materials handling laws and regulations.



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Contractor shall provide City a full report of damage to City property and/or equipment by Contractor's employees. All damage reports shall be submitted to the Site Coordinator within twenty-four (24) hours of occurrence.

Contractor shall provide, erect, and maintain all warning devices (i.e., barricades, cones, etc.) as required or necessary to ensure the safety of the public, City, and Contractor's employees

- D. CONSTRUCTION WASTE MANAGEMENT:** Contractor shall keep work areas clean and free from any debris, rubbish, hazardous waste and non-usable material resulting from the work under this Contract and shall be disposed of at the completion of each work day by the Contractor. Hazardous waste must be disposed of in accordance with the Resource Conservation and Recovery Act and all other applicable federal, state, and local laws and regulations.



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EXHIBIT II

SAMPLE AGREEMENT

SAMPLE ONLY

CONSULTANT AGREEMENT CITY OF SANTA ANA

THIS AGREEMENT ("Agreement") is made and entered into on this ____ day of _____, 20__ by and between _____, ("Consultant"), and the City of Santa Ana, a charter city and municipal corporation organized and existing under the Constitution and laws of the State of California ("City").

RECITALS

- A. The City desires to retain a Consultant having special skill and knowledge in the field of: to provide and install digital billboards at up to six (6) locations across the City, in high-traffic areas, in which vital communications will be shared. As part of the Revive Santa Ana, the Expansion of Critical Communications project aims to deliver important messages to residents across the City in the most effective ways possible.
- B. Consultant represents that Consultant is able and willing to provide such services to the City.
- C. In undertaking the performance of this Agreement, Consultant represents that it is knowledgeable in its field and that any services performed by Consultant under this Agreement will be performed in compliance with such standards as may reasonably be expected from a professional consulting firm in the field.

NOW THEREFORE, in consideration of the mutual and respective promises, and subject to the terms and conditions hereinafter set forth, the parties agree as follows:

1. SCOPE OF SERVICES

Consultant shall perform during the term of this Agreement, the tasks and obligations including all labor, materials, tools, equipment, and incidental customary work required to fully and adequately complete the services described and set forth in **Scope of Services - Exhibit A**, attached hereto and incorporated by reference.

2. COMPENSATION

a. City agrees to pay, and Consultant agrees to accept as total payment for its services for City, the rates and charges identified in **Compensation - Exhibit B**. The total amount to be expended during the term of this Agreement shall not exceed \$xxxxxx.

b. Payment by City shall be made within forty-five (45) days following receipt of proper invoice evidencing work performed, subject to City accounting procedures. Payment need not be made for work which fails to meet the standards of performance set forth in the Recitals which may reasonably be expected by City.

3. TERM

This Agreement shall commence on [enter a Start Date or “the date first written above”] for a **number (#) year term** with the **option for the City to grant up to a number (#)-year renewals**, exercisable by a writing by the City Manager and the City Attorney, unless terminated earlier in accordance with Section 17, below.

4. PREVAILING WAGES

Consultant is aware of the requirements of California Labor Code Section 1720, et seq., and 1770, et seq., as well as California Code of Regulations, Title 8, Section 16000, et seq., (“Prevailing Wage Laws”), which require the payment of prevailing wage rates and the performance of other requirements on “public works” and “maintenance” projects. If the services being performed are part of an applicable “public works” or “maintenance” project, as defined by the Prevailing Wage Laws, and the total compensation is \$1,000 or more, Consultant agrees to fully comply with such Prevailing Wage Laws. Consultant shall defend, indemnify and hold the City, its elected officials, officers, employees and agents free and harmless from any claim or liability arising out of any failure or alleged failure to comply with the Prevailing Wage Laws.

5. INDEPENDENT CONTRACTOR

Consultant shall, during the entire term of this Agreement, be construed to be an independent Consultant and not an employee of the City. This Agreement is not intended nor shall it be construed to create an employer-employee relationship, a joint venture relationship, or to allow the City to exercise discretion or control over the professional manner in which Consultant performs the services which are the subject matter of this Agreement; however, the services to be provided by Consultant shall be provided in a manner consistent with all applicable standards and regulations governing such services. Consultant shall pay all salaries and wages, employer's social security taxes, unemployment insurance and similar taxes relating to employees and shall be responsible for all applicable withholding taxes.

6. OWNERSHIP OF MATERIALS

This Agreement creates a non-exclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in plans, specifications, studies, drawings, estimates, and other documents or works of authorship fixed in any tangible medium of expression, including but not limited to, physical drawings or data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement (“Documents & Data”). Consultant shall require all subcontractors to agree in writing that City is granted a non-exclusive and perpetual license for any Documents & Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents & Data. Consultant makes no such representation and warranty in regard to Documents & Data which were provided to Consultant by the City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City’s sole risk.

7. INSURANCE (Subject to revision per RMD requirements)

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder and the results of that work by the Consultant, his agents, representatives, employees or subcontractors.

MINIMUM SCOPE OF INSURANCE

Coverage shall be at least as broad as:

- Commercial General Liability (CGL): Insurance Services Office Form CG 00 01 covering CGL on an “occurrence” basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than \$1,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- Automobile Liability: ISO Form Number CA 00 01 covering any auto (Code 1), or if Consultant has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than \$1,000,000 per accident for bodily injury and property damage.
- Workers’ Compensation: as 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..

If the Consultant maintains broader coverage and/or higher limits than the minimums shown above, the City requires and shall be entitled to the broader coverage and/or the higher limits maintained by the Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the City.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

The City, 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 if not available, through the addition of both CG 20 10, CG 20 26, CG 20 33, or CG 20 38; and CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Consultant’s insurance coverage shall be

primary coverage at least as broad as ISO CG 20 01 04 13 as respects the City, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees, or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the City.

Waiver of Subrogation

Consultant hereby grants to City a waiver of any right to subrogation which any insurer of said Consultant may acquire against the City by virtue of the payment of any loss under such insurance. Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not the City has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the City. The City may require the Consultant to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or City.

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 City.

Claims Made Policies (applicable only to professional liability)

If any of the required policies provide claims-made coverage:

- A. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.
- B. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.
- C. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Consultant must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.

Verification of Coverage

Consultant shall furnish the City with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to City before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Consultant's obligation to provide them.

The City reserves the right to require complete, certified copies of all required insurance

policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Consultant shall ensure that City is an additional insured on insurance required from subcontractors.

Special Risks or Circumstances

City reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

8. INDEMNIFICATION

Consultant agrees to defend, and shall indemnify and hold harmless the City, its officers, agents, employees, contractors, special counsel, and representatives from liability: (1) for personal injury, damages, just compensation, restitution, judicial or equitable relief arising out of claims for personal injury, including death, and claims for property damage, which may arise from the negligent operations of the Consultant, its subcontractors, agents, employees, or other persons acting on its behalf which relates to the services described in section 1 of this Agreement; and (2) from any claim that personal injury, damages, just compensation, restitution, judicial or equitable relief is due by reason of the terms of or effects arising from this Agreement. This indemnity and hold harmless agreement applies to all claims for damages, just compensation, restitution, judicial or equitable relief suffered, or alleged to have been suffered, by reason of the events referred to in this Section or by reason of the terms of, or effects, arising from this Agreement. The Consultant further agrees to indemnify, hold harmless, and pay all costs for the defense of the City, including fees and costs for special counsel to be selected by the City, regarding any action by a third party challenging the validity of this Agreement, or asserting that personal injury, damages, just compensation, restitution, judicial or equitable relief due to personal or property rights arises by reason of the terms of, or effects arising from this Agreement. City may make all reasonable decisions with respect to its representation in any legal proceeding. Notwithstanding the foregoing, to the extent Consultant's services are subject to Civil Code Section 2782.8, the above indemnity shall be limited, to the extent required by Civil Code Section 2782.8, to claims that arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant.

9. INTELLECTUAL PROPERTY INDEMNIFICATION

Consultant shall defend and indemnify the City, its officers, agents, representatives, and employees against any and all liability, including costs, for infringement of any United States' letters patent, trademark, or copyright infringement, including costs, contained in the work product or documents provided by Consultant to the City pursuant to this Agreement.

10. RECORDS

Consultant shall keep records and invoices in connection with the work to be performed under this Agreement. Consultant shall maintain complete and accurate records with respect to the costs incurred under this Agreement and any services, expenditures, and disbursements

charged to the City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant under this Agreement. All such records and invoices shall be clearly identifiable. Consultant shall allow a representative of the City to examine, audit, and make transcripts or copies of such records and any other documents created pursuant to this Agreement during regular business hours. Consultant shall allow inspection of all work, data, documents, proceedings, and activities related to this Agreement for a period of three (3) years from the date of final payment to Consultant under this Agreement.

11. CONFIDENTIALITY

If Consultant receives from the City information which due to the nature of such information is reasonably understood to be confidential and/or proprietary, Consultant agrees that it shall not use or disclose such information except in the performance of this Agreement, and further agrees to exercise the same degree of care it uses to protect its own information of like importance, but in no event less than reasonable care. "Confidential Information" shall include all nonpublic information. Confidential information includes not only written information, but also information transferred orally, visually, electronically, or by other means. Confidential information disclosed to either party by any subsidiary and/or agent of the other party is covered by this Agreement. The foregoing obligations of non-use and nondisclosure shall not apply to any information that (a) has been disclosed in publicly available sources; (b) is, through no fault of the Consultant disclosed in a publicly available source; (c) is in rightful possession of the Consultant without an obligation of confidentiality; (d) is required to be disclosed by operation of law; or (e) is independently developed by the Consultant without reference to information disclosed by the City.

12. CONFLICT OF INTEREST CLAUSE

Consultant covenants that it presently has no interests and shall not have interests, direct or indirect, which would conflict in any manner with performance of services specified under this Agreement.

13. NOTICE

Any notice, tender, demand, delivery, or other communication pursuant to this Agreement shall be in writing and shall be deemed to be properly given if delivered in person or mailed by first class or certified mail, postage prepaid, or sent by fax or other telegraphic communication in the manner provided in this Section, to the following persons:

| | |
|----------|------------------------------|
| To City: | City Clerk |
| | City of Santa Ana |
| | 20 Civic Center Plaza (M-30) |
| | P.O. Box 1988 |
| | Santa Ana, CA 92702-1988 |
| | Executive Director |
| | xxxxxxx Agency |

City of Santa Ana
20 Civic Center Plaza (M-xxxx)
P.O. Box 1988
Santa Ana, CA 92702

To Consultant: First & Last Name
Title
Consultant Firm Name
Address
City, State, Zip
Fax:

A party may change its address by giving notice in writing to the other party. Thereafter, any communication shall be addressed and transmitted to the new address. If sent by mail, communication shall be effective or deemed to have been given three (3) days after it has been deposited in the United States mail, duly registered or certified, with postage prepaid, and addressed as set forth above. If sent by fax, communication shall be effective or deemed to have been given twenty-four (24) hours after the time set forth on the transmission report issued by the transmitting facsimile machine, addressed as set forth above. For purposes of calculating these time frames, weekends, federal, state, County or City holidays shall be excluded

14. EXCLUSIVITY AND AMENDMENT

This Agreement represents the complete and exclusive statement between the City and Consultant, and supersedes any and all other agreements, oral or written, between the parties. In the event of a conflict between the terms of this Agreement and any attachments hereto, the terms of this Agreement shall prevail. This Agreement may not be modified except by written instrument signed by the City and by an authorized representative of Consultant. The parties agree that any terms or conditions of any purchase order or other instrument that are inconsistent with, or in addition to, the terms and conditions hereof, shall not bind or obligate Consultant or the City. Each party to this Agreement acknowledges that no representations, inducements, promises or agreements, orally or otherwise, have been made by any party, or anyone acting on behalf of any party, which is not embodied herein.

15. ASSIGNMENT

Inasmuch as this Agreement is intended to secure the specialized services of Consultant, Consultant may not assign, transfer, delegate, or subcontract any interest herein without the prior written consent of the City and any such assignment, transfer, delegation or subcontract without the City's prior written consent shall be considered null and void. Nothing in this Agreement shall be construed to limit the City's ability to have any of the services which are the subject to this Agreement performed by City personnel or by other Consultants retained by City.

16. WAIVER

No waiver of breach, failure of any condition, or any right or remedy contained in or

granted by the provisions of this Agreement shall be effective unless it is in writing and signed by the party waiving the breach, failure, right or remedy. No waiver of any breach, failure or right, or remedy shall be deemed a waiver of any other breach, failure, right or remedy, whether or not similar, nor shall any waiver constitute a continuing waiver unless the writing so specifies.

17. TERMINATION

This Agreement may be terminated by the City upon thirty (30) days written notice of termination. In such event, Consultant shall be entitled to receive and the City shall pay Consultant compensation for all services performed by Consultant prior to receipt of such notice of termination, subject to the following conditions:

- a. As a condition of such payment, the Executive Director may require Consultant to deliver to the City all work product(s) completed as of such date, and in such case such work product shall be the property of the City unless prohibited by law, and Consultant consents to the City's use thereof for such purposes as the City deems appropriate.
- b. Payment need not be made for work which fails to meet the standard of performance specified in the Recitals of this Agreement.

18. NON-DISCRIMINATION

Consultant shall not discriminate because of race, color, religion, sex, marital status, sexual orientation, gender identity, gender expression, gender, medical conditions, genetic information, or military and veteran status, age, national origin, ancestry, or disability, as defined and prohibited by applicable law, in the recruitment, selection, teaching, training, utilization, promotion, termination or other employment related activities or any services provided under this Agreement. Consultant affirms that it is an equal opportunity employer and shall comply with all applicable federal, state and local laws and regulations.

19. JURISDICTION - VENUE

This Agreement has been executed and delivered in the State of California and the validity, interpretation, performance, and enforcement of any of the clauses of this Agreement shall be determined and governed by the laws of the State of California. Both parties further agree that Orange County, California, shall be the venue for any action or proceeding that may be brought or arise out of, in connection with or by reason of this Agreement.

20. PROFESSIONAL LICENSES

Consultant shall, throughout the term of this Agreement, maintain all necessary licenses, permits, approvals, waivers, and exemptions necessary for the provision of the services hereunder and required by the laws and regulations of the United States, the State of California, the City of Santa Ana and all other governmental agencies. Consultant shall notify the City immediately and in writing of its inability to obtain or maintain such permits, licenses, approvals, waivers, and exemptions. Said inability shall be cause for termination of this Agreement.

21. FUNDING-RELATED PROVISIONS

Funds from the Coronavirus State Fiscal Recovery Fund and/or the Coronavirus Local Fiscal Recovery Fund, together known as the Coronavirus State and Local Fiscal Recovery Funds (“CSLFRF”) program, will be used to fund all or a portion of this Agreement. As applicable, Consultant shall comply with all federal requirements including, but not limited to, the following, all of which are expressly incorporated herein by reference:

- a. Sections 602 and 603 of the Social Security Act as added by Section 9901 of the American Rescue Plan Act of 2021 (the “Act”);
- b. U.S. Department of the Treasury (“Treasury”) Final Rule for the Act;
- c. Treasury Compliance and Reporting Guidance for the Act;
- d. 2 C.F.R. Part 200 – Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, other than such provisions as the U.S. Department of the Treasury may determine are inapplicable to the CSLFRF program and subject to such exceptions as may be otherwise provided by the U.S. Department of the Treasury;
- e. Treasury Coronavirus Local Fiscal Recovery Fund Award Terms and Conditions; and
- f. Federal contract provisions attached hereto as **Exhibit C** and incorporated herein by reference.

Subcontracts, if any, shall contain a provision making them subject to all of the provisions stipulated in this Agreement. With respect to any conflict between such federal requirements and the terms of this Agreement and/or the provisions of state law and except as otherwise required under federal law or regulation, the more stringent requirement shall control.

22. DEBARMENT.

a. To protect the public interest and ensure the integrity of Federal programs, CITY may only conduct business with responsible persons and may not make any award or permit any award to any party which is debarred or suspended or is otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549, Debarment and Suspension. See also 24 C.F.R. 570.609. Consultant must review and sign **Exhibit D** “Debarment,” which is attached hereto and incorporated herein by this reference. Consultant shall be in good standing, without suspension by the California Secretary of State, Franchise Tax Board or Internal Revenue Service. Any change in the corporate status or suspension of Consultant shall be reported immediately to CITY.

b. To maintain compliance with Federal programs, including but not limited to 2 C.F.R. Part 25 and 2 C.F.R. Part 180, CITY hereby requires that Consultant maintain a unique entity

identifier (as defined in 2 C.F.R. 25.415) and is registered in the System for Award Management (as defined in 2 C.F.R. 25.410) via SAM.gov (or any other applicable means or updated government website) for the duration of the term of this Agreement.

23. MISCELLANEOUS PROVISIONS

a. Each undersigned represents and warrants that its signature herein below has the power, authority and right to bind their respective parties to each of the terms of this Agreement, and shall indemnify City fully, including reasonable costs and attorney's fees, for any injuries or damages to City in the event that such authority or power is not, in fact, held by the signatory or is withdrawn.

b. All Exhibits referenced herein and attached hereto shall be incorporated as if fully set forth in the body of this Agreement.

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

ATTEST:

CITY OF SANTA ANA

Jennifer Hall
City Clerk

Kristine Ridge
City Manager

APPROVED AS TO FORM:

SONIA R. CARVALHO
City Attorney

CONSULTANT:

By: _____
Andrea Garcia-Miller
Assistant City Attorney

By:
Title:

RECOMMENDED FOR APPROVAL:

Michael L. Garcia
Executive Director
Community Development Agency

EXHIBIT C FEDERAL CONTRACT PROVISIONS

During the performance of this Agreement, Consultant shall comply with all applicable federal laws and regulations including, but not limited to, the federal contract provisions in this Exhibit C.

1. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.327)

(a) Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. The Contract Documents include remedies for breach and termination for cause and convenience.

(b) Appendix II to Part 200 (C) – Equal Employment Opportunity: If this Agreement meets the definition of a “federal assisted construction contract” in 41 CFR § 60-1.3, Consultant agrees as follows during the performance of this Agreement:

(i) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(iii) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(iv) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's

commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(vi) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) The Consultant will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of the Consultant and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may

require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part the grant (contract, loan, insurance, guarantee) for this project; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) Appendix II to Part 200 (D) – Davis-Bacon Act: Not applicable to this Agreement since it is funded by CSLFRF.

(d) Appendix II to Part 200 (D) – Copeland “Anti-Kickback” Act: Not applicable to this Agreement since it is funded by CSLFRF.

(e) Appendix II to Part 200 (E) – Contract Work Hours and Safety Standards Act:

(i) **Overtime Requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(ii) **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph (ii) of this section the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (ii) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (ii) of this section.

(iii) **Withholding for unpaid wages and liquidated damages.** The City shall upon its own action or upon written request of an authorized representative of the Department of Labor

withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the Consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the Consultant, such sums as may be determined to be necessary to satisfy any liabilities of Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (iii) of this section.

(iv) **Subcontracts.** The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (ii) through (v) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Consultant shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (ii) through (v) of this Section.

(f) Appendix II to Part 200 (F) – Rights to Inventions Made Under a Contract or Agreement: If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the Consultant wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Consultant must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency..

(g) Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act:

(i) Pursuant to the Clean Air Act, (1) Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., (2) Consultant agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

(ii) Pursuant to the Federal Water Pollution Control Act, (1) Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., (2) Consultant agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

(h) Appendix II to Part 200 (H) – Debarment and Suspension:

(i) This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such Consultant is required to verify that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(ii) Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(iii) This certification is a material representation of fact relied upon by City. If it is later determined that Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(iv) Consultant warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. Consultant also agrees to verify that all subcontractors performing work under this Agreement are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. Consultant further agrees to notify the City in writing immediately if Consultant or its subcontractors are not in compliance during the term of this Agreement.

(i) Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act: Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

(j) Appendix II to Part 200 (J) – §200.323 Procurement of Recovered Materials:

(i) Consultant shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement.

(ii) In the performance of this Agreement, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

(iii) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(iv) The Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

(k) Appendix II to Part 200 (K) – §200.216 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:

(i) Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Agreement. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(2) Telecommunications or video surveillance services provided by such entities or using such equipment.

(3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(ii) See Public Law 115-232, section 889 for additional information.

(l) Appendix II to Part 200 (L) – §200.322 Domestic Preferences for Procurement:

(i) Consultant shall, to the greatest extent practicable, purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts.

(ii) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

2. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS (2 C.F.R. § 200.321)

(a) Consultant shall be subject to 2 C.F.R. § 200.321 and will take affirmative steps to assure that minority firms, women's business enterprises, and labor surplus area firms are used when possible and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award.

(b) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and

(v) Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce.

(c) Consultant shall submit evidence of compliance with the foregoing affirmative steps when requested by the City.

3. COMPLIANCE WITH U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS

(a) Maintenance of and Access to Records. Consultant shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Consultant agrees to provide the City, Treasury Office of Inspector General and the Government Accountability Office, or any of their authorized representatives access to any books, documents, papers, and records (electronic or otherwise) of the Consultant which are directly pertinent to this Agreement for the purposes of conducting audits or other investigations. Records shall be maintained by Consultant for a period of five (5) years after completion of the Project.

(b) Compliance with Federal Regulations. Consultant agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Consultant also agrees to comply with all other applicable federal statutes, regulations, and executive orders, including, without limitation, the following:

(i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

(ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

(iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

(iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

(v) Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

(vi) New Restrictions on Lobbying, 31 C.F.R. Part 21.

(vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

(c) Compliance with Federal Statutes and Regulations Prohibiting Discrimination. Consultant agrees to comply with statutes and regulations prohibiting discrimination applicable to the CSLFRF program including, without limitation, the following:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

(ii) The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

(iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

(iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

(v) Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

(d) False Statements. Consultant understands that making false statements or claims in connection with the CSLFRF program is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

(e) Protections for Whistleblowers.

(i) In accordance with 41 U.S.C. § 4712, Consultant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

(ii) The list of persons and entities referenced in the paragraph above includes the following:

- (1) A member of Congress or a representative of a committee of Congress;
- (2) An Inspector General;
- (3) The Government Accountability Office;
- (4) A Treasury employee responsible for contract or grant oversight or management;
- (5) An authorized official of the Department of Justice or other law enforcement agency;
- (6) A court or grand jury; or
- (7) A management official or other employee of Consultant, or a subcontractor who has the responsibility to investigate, discover, or address misconduct.

(f) Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Consultant is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles, and encourage its subcontractors to do the same

(g) Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Consultant should encourage its employees and subcontractors to adopt and enforce policies that ban text messaging while driving, and Consultant should establish workplace safety policies to decrease accidents caused by distracted drivers.

(h) Assurances of Compliance with Civil Rights Requirements. The Civil Rights Restoration Act of 1987 provides that the provisions of this assurance apply to the Project, including, but not limited to, the following:

(i) Consultant 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 funds, 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.

(ii) Consultant acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency (LEP),” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, are limited in their English proficiency. Consultant understands that the denial of access to persons to its programs, services and activities because of their limited proficiency in English is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964. Accordingly, Consultant shall initiate reasonable steps, or comply with Treasury’s directives, to ensure meaningful access to its programs, services and activities to LEP persons. Consultant 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 Project.

(iii) Consultant agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting 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 LEP, please visit <http://www.lep.gov>.

(iv) Consultant acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Consultant and Consultant’s successors, transferees and assignees for the period in which such assistance is provided.

(v) Consultant agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Consultant and the Consultant’s subcontractors, successors, transferees and assignees:

The 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 Department of the Treasury 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 extends 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 Department of the Treasury Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this

contract (or agreement).

(vi) Consultant 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 Consultant, 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 Consultant for the period during which it retains ownership or possession of the property.

(vii) Consultant 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. Consultant shall comply with information requests, on-site compliance reviews, and reporting requirements.

(viii) Consultant shall maintain a complaint log and inform the Department of the Treasury of any accusations 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. Consultant must also inform the Department of the Treasury if Consultant has received no complaints under Title VI.

(ix) Consultant 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 agreements between the Consultant and the administrative agency that made the finding. If the Consultant settles a case or matter alleging such discrimination, Consultant must provide documentation of the settlement. If Consultant has not been the subject of any court or administrative agency finding of discrimination, please so state.

(x) If Consultant makes sub-awards to other agencies or other entities, Consultant is responsible for assuring that sub-recipients also comply with Title VI and all of the applicable authorities covered in this assurance.



CITY OF SANTA ANA

EXHIBIT III

FEDERAL REGULATIONS

- a. Federal Regulations – Recipient must comply with the government cost principles, uniform administrative requirements and audit requirements for federal grant program housed within Title 2, Part 200 of the Code of Federal Regulations.
- b. Debarment and Suspension – As required by Executive Orders 12549 and 12689, and 2 CFR §200.212 and codified in 2 CFR Part 200, Recipient must provide protection against waste, fraud, and abuse by debarment or suspending those persons deemed irresponsible in their dealings with the Federal government.
- c. Audit Records - With respect to all matters covered by this agreement all records shall be made available for audit and inspection by CITY, the grant agency and/or their duly authorized representatives for a period of three (3) years from the date of submission of the final expenditure report by the City of Santa Ana. For a period of three years after final delivery hereunder or until all claims related to this Agreement are finally settled, whichever is later, Recipient shall preserve and maintain all documents, papers and records relevant to the services provided in accordance with this Agreement, including the Attachments hereto. For the same time period, Recipient shall make said documents, papers and records available to City and the agency from which City received grant funds or their duly authorized representative(s), for examination, copying, or mechanical reproduction on or off the premises of Recipient, upon request during usual working hours.
- d. Reports - Recipient shall provide to City all records and information requested by City for inclusion in quarterly reports and such other reports or records as City may be required to provide to the agency from which City received grant funds or other persons or agencies.
- e. Section 504 of the Rehabilitation Act of 1973 (Handicapped) - All recipients of federal funds must comply with Section 504 of the Rehabilitation Act of 1973 (The Act). Therefore, the federal funds recipient pursuant to the requirements of The Act hereby gives assurance that no otherwise qualified handicapped person shall, solely by reason of handicap be excluded from the participation in, be denied the benefits of or be subject to discrimination, including discrimination in employment, in any program or activity that receives or benefits from federal financial assistance. The Recipient agrees it will ensure that requirements of The Act shall be included in the agreements with and be binding on all of its contractors, subcontractors, assignees or successors.
- f. Americans with Disabilities Act of 1990 - (ADA) Recipient must comply with all requirements of the Americans with Disabilities Act of 1990 (ADA), as applicable.
- g. Political Activity - None of the funds, materials, property, or services provided directly or indirectly under this agreement shall be used for any partisan political activity, or to further the election or defeat of any candidate for public office, or otherwise in violation of the provisions of the "Hatch Act".
- h. No Lobbying - Recipient will comply with all applicable lobbying prohibitions and laws, including those found in the Byrd Anti-Lobbying Amendment (31 U.S.C. 1352, et seq.), and agrees that none of the funds provided under this award may be expended by the Recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer



CITY OF SANTA ANA

or employee of Congress, or an employee of a Member of Congress in connection with any federal action concerning the award or renewal of any federal contract, grant, loan, or cooperative agreement.

i. Non-Discrimination and Equal Opportunity - Recipient will comply, and all its contractors (or subrecipients) will comply, with Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1964, as amended; Subtitle A, Title II of the Americans with Disabilities Act (ADA) (1990); Title IX of the Education Amendments of 1972; the Age Discrimination Act of 1975, as amended; Drug Abuse Office and Treatment Act of 1972, as amended; Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970, as amended; Section 523 and 527 of the Public Health Service Act of 1912, as amended; Title VIII of the Civil Rights Act of 1968, as amended; Department of Justice Non-Discrimination Regulations, 28 CFR Part 42, Subparts C, D, E, and G; and Department of Justice regulations on disability discrimination, 28 CFR Part 35 and 39. In the event a Federal or State court, Federal or State administrative agency, or the Recipient makes a finding of discrimination after a due process hearing on the grounds of race, color, religion, national origin, sex, or disability against a recipient of funds, the Recipient will forward a copy of the findings to CITY which will, in turn, submit the findings to the Office of Civil Rights, Office of Justice Programs, U.S. Department of Justice. If applicable, recipient will comply with the equal opportunity clause in 41 C.F.R. 60-1.4(b) in accordance with Executive Order 11246 as amended by Executive Order No. 11375.

j. Equal Employment Opportunity - Recipient will comply, and all its contractors (or subrecipients) will comply, with all requirements of the Executive Order 11246 of September 24, 1965, entitled "Equal Employment Opportunity," as amended by Executive Order 11375 of October 13, 1967, and as supplemented in Department of Labor regulations (41 CFR chapter 60), as applicable.

k. Public Contracts Code - Recipient will comply, and all its contractors (or subrecipients) will comply, with all requirements of the California Public Contract Code Section 10295.3, as applicable.

l. Copeland Anti-Kickback Act - Recipient will comply, and all its contractors and subcontractors (or subrecipients) shall comply, with all requirements of the Copeland "Anti-Kickback" Act (30 U.S.C. 3145) as supplemented in Department of Labor regulations (29 CFR Part 3), as applicable.

(1) Contractor – Contractors shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.

(2) Subcontracts – Contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach – A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.

m. Davis-Bacon Act - Recipient will comply, and all its contractors (or subrecipients) will comply, with all requirements of the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations (29 CFR Part 5), as applicable.



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Contractors are required to pay wages to laborers and mechanics at a rate no less than the prevailing wages specified in a wage determination made by the Secretary of Labor.

Additionally, contractors are required to pay wages not less than once a week.

n. Work Hours and Safety - Recipient will comply, and all its contractors (or subrecipients) will comply, with all requirements of Sections 103 and 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3702 and 3704) as supplemented by Department of Labor regulations (29 CFR Part 5), as applicable.

o. Clean Air Act - Recipient will comply, and all its contractors (or subrecipients) will comply, with all applicable standards, orders or requirements issued under the Clean Air Act (42 U.S.C. 7401-7671q), and the Federal Water Pollution Control Act (33 U.S.C. 1251-1387), as applicable.

p. Energy and Conservation - Recipient will comply, and all its contractors (or subrecipients) will comply, with all requirements of the Energy Policy and Conservation Act (42 U.S.C. 6201), as applicable.

q. Waste Disposal - Recipient will comply, and all its contractors (or subrecipients) will comply, with all requirements of Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, as applicable.

r. Patent Rights - Recipient agrees that the Department of Homeland Security shall have the authority to seek patent rights for any process, product, invention or discovery developed and paid for with funding through this Agreement based on the requirements of 37 CFR§ 401 and any other implementing regulations, as applicable.

s. Copyright - Recipient may copyright any books, publications or other copyrightable materials developed in the course of or under this Agreement. However, the federal awarding agency, State Administrative Agency (SAA) and City reserve a royalty-free, non-exclusive, and irrevocable license to reproduce, publish or otherwise use, and to authorize others to use, for federal government, SAA and/or City purpose:

- (1) the copyright in any work developed through this Agreement; and
- (2) any rights of copyright to which the subcontractor purchases ownership with support through this grant. The Federal government's, SAA's and City's rights identified above must be conveyed to the publisher and the language of the publisher's release form must ensure the preservation of these rights.

t. Telecommunications (2 CFR 200.216) - Recipient will comply with FEMA Policy 405-143-1, Prohibitions on Expending FEMA Award Funds on Covered Telecommunication Equipment or Services (Interim), which prohibits grant recipients and subrecipients from obligating or expending loan or grant funds to procure or obtain, extend or renew a contract to procure or obtain, or to enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

As described in Public Law 115-232, section 889, covered telecommunications equipment is:



CITY OF SANTA ANA

- (1) Telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).
- (2) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).
- (3) Telecommunications or video surveillance services provided by such entities or using such equipment.
- (4) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

u. Domestic preferences for procurements (2 CFR 200.322) - Recipient agrees that as appropriate and to the extent consistent with law, it will, to the greatest extent practicable under a Federal award, provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). This requirement must be included in all subawards including all contracts and purchase orders for work or products under this award. For purposes of this provision: "produced in the United States" means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States; and "manufactured products" means items and construction materials composed in whole or in part of non-ferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

v. Equal Employment in Construction Contracts - Pursuant to Equal Employment Opportunity requirements of 41 C.F.R. 60-1.4(b) in accordance with Executive Order 11246 as amended by Executive Order No. 11375, as to any construction contract thereunder, if applicable, during the performance of this contract, the contractor agrees as follows:

- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following:

Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.



CITY OF SANTA ANA

- (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.
- (3) The contractor will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the contractor's legal duty to furnish information.
- (4) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
- (5) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (6) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (7) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (8) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (8) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance.



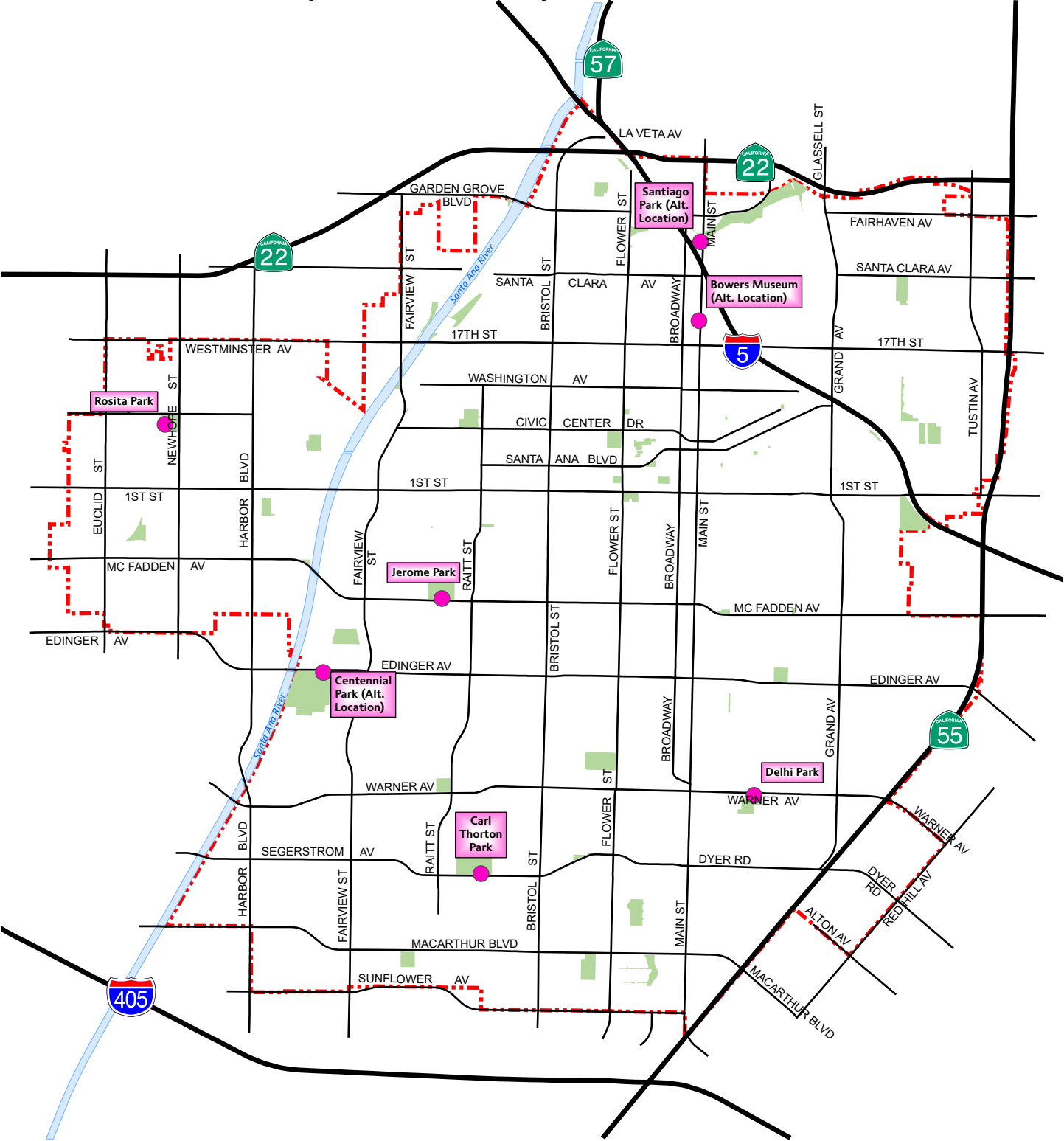
CITY OF SANTA ANA

EXHIBIT IV

MAP OF PRE-PROPOSAL MEETING LOCATIONS AND DRIVING DIRECTIONS

FOR PROPOSERS' REFERENCE ONLY

City of Santa Ana Proposed Marquee Locations

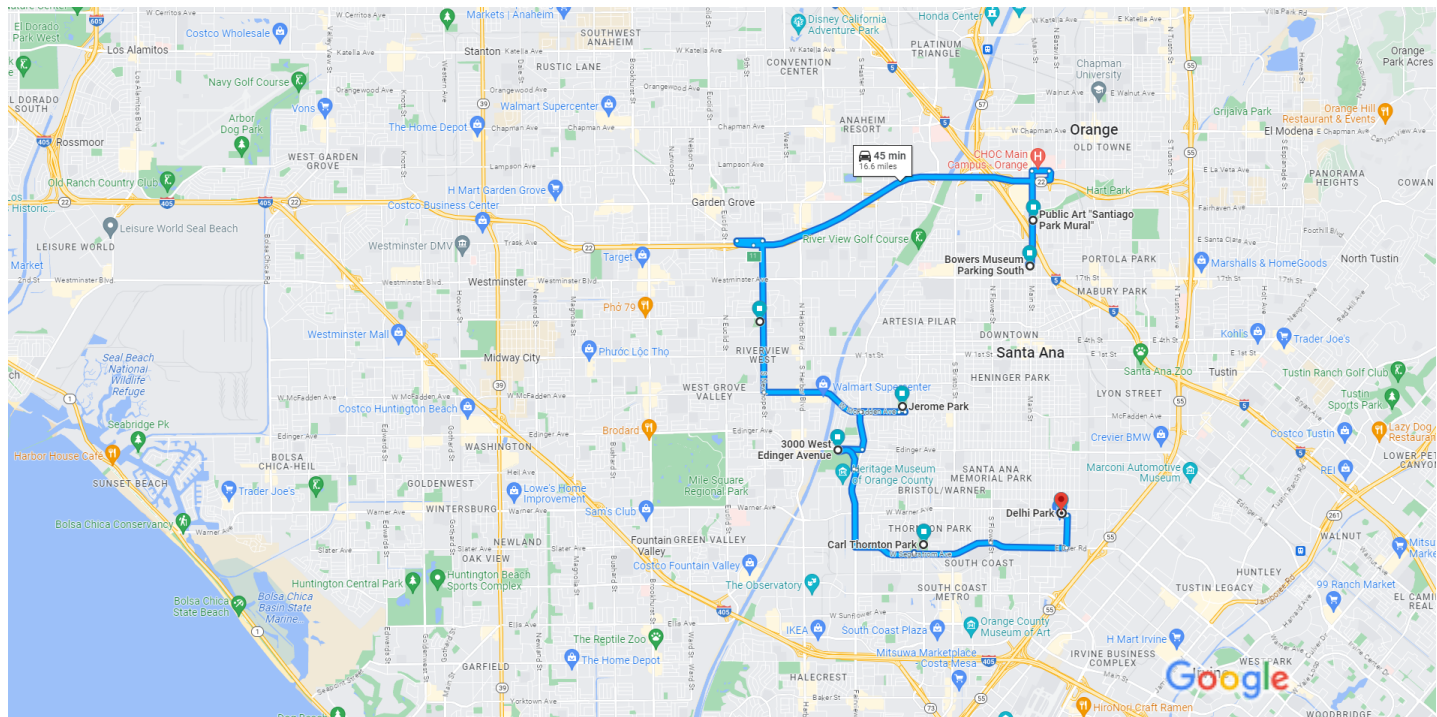




Bowers Museum Parking South, 1910 N Main St, Santa Ana, CA 92706 to Delhi Park, 2314 S Halladay St, Santa Ana, CA 92707

Drive 16.6 miles, 45 min

Begin at Bowers Museum Parking South, go to Santiago Park, Rosita, Jerome, Centennial, Thornton, and finish at Delhi Park.



Map data ©2023 Google 1 mi

Bowers Museum Parking South
1910 N Main St, Santa Ana, CA 92706

- ↑ 1. Head north toward W 20th St
151 ft
- ➡ 2. Turn right toward W 20th St
59 ft
- ➡ 3. Turn right onto W 20th St
207 ft
- ↶ 4. Turn left at the 1st cross street onto Main St
Destination will be on the right
0.6 mi

3 min (0.6 mi)

Public Art "Santiago Park Mural"
Santiago Creek Bike Trail, Santa Ana, CA 92706

- ↑ 5. Head northwest on Main St
0.7 mi

- 6. Turn right onto W La Veta Ave
0.2 mi
- ⬆ 7. Turn right to merge onto CA-22 W/Garden Grove Fwy
4.2 mi
- 8. Take exit 11 toward Euclid St
0.3 mi
- 9. Turn right onto Trask Ave
0.3 mi
- 10. Turn right onto Newhope St
Destination will be on the right
1.1 mi

12 min (6.8 mi)

Rosita Park

706 N Newhope St, Santa Ana, CA 92703

- ⬆ 11. Head south on N Newhope St toward Jenkins St/Roosevelt Ave
0.9 mi
- ⬅ 12. Turn left onto W McFadden Ave
Pass by McDonald's (on the left in 0.5 mi)
1.9 mi
- ⬅ 13. Turn left
Destination will be on the right
249 ft

10 min (2.9 mi)

Jerome Park

2115 W McFadden Ave, Santa Ana, CA 92704

- ⬆ 14. Head west toward W McFadden Ave
295 ft
- 15. Turn right onto W McFadden Ave
0.5 mi
- ⬅ 16. Turn left onto S Fairview St
0.5 mi
- 17. Turn right onto W Edinger Ave
0.3 mi
- ⬅ 18. Turn left onto S Mohawk Dr
Destination will be on the right
112 ft

5 min (1.4 mi)

3000 W Edinger Ave
Santa Ana, CA 92704

- ↑ 19. Head south on S Mohawk Dr toward Centennial Rd

125 ft
- ↩ 20. Turn left onto Centennial Rd

0.4 mi
- ↩ 21. Turn left to stay on Centennial Rd

190 ft
- ↪ 22. Turn right at the 1st cross street onto S Fairview St

1.0 mi
- ↩ 23. Turn left onto W Segerstrom Ave

0.8 mi
- ↩ 24. Turn left

135 ft

7 min (2.3 mi)

Carl Thornton Park
1801 W Segerstrom Ave, Santa Ana, CA 92704

- ↑ 25. Head south toward W Segerstrom Ave

98 ft
- ↩ 26. Turn left at the 1st cross street onto W Segerstrom Ave

1.0 mi
i [Pass by Taco Bell \(on the left in 0.5 mi\)](#)
- ↑ 27. Continue onto W Dyer Rd

1.0 mi
i [Pass by Del Taco \(on the right in 0.5 mi\)](#)
- ↩ 28. Turn left onto S Halladay St

0.4 mi
- ↩ 29. Turn left

164 ft
i [Destination will be on the right](#)

8 min (2.5 mi)



CITY OF SANTA ANA

ATTACHMENT A

PROPOSER'S CERTIFICATION, PROPOSAL PRICING

Certification - I certify that I have read, understand and agree to the terms and conditions of this Request for Proposals. I have examined the Scope of Services (Exhibit I) and am qualified to provide services being requested as specified herein. I understand and agree that I am responsible for reporting any errors, omissions or discrepancies to the City for clarification prior to the submission of my proposal.

PROPOSER'S STATEMENT: I have read, understood and agree to the terms and conditions on all pages of the Request for Proposals. Upon request, I will transfer and deliver goods or services to the City in accordance with said terms and conditions.

LEGAL NAME OF COMPANY

PHONE AND FAX NUMBERS

BUSINESS ADDRESS

PRINTED NAME OF AUTHORIZED AGENT

TITLE

SIGNATURE OF AUTHORIZED AGENT DATE

E-MAIL ADDRESS

FEDERAL ID NUMBER (IF APPLICABLE)

CONTRACTOR LICENSE NUMBER
(IF APPLICABLE)

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.



CITY OF SANTA ANA

ATTACHMENT B

REFERENCES

List and describe fully the contracts performed by your firm which demonstrate your ability to provide the supplies, equipment or services included in the scope of the proposal specifications. Attach additional pages if required. The City reserves the right to contact each of the references listed for additional information regarding your firm's qualifications.

REFERENCE

Customer Name: _____ Contact Individual: _____

Address: _____ Phone Number: _____

_____ EMAIL: _____

Contract Amount: _____ Year: _____

Description of supplies, equipment, or services provided:

REFERENCE

Customer Name: _____ Contact Individual: _____

Address: _____ Phone Number: _____

_____ EMAIL: _____

Contract Amount: _____ Year: _____

Description of supplies, equipment, or services provided:

REFERENCE

Customer Name: _____ Contact Individual: _____

Address: _____ Phone Number: _____

_____ EMAIL: _____

Contract Amount: _____ Year: _____

Description of supplies, equipment, or services provided:

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.



CITY OF SANTA ANA

ATTACHMENT C

PROPOSER'S STATEMENT

Proposer understands and agrees that this written RFP (or any part thereof specifically designated and accepted by the City of Santa Ana, hereinafter City) shall constitute the entire agreement between proposer and the City only after it has been accepted by the City Council, endorsed by the Clerk of the Council with her signature and official seal noting hereon the action of approval of the Council, signed by the Executive Director or his duly authorized agent, and signed by the City Attorney, denoting his approval of the form of this document, and its execution, and when it or an exact copy of it has been either delivered to proposer or deposited with the United States Postal Service properly addressed to the proposer with the correct postage affixed thereto.

Proposer further agrees that upon delivery (as defined above) of the accepted agreement he/she will furnish City all required bonds and certificate of liability insurance within ten (10) days (excluding Saturdays, Sundays and City's legal holidays), or the funds, check, draft, or proposer's bond substituted in lieu thereof accompanying this proposal shall become the property of the City and shall be considered as payment of damages due to the delay and other causes suffered by City because of the failure to furnish the necessary bonds and because it is distinctly agreed that the proof of damages actually suffered by City is difficult to ascertain; otherwise said funds, check drafts, or proposer's bond substituted in lieu thereof shall be returned to the undersigned.

Proposer understands that a proposal is required for the entire work, that the estimated quantities set forth in the RFP schedule are solely for the purpose of comparing proposals, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed.

All terms contained in the specifications, the certification of nondiscrimination by contractors, and the required insurance certificates are to be incorporated by reference into this agreement and are made specifically as part of this RFP.

Firm _____

Signed and Printed Name: _____

Title _____

Date _____

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.



CITY OF SANTA ANA

ATTACHMENT D

NON-COLLUSION AFFIDAVIT

(Title 23 United States Code Section 112 and Public Contract Code Section 7106)

To the CITY OF SANTA ANA

In accordance with Title 23 United States Code Section 112 and Public Contract Code 7106 the proposer declares that the proposal is not made in the interest of, or on behalf of, any undisclosed person, partnership, company, association, organization, or corporation; that the proposal is genuine and not collusive or sham; that the proposer has not directly or indirectly induced or solicited any other proposer to put in a false or sham proposal, and has not directly or indirectly colluded, conspired, connived or agreed with any proposer or anyone else to put in a sham proposal, or that anyone shall refrain from bidding; that the proposer has not in any manner, directly or indirectly, sought by agreement, communication, or conference with anyone to fix the proposal price of the proposer or any proposer, or to fix any overhead, profit, or cost element of the proposal price, or of that of any other proposer, or to secure any advantage against the public body awarding the contract of anyone interested in the proposed contract; that all statements contained in the proposal are true; and, further, that the proposer has not, directly or indirectly, submitted his or her proposal price or any breakdown thereof, or the contents thereof, or divulged information or data relative thereto, or paid, and will not pay, any fee to any corporation, partnership, company association, organization, bid depository, or to any member or agent thereof to effectuate a collusive or sham proposal.

Note: The above non-collusion affidavit is part of the proposal. Signing this proposal on the signature portion thereof shall also constitute signature of this non-collusion affidavit. Proposers are cautioned that making a false certification may subject the certifier to criminal prosecution.

Signed _____

State of _____, County of _____

Subscribed and sworn to (or affirmed) before me on this _____ day of _____, 20____, by _____, proved to me on the basis of satisfactory evidence to be the person(s) who appeared before me.

Notary Public Signature

Notary Public Seal

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.



CITY OF SANTA ANA

ATTACHMENT E

NON-LOBBYING CERTIFICATION

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

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

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

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

Signed: _____

Title: _____

Firm: _____

Date: _____

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.**



CITY OF SANTA ANA

ATTACHMENT F

NON-DISCRIMINATION CERTIFICATION

The undersigned consultant or corporate officer, during the performance of this contract, certifies as follows:

1. The Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The Consultant shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
2. The Consultant shall, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.
3. The Consultant shall send to each labor union or representative of workers with which he/she has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.
4. The Consultant shall comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
5. The Consultant shall furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his/her books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation, to ascertain compliance with such rules, regulations, and orders.
1. In the event of the Consultant's non-compliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, the contract may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulations, or order of the Secretary of Labor, or as otherwise provided by law.
2. The Consultant shall include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to Section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontract



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or purchase order as the administering agency may direct as means of enforcing such provisions, including sanctions for noncompliance; provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subconsultant or vendor as a result of such direction by the administering agency, the Consultant may request that the United States enter into such litigation to protect the interests of the United States.

8. Pursuant to California Labor Code Section 1735, as added by Chapter 643 Stats. 1939, and as amended, no discrimination shall be made in the employment of persons upon public works because of race, religious creed, color, national origin, ancestry, physical handicaps, mental condition, marital status, or sex of such persons, except as provided in Section 1420, and any consultant of public works violating this Section is subject to all the penalties imposed for a violation of the Chapter.

Signed: _____

Title: _____

Firm: _____

Date: _____

**THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.**



CITY OF SANTA ANA

ATTACHMENT G

SAM.gov VERIFICATION

On April 4, 2022, the federal government discontinued use of the DUNS Number to uniquely identify entities. Now, entities doing business with the federal government use the Unique Entity ID created in SAM.gov. They no longer have to go to a third-party website to obtain their identifier. This transition allows the government to streamline the entity identification and validation process, making it easier and less burdensome for entities to do business with the federal government.

This RFP includes federal funding, and as such, the proposer must provide verification of their SAM.gov UEI and registration status. Please attach your entity's registration from SAM.gov, including UEI and active registration status.

Proposer's UEI: _____

SAM.gov Registration Expiration Date: _____

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.

ATTACHMENT H

Certification Regarding
Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower Tier Covered Transactions

This certification is required by the regulations implementing Executive Order 12549, as amended, Nonprocurement Debarment and Suspension, 2 CFR Part 2998, Subpart C, Responsibilities of Participants Regarding Transactions. The regulations were published as Part VII of the May 26, 1988, Federal Register (Pages 19160-19211), and as subsequently amended in 81 Federal Register 25585.
(Before completing certification, read instructions which are an integral part of certification)

1. Pursuant to 2 CFR 180.335, the prospective primary participant, (i.e. grantee) certifies to the best of its knowledge and belief, that it and its principals:

- a. Are not presently excluded or disqualified;
- b. Have not been convicted within the preceding three years of any of the offenses listed in 2 CFR 180.800(a) or had a civil judgment rendered against them for one of those offenses within that time period.
- c. Are not presently indicted for or otherwise criminally or civilly charged by a government entity (Federal, State or local) with commission of any of the offenses listed in 2 CFR 180.800(a); and
- d. Have not had one or more public transactions (Federal, State or local) terminated within the preceding three years for cause or default.

2. Where the prospective primary participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation to this proposal.

Consultant

Name and Title of Official Authorized to Certify
On Behalf of the Consultant

Date

ATTACHMENT H

INSTRUCTION FOR CERTIFICATION

1. By signing and submitting this proposal, the prospective recipient of Federal assistance funds is providing the certification as set out below.
2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective recipient of Federal assistance funds knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the Department of Labor (DOL) may pursue available remedies, including suspension and/or debarment.
3. The prospective recipient of Federal assistance funds shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective recipient of Federal assistance funds learns that its certification was erroneous whom submitted or has become erroneous by reason of changed circumstances.
4. The terms “covered transaction”, “debarment”, “suspension”, “disqualified,” “ineligible”, “lower tier covered transaction”, “participant”, “person”, “primary covered transaction”, “principal”, “proposal”, and “voluntarily excluded”, as used in this cause, have the meanings set out in the Definitions and Coverage sections of rules implementing Executive Order 12549. You may contact the person to whom this proposal is submitted for assistance in obtaining a copy of those regulations.
5. The prospective recipient of Federal assistance funds agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, disqualified, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the DOL.
6. The prospective recipient of Federal assistance funds agrees by submitting this proposal, that it will include the clause title “Certification Regarding Debarment, Suspension, Ineligible, or voluntarily excluded from the covered transaction” unless it knows that the certification is erroneous.
7. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
8. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntary excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the DOL may pursue available remedies, including suspension and/or debarment.

MAYOR
Valerie Amezcua
MAYOR PRO TEM
Jessie Lopez
COUNCILMEMBERS
Phil Bacerra
Johnathan Ryan Hernandez
David Penalzoza
Thai Viet Phan
Benjamin Vazquez



CITY MANAGER
Kristine Ridge
CITY ATTORNEY
Sonia R. Carvalho
CLERK OF THE COUNCIL
Jennifer L. Hall

CITY OF SANTA ANA
FINANCE AND MANAGEMENT SERVICES
20 Civic Center Plaza • P.O. Box 1988
Santa Ana, California 92702
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ADDENDUM 1: TIMELINE EXTENSION
REQUEST FOR PROPOSAL (RFP) NO. 23-099A
DIGITAL MARQUEE INSTALLATION SERVICES

August 3, 2023

Notice is hereby given to Proposers that, where applicable, the City of Santa Ana Purchasing Division has made certain clarifications, modifications, additions, and/or deletions, for specifications of RFP No. 23-099A Digital Marquee Installation Services. **ALL OTHER TERMS, CONDITIONS, AND SPECIFICATIONS REMAIN UNCHANGED.**

- A. The deadline to submit questions and requests for clarifications is changed to **Tuesday, August 15th, 2023 at 4:00 PM (PDT).**
- B. The deadline to submit proposals is changed to **Tuesday, September 5th, 2023 at 4:00 PM (PDT).**
- C. RFP Document is revised to add the following Bond Requirements:

A Performance Bond shall be required of the successful bidder when stated in the Specification. Certified or Cashier's check or Money Order may be submitted in lieu of Bond. Failure to submit acceptable Payment and Performance Bonds as required shall result in a rejection of the bid and a forfeiture of the proposal guarantee.

The following Bond is required:

1. **FAITHFUL PERFORMANCE BOND (Awarded Contractor Only):** A Faithful Performance Bond is required for this RFP. The value of the performance bond shall be 100% of the contract price. Upon award, a Proposer must provide the City with a copy of the executed bond guaranteeing bidder's faithful performance of all provisions of the contract.
- D. Section VI. MINIMUM QUALIFICATIONS is replaced with the following:
1. Proposer must have minimum 5 years' experience in producing/procuring and installing high-quality digital signs in outdoor locations.
2. Proposers must possess a valid Class A General Engineering or C-45 Sign Contractor's License at the time proposals are opened and to maintain this and all

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other applicable licenses and certifications required to perform the work specified in the RFP Document.

- E. RFP Document is revised to include the required document ATTACHMENT I: STATEMENT REGARDING COMMUNITY WORKFORCE AGREEMENT (CWA) REQUIREMENTS, attached hereto. This form must be completed and included with the proposal. Proposals that do not contain this form will be considered nonresponsive.
- F. Section XIV. GENERAL TERMS AND CONDITIONS of the RFP Document is revised to include the following:

CC. COMMUNITY WORKFORCE AGREEMENT

For projects with bids greater than \$750,000 for prime multi-trade construction contracts (including all subcontractors) or over \$100,000 for specialty contracts (contracts either limited to a single trade or craft or limited to a singular scope of work), the Contractor shall adhere to the City's Community Workforce Agreement (CWA). This project is considered a specialty contract. The CWA is a pre-hire collective bargaining agreement, which establishes the labor relations policies and procedures for Contractor to follow in the crafts persons employed to complete the WORK OF IMPROVEMENT as more fully described in the CWA. The CWA is incorporated by reference in the Construction Contract. A copy of the CWA may be found in EXHIBIT V.

- G. EXHIBIT V – Community Workforce Agreement is attached hereto for proposers' reference.
- H. Section IX. CERTIFICATIONS (ATTACHMENTS) of the RFP Document is replaced with the following:

"In addition to the SOQ, Narrative/Technical Proposal, and Cost Proposal, the following forms, included in this RFP, shall be signed and included as part of the proposal submittal package:

- Attachment A: Proposer's Certification and Proposal Item Pricing
- Attachment B: References
- Attachment C: Proposer's Statement
- Attachment D: Non-Collusion Affidavit
- Attachment E: Non-Lobbying Certification
- Attachment F: Non-Discrimination Certification
- Attachment G: SAM.gov UEI Verification
- Attachment H: Certificate of Debarment
- **Attachment I: Statement Regarding Community Workforce Agreement (CWA) Requirements"**

- I. Two (2) high-resolution files of logo are available as separate files for bidders to download in order to produce possible design items.

Sincerely,
Jacques Lam, Buyer
Purchasing Division

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CITY OF SANTA ANA

ATTACHMENT I

STATEMENT REGARDING COMMUNITY WORKFORCE AGREEMENT (CWA) REQUIREMENTS

STATEMENT REGARDING COMMUNITY WORKFORCE AGREEMENT (CWA) REQUIREMENTS

This is to certify that the undersigned BIDDER, and subcontractors, have read and understood the CWA entered into by and between the City of Santa Ana, the Los Angeles/Orange Counties Building and Construction Trades Council, and the signatory Craft Councils and Local Unions, effective as of September 1st, 2017. The undersigned BIDDER hereby agrees to comply with all terms and conditions of the CWA, and is capable of completing construction of the project continuously, without interruptions or delays. If awarded any work covered by the CWA, BIDDER will also be required to sign the Letter of Assent that appears as Attachment A to the CWA.

Signed: _____

Title: _____

Firm: _____

Date: _____

THIS FORM MUST BE COMPLETED AND INCLUDED WITH THE PROPOSAL.
PROPOSALS THAT DO NOT CONTAIN THIS FORM WILL BE CONSIDERED NONRESPONSIVE.

EXHIBIT V

COMMUNITY WORKFORCE AGREEMENT

BY AND BETWEEN

THE CITY OF SANTA ANA

AND

LOS ANGELES/ORANGE COUNTIES

BUILDING AND CONSTRUCTION TRADES COUNCIL

AND THE SIGNATORY CRAFT COUNCILS AND UNIONS

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CITY OF SANTA ANA
COMMUNITY WORKFORCE AGREEMENT

This Community Workforce Agreement (“Agreement”) is entered into on June 6, 2023 (“Effective Date”), by and between the City of Santa Ana, a municipal corporation (“City”), the Los Angeles/Orange Counties Building and Construction Trades Council (“Trades Council”), and the signatory Craft Councils and Local Unions signing this Agreement (collectively, the “Union” or “Unions”). This Agreement establishes the labor relations policies and procedures for the City, the Contractors awarded contracts for Project Work and for the crafts persons employed by the Contractors and represented by the Unions engaged in the Project Work as more fully described below. The City, Trades Council and Unions are hereinafter referred to herein, as the context may require, as “Party” or “Parties.”

It is understood by the Parties to this Agreement that for the duration of this Agreement, it shall be the policy of the City for all Project Work (as defined in Section 2.2.) to be contracted exclusively to Contractors who agree to execute and be bound by the terms of this Agreement, directly or through the Letter of Assent (a form of which is attached as “**Attachment A**”), and to require each of its subcontractors, of whatever tier, to become so bound. The City shall include, directly or by incorporation by reference, the requirements of this Agreement in the advertisement of and/or specifications for each and every contract for Project Work to be awarded by the City.

It is further understood that the City shall actively administer and enforce the obligations of this Agreement to ensure that the benefits envisioned from it flow to all Parties, the Contractors and crafts persons working under it, and the residents of the City. The City shall therefore designate a “CWA Administrator,” either from its own staff or an independent contractor, to serve as the City’s liaison for Contractors and other persons; monitor compliance with this Agreement; assist, as the authorized representative of the City, in developing and implementing the programs referenced herein, all of which are critical to fulfilling the intent and purposes of the Parties and this Agreement; and to otherwise implement and administer this Agreement.

ARTICLE 1
DEFINITIONS

Section 1.1 “Agreement” or “CWA” means this Community Workforce Agreement.

Section 1.2 “Apprentice” means those employees indentured and participating in a Joint Labor/Management Apprenticeship Program approved by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards.

Section 1.3 “Construction Contract” or “Construction Contracts” means any contract entered into by the City, for the construction of Project Work as specified in Section 2.2.

Section 1.4 “Contractor” means any individual firm, partnership or corporation, or combination thereof, including joint ventures, which is an independent business enterprise and which has entered into a Construction Contract with the City or any of its contractors or any of the City’s or

contractor's subcontractors of any tier, with respect to the construction of any part of a Project under contract terms and conditions approved by the City and which incorporate this Agreement.

Section 1.5 “City” means the City of Santa Ana.

Section 1.6 “Joint Labor/Management Apprenticeship Program” means a joint Union and Contractor administered apprenticeship program certified by the State of California, Department of Industrial Relations, Division of Apprenticeship Standards.

Section 1.7 “Letter of Assent” means the document that each Contractor (of any tier) must sign and submit to the City before beginning any Project Work, which formally binds such Contractor(s) to adherence to all the forms, requirements and conditions of this Agreement in the form attached hereto as “**Attachment A.**”

Section 1.8 “CWA Administrator” means the City’s authorized representative who will be the liaison between the City, Contractors, and the Unions; responds to inquiries about the CWA; charged with monitoring compliance with the CWA, developing and implementing programs set forth in the CWA including but not limited to grievance procedures.

Section 1.9 “Project”, “Project Work” or “City Project” means Capital Improvement Program projects administered through the City of Santa Ana Public Works Agency, subject to the State of California public contracting laws, pursuant to a Construction Contract entered into by the City, and as further described in Section 2.2.

Section 1.10 “Specialty Contracts” means a contract for Project Work with a specialty contractor which is either limited to a particular single trade or craft or limited to a singular scope of work (i.e. installing a toilet.)

Section 1.11 “Master Labor Agreements” means the local collective bargaining agreements of the signatory Unions having jurisdiction over the Project Work and which have signed this Agreement.

Section 1.12 “Subscription Agreement” means the contract between a Contractor and a Union’s Labor/Management Trust Fund(s) that allows the Contractor to make the appropriate fringe benefit contributions in accordance with the terms of the Master Labor Agreements.

Section 1.13 The use of masculine or feminine gender or titles in this Agreement should be construed as including both genders and not as gender limitations unless the Agreement clearly requires a different construction. Further, the use of Article titles and/or Section headings are for information only, and carry no legal significance.

ARTICLE 2 SCOPE OF THE AGREEMENT

Section 2.1 General This Agreement shall apply to all of the City’s Project Work, as defined in Section 2.2, performed by those Contractor(s) of whatever tier that have contracts awarded for

such work, for the development of the City's facilities which, jointly, constitute the Project, and have been designated by the City for construction or rehabilitation. The CWA administrator will submit annual reports to the City Council on this agreement.

Section 2.2 Specific Project Work covered by this Agreement is defined and limited to:

2.2.1 All Public Works construction, as defined by the California Public Contract Code, and major rehabilitation work pursuant to "prime multi-trade construction contracts" that exceed seven hundred fifty thousand dollars (\$750,000) and all subcontracts flowing from these prime multi-trade contracts.

2.2.2 All prime "Specialty Contracts," as defined in Section 1.10 that exceed one hundred thousand dollars (\$100,000) and all subcontracts flowing from these specialty contracts.

2.2.3 The City may, at any time and at its sole discretion, determine to build additional buildings, facilities, and other projects under this Agreement which are not otherwise covered as Project Work.

2.2.4 Any Affordable Housing projects that receive City funds.

2.2.5 This Agreement is not intended to, and shall not apply to any work advertised for bids or performed at any time prior to the Effective Date, or after the expiration or termination of this Agreement, except as otherwise provided herein. This Agreement shall in no way limit the City's right to terminate, modify or rescind any construction contract and/or any related subcontract or agreement. Should the City remove or terminate any contract or agreement for construction that does not fall within the scope of this Agreement and thereafter authorize that work be commenced on any contract for such construction, the contract for construction shall be performed under the terms of this Agreement.

Section 2.3 Bundling of Contracts

2.3.1 The City, in its sole discretion, may seek to group (or "bundle") for bidding, contracts not meeting the threshold of Section 2.2 above. (Small contracts for like types of work, scheduled to be undertaken at the same facility or on the same project site, and within the same timeframe, will be considered for such bundling, consistent with economies of scale, and the purposes of this Agreement); and

2.3.2 Project Work will not be intentionally split, divided or otherwise separated for contract award purposes to avoid application of this Agreement.

Section 2.4 Applicability This Agreement shall not apply to any work of any Contractor other than that on Project Work specifically covered by this Agreement.

Section 2.5 Exclusions Items specifically excluded from the scope of this Agreement include the following:

2.5.1 Work of non-manual employees, including but not limited to: superintendents; teachers; supervisors (except those covered by Master Labor Agreements above the level of general foreman); staff engineers; time keepers; mail carriers; clerks; office workers; messengers; guards; safety personnel; emergency medical and first aid technicians; and other professional, engineering, executive, administrative, supervisory and management employees;

2.5.2 Equipment and machinery owned or controlled and operated by the City;

2.5.3 All off-site manufacture and handling of materials, equipment or machinery; provided, however, that lay down or storage areas for equipment or material and manufacturing (prefabrication) sites, dedicated solely to the Project, and the movement of materials or goods between such locations and a Project site are within the scope of this Agreement;

2.5.4 All work performed by City employees, the CWA Administrator, design teams (including, but not limited to architects engineers and master planners), or any other consultants for the City (including, but not limited to, project managers and construction managers and their employees where not engaged in Project Work) and their sub-consultants, and other employees of professional service organizations, not performing manual labor within the scope of this Agreement; provided, however, that it is understood and agreed that Surveyors and Building/Construction Inspector and Field Soils and Materials Testers (Inspectors) are a covered craft under the Agreement. This inclusion applies to the scope of work defined in the State of California Wage Determination for said Craft. This shall also specifically include such work where it is referred to by utilization of such terms as “quality control” or “quality assurance.” Every Surveyor and Inspector performing under the wage classifications of Surveyor and Building/Construction Inspector and Field Soils and Material Testers under a professional services agreement or a construction contract shall be bound to all applicable requirements of the CWA. Covered Work as defined by this Agreement shall be performed pursuant to the terms and conditions of this Agreement regardless of the manner in which the work was awarded;

2.5.5 Any work performed near, or leading to a site of work covered by this Agreement and undertaken by state, county or other governmental bodies, or their Contractors; or by public utilities, or their Contractors; and/or by adjacent third-party landowners; and/or by the City or its Contractors (for work which is not within the scope of this Agreement);

2.5.6 Off-site maintenance of leased equipment and on-site supervision of such work;

2.5.7 It is recognized that certain equipment and systems of a highly technical and specialized nature will have to be installed at the Project. The nature of the equipment and systems, together with requirements of a manufacturer’s warranty, may dictate that it be prefabricated, pre-piped, and/or pre-wired and that it be installed under the supervision and direction of the Owner’s and/or manufacturer’s personnel. The Unions agree to install such material, equipment and systems without incident, or allow such installation to be performed by the manufacturer’s employees or a contractor certified by the manufacturer where the Unions are unable to perform

such work or the warranty requires the work to be performed by the employees of the manufacturer or a contractor certified by the manufacturer. If a warranty on the manufacturer's specialty or technical equipment or systems purchased by the Owner requires that the installation of such specialty or technical equipment or system be performed by the manufacturer's own personnel, then such installation may be performed by the manufacturer's own personnel. If a warranty on the manufacturer's specialty or technical equipment or systems purchased by the Owner requires that the installation of such specialty or technical equipment or system be performed by a contractor certified by the manufacturer, and there are no Union signatory contractors certified by the manufacturer to install and/or perform such work, then such installation may be performed by such certified contractor. The General Contractor shall notify the Unions at the pre-job conference of the use of this provision and shall provide copies of the written warranty that require that the work be performed by the manufacturer's own personnel, or a contractor certified by the manufacturer, to the affected Union. When the warranty does not require installation by the manufacturer's own personnel or a contractor certified by the manufacturer, the Unions agree to perform and install such work under the supervision and direction of the manufacturer's representative. This shall not apply to construction equipment.

2.5.8 Non-construction support services contracted by the City, City consultants, the CWA Administrator, or Contractor in connection with a Project;

2.5.9 Laboratory work for testing.

2.5.10 Coverage Exception This Agreement shall not apply if the City receives funding or assistance from any Federal, State, local or other public entity for the Construction Contract if a requirement, condition or other term of receiving that funding or assistance, at the time of the awarding of the contract, is that the City not require, bidders, contractors, or other persons or entities to enter into an agreement with one or more labor organizations. The City agrees that it will make a reasonable effort to establish the enforcement of this Agreement with any governmental agency or granting authority.

2.5.11 Work on the Project performed as a result of a threat to life, limb or property or other emergency circumstances requiring immediate action.

Section 2.6 Awarding of Contracts for Project Work

2.6.1 The City and/or the Contractors, as appropriate, have the absolute right to award contracts or subcontracts on Project Work to any Contractor notwithstanding the existence or non-existence of any agreements between such Contractor and any Union parties, provided only that such Contractor is ready, willing, and able to execute and comply with this Agreement should such Contractor be awarded work covered by this Agreement.

2.6.2 It is agreed that all Contractors of whatever tier, who have been awarded Project Work contracts, shall be required to accept and be bound to the terms and conditions of this Agreement, and shall evidence their acceptance by the execution of the Letter of Assent set forth in "**Attachment A**" hereto, prior to the commencement of any Project Work. At the time that any Contractor enters into a subcontract with any subcontractor of any tier providing for the performance of the construction contract, the Contractor shall provide a copy of this Agreement to

said subcontractor and shall require the subcontractor, as a part of accepting the award of a construction subcontract, to agree in writing in the form of a Letter of Assent to be bound by each and every provision of this Agreement prior to the commencement of work on the Project. No Contractor or subcontractor shall commence Project Work without having first provided a copy of the Letter of Assent as executed by it to the CWA Administrator and to the Trades Council before the commencement of Project Work.

Section 2.7 Master Labor Agreements

2.7.1 The provisions of this Agreement, including the Master Labor Agreements as such may be changed from time-to-time and which also are incorporated herein by reference, shall apply to Project Work. This Agreement is not intended to supersede such Master Labor Agreements between any of the Contractors performing construction work on the Project and a Union signatory thereto except to the extent the provisions of this Agreement are inconsistent with such Master Labor Agreements, in which event the provisions of this Agreement shall apply. However, such does not apply to work performed under the National Cooling Tower Agreement, the National Stack Agreement, the National Transit Division Agreement (NTD), work within the jurisdiction of the International Union of Elevator Constructors, and all instrument calibration and loop checking work performed under the terms of the UA/IBEW Joint National Agreement for Instrument and Control Systems Technicians except that Article 9 dealing with Strikes, Work Stoppages and Lock-Outs, Work Assignments and Jurisdictional Disputes, and Settlement of Grievances and Disputes shall apply to such work. Where a subject is covered by the provisions of a Master Labor Agreement and not in conflict with the provisions of this Agreement, the provisions of the Master Labor Agreement shall apply. It is specifically agreed that no later agreement shall be deemed to have precedence over this Agreement unless signed by all parties signatory hereto who are then currently employed or represented at the Project. Any dispute as to the applicable source between this Agreement and any Master Labor Agreements for determining the wages, hours of working conditions of employees on this Project shall be resolved under the procedures established in Article 10.

2.7.2 It is understood that this Agreement, together with the referenced Master Labor Agreements, constitutes a self-contained, stand-alone agreement and by virtue of having become bound to this Agreement, the Contractor will not be obligated to sign any other local, area or national collective bargaining agreement as a condition of performing work within the scope of this Agreement (provided, however, that the Contractor may be required to sign a uniformly applied, non-discriminatory Subscription Agreement at the request of the trustees or administrator of a trust fund established pursuant to Section 302 of the Labor Management Relations Act, and to which such Contractor is bound to make contributions under this Agreement, provided that such Subscription Agreement does not purport to bind the Contractor beyond the terms and conditions of this Agreement and/or expand its obligation to make contributions pursuant thereto). It shall be the responsibility of the prime Contractor to have each of its subcontractors sign the appropriate Subscription Agreement, with the appropriate Craft Union prior to the subcontractor beginning work on Project Work.

Section 2.8 Binding Signatories Only This Agreement shall only be binding on the signatory Parties hereto, and shall not apply to the parents, affiliates, subsidiaries, or other ventures of any such Party not performing Project Work.

Section 2.9 Other City Work Nothing contained herein shall be interpreted to prohibit, restrict, or interfere with the performance of any other operation, work or function not covered by this Agreement, which may be performed by City employees or contracted for by the City for its own account, on its property or in and around a Project site.

Section 2.10 Separate Liability It is understood that the liability of the Contractor(s) and the liability of the separate Unions under this Agreement shall be several and not joint. The Unions agree that this Agreement does not have the effect of creating any joint employment status between or among the City or CWA Administrator and/or any Contractor.

Section 2.11 Completed Project Work As areas of Project Work are accepted by the City, this Agreement shall have no further force or effect on such items or areas except where the Contractor is directed by the City or its representatives to engage in repairs, modification, check-out and/or warranties functions required by its contract(s) with the City under the original contract.

ARTICLE 3 UNION RECOGNITION AND EMPLOYMENT

Section 3.1 Recognition The Contractor recognizes the Trades Council and the Unions as the sole and exclusive bargaining representative for the employees engaged in Project Work. Contractors further recognize that the Unions shall be the primary source of all craft labor employed on the Projects. In the event that a Contractor has its own core workforce, said Contractor shall follow the procedures outlined below.

Section 3.2 Contractor Selection of Employees The Contractor shall have the right to determine the competency of all employees, the number of employees required, the duties of such employees within their craft jurisdiction, and shall have the sole responsibility for selecting employees to be laid off, consistent with Section 3.3 and Section 4.2, below. The Contractor shall also have the right to reject any applicant referred by a Union for any reason, subject to any reporting pay required by Section 6.6; provided, however, that such right is exercised in good faith and not for the purpose of avoiding the Contractor's commitment to employ qualified workers through the procedures endorsed in this Agreement.

Section 3.3 Referral Procedures

3.3.1 For signatory Unions now having a job referral system contained in a Master Labor Agreement, the Contractor agrees to comply with such system and it shall be used exclusively by such Contractor, except as modified by this Agreement. Such job referral system will be operated in a nondiscriminatory manner and in full compliance with federal, state, and local laws and regulations which require equal employment opportunities and non-discrimination. All of the foregoing hiring procedures, including related practices affecting apprenticeship, shall be operated

so as to consider the goals of the City to encourage employment of City residents on the Project, and to facilitate the ability of all Contractors to meet their employment needs.

3.3.2 The local Unions will exert their best efforts to recruit and refer sufficient numbers of skilled craft workers to fulfill the labor requirements of the Contractor, including specific employment obligations to which the Contractor may be legally and/or contractually obligated; and to refer apprentices as requested to develop a larger, skilled workforce. The Unions will work with their affiliated regional and national unions, and jointly with the CWA Administrator and others designated by the City, to identify and refer competent craft persons as needed for Project Work, and to identify and hire individuals, particularly residents of the City, for entrance into joint labor/management apprenticeship programs, or to participate in other identified programs and procedures to assist individuals in qualifying and becoming eligible for such apprenticeship programs, all maintained to increase the available supply of skilled craft personnel for Project Work and future construction of maintenance work to be undertaken by the City.

3.3.3 The Union shall not knowingly refer an employee currently employed by a Contractor on a covered Project to any other Contractor.

Section 3.4 Non-Discrimination in Referral, Employment, and Contracting The Unions and Contractors agree that they will not discriminate against any employee or applicant for employment in hiring and dispatching on the basis of race, color, religion, sex, gender, national origin, age, membership in a labor organization, sexual orientation, political affiliation, marital status or disability. Further, it is recognized that the City has certain policies, programs, and goals for the utilization of local small business enterprises. The Parties shall jointly endeavor to assure that these commitments are fully met, and that any provisions of this Agreement which may appear to interfere with local small business enterprises successfully bidding for work within the scope of this Agreement shall be carefully reviewed, and adjustments made as may be appropriate and agreed upon among the Parties, to ensure full compliance with the spirit and letter of the City's policies and commitment to its goals for the significant utilization of local small businesses as direct Contractors or suppliers for Project Work.

Section 3.5 Employment of City Residents

3.5.1 The Unions and Contractors agree that, to the extent allowed by law, and as long as they possess the requisite skills and qualifications, the Unions will exert their best efforts to refer and/or recruit sufficient numbers of skilled craft "Local Residents," as defined herein, to fulfill the requirements of the Contractors. In recognition of the fact that the City and the communities surrounding Project Work will be impacted by the construction of the Project Work, the parties agree to support the hiring of workers from the residents of these surrounding areas, as well as Veterans and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, regardless of where they reside, for Project Work. Towards that end, the Unions shall exert their best efforts to encourage and provide referrals and utilization of qualified workers, first, to those residing in U. S. Postal Service zip codes which overlap all of the City of Santa Ana, as set forth in "**Attachment B**" attached hereto, as well as Veterans, regardless of where they reside ("Tier 1"). If the Unions cannot provide the Contractors in the attainment of a sufficient number of qualified workers from Tier 1, second, the Unions shall

exert their best efforts to then recruit and identify for referral qualified workers residing within the County of Orange and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, regardless of where they reside (“Tier 2”). For Dispatch purposes, employees residing within either of these two (2) tiers, as well as Veterans and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, regardless of where they reside, shall be referred to as Local Residents.

3.5.2 A goal of 30% of the total work hours performed on each Project shall be performed by Local Residents.

3.5.3 The Unions agree to support the operation of pre-apprentice referral programs in the City. Further, the Unions agree to place on their referral roles or in their apprentice training programs, as appropriate and needed, qualified persons sent to them by designated City organizations or other organizations working with the City to increase construction industry work opportunities for City residents.

Section 3.6 Requirements on Contractors To facilitate the dispatch of Local Residents, all Contractors will be required to utilize the Craft Employee Request Form whenever they are requesting the referral of any employee from a Union referral list for any Covered Project, a sample of which is attached as “**Attachment C.**” When Local Residents are requested by the Contractors, the Unions will refer such workers regardless of their place in the Unions’ hiring halls’ list and normal referral procedures.

Section 3.7 Helmets to Hardhats The Contractors and the Unions recognize a desire to facilitate the entry into the building and construction trades of Veterans who are interested in careers in the building and construction industry. The Contractors and Unions agree to utilize the services of non-profit Veterans support organizations, including but not limited to, the Center for Military Recruitment, Assessment and Veterans Employment (hereinafter “Center”) and the Center’s “Helmets to Hardhats” program to serve as a resource for preliminary orientation, assessment of construction aptitude, referral to apprenticeship programs or hiring halls, counseling and mentoring, support network, employment opportunities and other needs as identified by the Parties. For purposes of this Agreement the term “Eligible Veteran” shall have the same meaning as the term “veteran” as defined under Title 5, Section 2108(1) of the United States Code as the same may be amended or re-codified from time to time. It shall be the responsibility of each qualified applicant to provide the Unions with proof of his/her status as an Eligible Veteran.

3.7.1 The Unions and Contractors agree to coordinate with non-profit Veteran organizations, including, the Center to create and maintain an integrated database of veterans interested in working on this Project Work and of apprenticeship and employment opportunities for working on Project Work. To the extent permitted by law, the Unions will give credit to such Veterans for bona fide, provable past experience.

Section 3.8 Core Employees

3.8.1 Contractors not currently signatory to a Master Labor Agreement may employ, as needed, first, a member of its core workforce, then an employee through a referral from the appropriate Union hiring hall, then a second core employee, then a second employee through the referral system, and so on until a maximum of five (5) core employees are employed in the Contractor's workforce, thereafter, all additional employees in the affected trade or craft shall be requisitioned from the craft hiring hall in accordance with Section 3.3. In the laying off of employees, the number of core employees shall not exceed one-half plus one of the workforce for an employer with 10 or fewer employees, assuming the remaining employees are qualified to undertake the work available. As part of this process, and in order to facilitate the contract administration procedures, as well as appropriate fringe benefit fund coverage, all Contractors shall require their core employees and any other persons employed other than through the referral process, to register with the appropriate Union hiring hall, if any, prior to their first day of employment at a project site.

3.8.2 The core work force is comprised of those employees whose names appeared on the Contractor's active payroll for sixty (60) of the one hundred (100) working days immediately before award of Project Work to the Contractor; who have worked at least two-thousand (2,000) hours in the construction craft in which they are employed, during the prior four (4) years; who possess any license required by state or federal law for the Project Work to be performed; and, who have the ability to safely perform the basic functions of the applicable trade.

3.8.3 Prior to each Contractor performing any work on the Project, each Contractor shall provide a list of his core employees to the CWA Administrator and the Trades Council. Failure to do so will prohibit the Contractor from using any core employees. Upon request by any Party to this Agreement, the Contractor hiring any core employee shall provide satisfactory proof (i.e., payroll records, quarterly tax records, driver's license, voter registration, postal address and such governmental documentation) evidencing the core employee's qualification as a core employee to the CWA Administrator and the Trades Council.

Section 3.9 Time for Referral If any Union's registration and referral system does not fulfill the requirements for specific classifications requested by any Contractor within forty-eight (48) hours (excluding Saturdays, Sundays and holidays), that Contractor may use employment sources other than the Union registration and referral services, and may employ applicants meeting such classification from any other available source. The Contractors shall inform the Union of any applicants hired from other sources and such applicants shall register with the appropriate hiring hall, if any, before commencing work.

Section 3.10 Lack of Referral Procedure If a signatory Union does not have a job referral system as set forth in Section 3.3 above, the Contractors shall give the Union equal opportunity to refer applicants. Contractors shall notify the Union of employees so hired, as set forth in Section 3.5.

Section 3.11 Union Membership Employees are not required to become or remain union members or pay dues or fees as a condition of performing Project Work under this Agreement.

Contractors shall make and transmit all deductions for union dues, fees, and assessments that have been authorized by employees in writing in accordance with the applicable Master Labor Agreement. Nothing in this Section 3.11 is intended to supersede independent requirements of applicable Master Labor Agreements as to those Contractors otherwise signatory to such Master Labor Agreements and as to the employees of those Contractors who are performing Project Work

Section 3.12 Individual Seniority Except as provided in Section 4.3, individual seniority shall not be recognized or applied to employees working on Project Work; provided, however, that group and/or classification seniority in a Union's Master Labor Agreement as of the Effective Date of this Agreement shall be recognized for purposes of layoffs.

Section 3.13 Foremen The selection and number of craft foreman and/or general foreman shall be the responsibility of the Contractor. All foremen shall take orders exclusively from the designated Contractor representatives. Craft foreman shall be designated as working foreman at the request of the Contractors.

Section 3.14 Out of State Workers In determining compliance with the targeted hiring goals of Section 3.5 above, hours of Project Work performed by residents of states other than California will be excluded from the calculation.

ARTICLE 4 UNION ACCESS AND STEWARDS

Section 4.1 Access to Project Sites Authorized representatives of the Union shall have access to Project Work, provided that they do not interfere with the work of employees and further provided that such representatives shall notify the person charged with on-site project supervision and fully comply with posted visitor, security and safety rules.

Section 4.2 Stewards

4.2.1 Each signatory Union shall have the right to dispatch a working journeyman as a steward for each shift, and shall notify the Contractor in writing of the identity of the designated steward or stewards prior to the assumption of such person's duties as steward. Such designated steward or stewards shall not exercise any supervisory functions. There will be no non-working stewards. Stewards will receive the regular rate of pay for their respective crafts.

4.2.2 In addition to his/her work as an employee, the steward should have the right to receive, but not to solicit, complaints or grievances and to discuss and assist in the adjustment of the same with the employee's appropriate supervisor. Each steward should be concerned only with the employees of the steward's Contractor and, if applicable, subcontractor(s), and not with the employees of any other Contractor. A Contractor will not discriminate against the steward in the proper performance of his/her Union duties.

4.2.3 When a Contractor has multiple, non-contiguous work locations at one site, the Contractor may request and the Union shall appoint such additional working stewards as the

Contractor requests to provide independent coverage of one or more such locations. In such cases, a steward may not service more than one work location without the approval of the Contractor.

4.2.4 The stewards shall not have the right to determine when overtime shall be worked or who shall work overtime.

Section 4.3 Steward Layoff/Discharge Contractor agrees to notify the appropriate Union twenty-four (24) hours before the layoff of a steward, except in the case of disciplinary discharge for just cause. If the steward is protected against such layoff by the provisions of the applicable Master Labor Agreement, such provisions shall be recognized when the steward possesses the necessary qualifications to perform the remaining work. In any case in which the steward is discharged or disciplined for just cause, the appropriate Union will be notified immediately by the Contractor, and such discharge or discipline shall not become final (subject to any later filed grievance) until twenty-four (24) hours after such notice has been given.

ARTICLE 5 WAGES AND BENEFITS

Section 5.1 Wages All employees covered by this Agreement shall be classified in accordance with work performed and paid by the Contractors the hourly wage rates for those classifications in compliance with the applicable prevailing wage rate determination established pursuant to applicable law. If a prevailing rate increases under law, the Contractor shall pay that rate as of its effective date under the law. This Agreement does not relieve Contractors directly signatory to a Master Labor Agreement with one of the Unions signing this Agreement from paying all of the wages set forth in such Agreements.

Section 5.2 Benefits

5.2.1 Contractors shall pay contributions to the established employee benefit funds in the amounts designated in the appropriate Master Labor Agreement and make all employee–authorized deductions in the amounts designated in the appropriate Master Labor Agreement, however, such contributions shall not exceed the contribution amounts set forth in the applicable prevailing wage determination. This Agreement does not relieve Contractors directly signatory to one or more of the Master Labor Agreements from making all contributions set forth in those Master Labor Agreements without reference to the foregoing.

5.2.2 The Contractor adopts and agrees to be bound by the written terms of the applicable, legally established, trust agreement(s) specifying the detailed basis on which payments are to be made into, and benefits paid out of, such trust funds for its employees. The Contractor authorizes the Parties to such trust funds to appoint trustees and successor trustees to administer the trust funds and hereby ratifies and accepts the trustees so appointed as if made by the Contractor.

5.2.3 Each Contractor and subcontractor is required to certify to the CWA Administrator that it has paid all benefit contributions due and owing to the appropriate Trust(s) prior to the receipt of its final payment and/or retention. Further, upon timely notification by a Union to the CWA Administrator, the CWA Administrator shall work with any prime Contractor or

subcontractor who is delinquent in payments to assure that proper benefit contributions are made, to the extent of requesting the City or the prime Contractor to withhold payments otherwise due such Contractor, until such contributions have been made or otherwise guaranteed.

Section 5.3 Wage Premiums Wage premiums, including but not limited to pay based on height of work, hazard pay, scaffold pay and special skills shall not be applicable to work under this Agreement, except to the extent provided for in any applicable prevailing wage determination.

ARTICLE 6 HOURS OF WORK, OVERTIME, SHIFTS AND HOLIDAYS

Section 6.1 Hours of Work Eight (8) hours per day between the hours of 6:00 a.m. and 5:30 p.m., plus one-half (½) hour unpaid lunch approximately mid-way through the shift, shall constitute the standard work day. Forty (40) hours per week shall constitute a regular week's work. The work week will start on Sunday and conclude on Saturday. The foregoing provisions of this Article are applicable unless otherwise provided in the applicable prevailing wage determination, or unless changes are permitted by law and such are agreed upon by the Parties. Nothing herein shall be construed as guaranteeing any employee eight (8) hours per day or forty (40) hours per week, or a Monday through Friday standard work schedule.

Section 6.2 Place of Work Employees shall be at their place of work (as designated by the Contractor), at the starting time and shall remain at their place of work, performing their assigned functions, until quitting time. The place of work is defined as the gang or tool box or equipment at the employee's assigned work location or the place where the foreman gives instructions. The Parties reaffirm their policy of a fair day's work for a fair day's wage. Except as provided in Section 6.6, there shall be no pay for time not worked unless the employee is otherwise engaged at the direction of the Contractor.

Section 6.3 Overtime Overtime shall be paid in accordance with the requirements of the applicable prevailing wage determination. There shall be no restriction on the Contractor's scheduling of overtime or the nondiscriminatory designation of employees who will work overtime. There shall be no pyramiding of overtime (payment of more than one form of overtime compensation for the same hour) under any circumstances.

Section 6.4 Shifts and Alternate Work Schedules

6.4.1 Alternate starting and quitting time and/or shift work may be performed at the option of the Contractor upon three (3) days' prior notice to the affected Union(s), unless a shorter notice period is provided for in the applicable Master Labor Agreement. If two shifts are worked, each shall consist of eight (8) hours of continuous work exclusive of a one-half (½) hour non-paid lunch period, for eight (8) hours pay. The last shift shall start on or before 6:00 p.m. The first shift starting at or after 6:00 a.m. is designated as the first shift, with the second shift following.

6.4.2 Contractors, the Trades Council and the Union recognize the economic impact upon the City and City residents of the Project being undertaken by the City and agree that all Parties to

this Agreement desire and intend Project Work to be undertaken in a cost efficient and effective manner to the highest standard of quality and craftsmanship. Recognizing the economic conditions, the Parties agree that, except to the extent permitted by law, employees performing Project Work shall not be entitled to any differentials or additional pay based upon the shift or work schedule of the employees. Instead, all employees working on Project Work shall be paid at the same base rate regardless of shift or work schedule worked.

6.4.3 Because of operational necessities, the second shift may, at the City's direction, be scheduled without the preceding shift having been worked. It is recognized that the City's operations and/or mitigation obligations may require restructuring of normal work schedules. Except in an emergency or when specified in the City's bid specification, the Contractor shall give affected Union(s) at least three (3) days' notice of such schedule changes.

Section 6.5 Holidays Recognized holidays for Project Work shall be those set forth and governed by the prevailing wage determination(s) applicable to such Project Work.

Section 6.6 Show-up Pay

6.6.1 Except as otherwise required by State law, Employees reporting for work and for whom no work is provided, except when given prior notification not to report to work, shall receive two (2) hours pay at the regular straight time hourly rate. Employees who are directed to start work shall receive four (4) hours of pay at the regular straight time hourly rate. Employees who work beyond four (4) hours shall be paid for actual hours worked. Whenever reporting pay is provided for employees, they will be required to remain at the Project Site and available for work for such time as they receive pay, unless released earlier by the principal supervisor of the Contractor(s) or his/her designated representative. Each employee shall furnish his/her Contractor with his/her current address and telephone number, and shall promptly report any changes to the Contractor.

6.6.2 An employee called out to work outside of his/her shift shall receive a minimum of two (2) hours pay at the appropriate rate. This does not apply to time worked as an extension of (before or after) the employee's normal shift.

6.6.3 When an employee leaves the job or work location of his/her own volition, or is discharged for cause or is not working, the employee shall only be paid for actual time worked.

Section 6.7 Meal Periods The Contractor will schedule a meal period of no more than one-half hour duration at the work location at approximately mid-point of the schedule shift; provided, however, that the Contractor may, for efficiency of the operation, establish a schedule which coordinates the meal periods of two or more crafts. An employee may be required to work through his meal period because of an emergency or a threat to life or property, or for such other reasons as are in the applicable Master Labor Agreement, and if he is so required, he shall be compensated in the manner established in the applicable Master Labor Agreement.

Section 6.8 Make-up Days To the extent permitted by the applicable general wage determination, when an employee has been prevented from working for reasons beyond the control of the employer, including, but not limited to inclement weather or other natural causes, during the

regularly scheduled work week, a make-up day may be worked on a non-regularly scheduled work day for which an employee shall receive eight (8) hours pay at the straight time rate of pay or any premium rate required for such hours under the state prevailing wage law.

ARTICLE 7 WORK STOPPAGES AND LOCK-OUTS

Section 7.1 No Work Stoppages or Disruptive Activity The Trades Council and the Unions signatory hereto agree that neither they, and each of them, nor their respective officers or agents or representatives, shall incite or encourage, condone or participate in any strike, walk-out, slow-down, picketing, observing picket lines or other activity of any nature or kind whatsoever, for any cause or dispute whatsoever with respect to or in any way related to Project Work, or which interferes with or otherwise disrupts, Project Work, or with respect to or related to the City or Contractors, including, but not limited to, economic strikes, unfair labor practice strikes, safety strikes, sympathy strikes and jurisdictional strikes whether or not the underlying dispute is arbitrable. Any such actions by the Trades Council, or Unions, or their members, agents, representatives or the employees they represent shall constitute a violation of this Agreement. The Trades Council and the Union shall take all steps necessary to obtain compliance with this Article and neither should be held liable for conduct for which it is not responsible.

Section 7.2 Employee Violations The Contractor may discharge any employee violating Section 7.1 above and any such employee will not be eligible for rehire under this Agreement.

Section 7.3 Standing to Enforce The City, the CWA Administrator, or any Contractor affected by an alleged violation of Section 7.1 shall have standing and the right to enforce the obligations established therein.

Section 7.4 Expiration of Master Labor Agreement If the Master Labor Agreement, or any local, regional, and other applicable collective bargaining agreements expire during the term of the Project, the Union(s) agree that there shall be no work disruption of any kind as described in Section 7.1 above as a result of the expiration of any such agreement(s) having application on this Project and/or failure of the involved Parties to that agreement to reach a new contract. Terms and conditions of employment established and set at the time of bid shall remain established and set. Otherwise to the extent that such agreement does expire and the Parties to that agreement have failed to reach concurrence on a new contract, work will continue on the Project on one of the following two (2) options, both of which will be offered by the Unions involved to the Contractors affected:

7.4.1 Each of the Unions with a contract expiring must offer to continue working on the Project under interim agreements that retain all the terms of the expiring contract, except that the Unions involved in such expiring contract may each propose wage rates and employer contribution rates to employee benefit funds under the prior contract different from what those wage rates and employer contributions rates were under the expiring contracts. The terms of the Union's interim agreement offered to Contractors will be no less favorable than the terms offered by the Union to any other employer or group of employers covering the same type of construction work in Orange County.

7.4.2 Each of the Unions with a Master Labor Agreement expiring must offer to continue working on the Project under all the terms of the expiring contract, including the wage rates and employer contribution rates to the employee benefit funds, if the Contractor affected by that expiring contract agrees to the following retroactive provisions: if a new Master Labor Agreement, local, regional or other applicable labor agreement for the industry having application at the Project is ratified and signed during the term of this Agreement and if such new labor agreement provides for retroactive wage increases, then each affected Contractor shall pay to its employees who performed work covered by this Agreement at the Project during the hiatus between the effective dates of such expired and new labor agreements, an amount equal to any such retroactive wage increase established by such new labor agreement, retroactive to whatever date is provided by the new labor agreement for such increase to go into effect, for each employee's hours worked on the Project during the retroactive period. All Parties agree that such affected Contractors shall be solely responsible for any retroactive payment to its employees.

7.4.3 Some Contractors may elect to continue to work on the Project under the terms of the interim agreement option offered under paragraph 7.4.1 and other Contractors may elect to continue to work on the Project under the retroactivity option offered under paragraph 7.4.2. To decide between the two options, Contractors will be given one week after the particular labor agreement has expired or one week after the Union has personally delivered to the Contractors in writing its specific offer of terms of the interim agreement pursuant to paragraph 7.4.1, whichever is the later date. If the Contractor fails to timely select one of the two options, the Contractor shall be deemed to have selected the provisions of 7.4.2.

Section 7.5 No Lockouts Contractors shall not cause, incite, encourage, condone or participate in any lock-out of employees with respect to Project Work during the term of this Agreement. The term "lock-out" refers only to a Contractor's exclusion of employees in order to secure collective bargaining advantage, and does not refer to the discharge, termination or layoff of employees by the Contractor for any reason in the exercise of rights pursuant to any provision of this Agreement, or any other agreement, nor does "lock-out" include the City's decision to stop, suspend or discontinue any Project Work or any portion thereof for any reason.

Section 7.6 Best Efforts to End Violations

7.6.1 If a Contractor contends that there is any violation of this Article or Section 8.3, it shall notify, in writing, the Executive Secretary of the Trades Council, the Senior Executive of the involved Union(s) and the CWA Administrator. The Executive Secretary and the leadership of the involved Union(s) will immediately instruct, order and use their best efforts to cause the cessation of any violation of the relevant Article.

7.6.2 If the Union contends that any Contractor has violated this Article, it will notify that the Contractor and the CWA Administrator, setting forth the facts which the Union contends violate the Agreement, at least twenty-four (24) hours prior to invoking the procedures of Section 7.8. The CWA Administrator shall promptly order the involved Contractor(s) to cease any violation of the Article.

Section 7.7 Withholding of services for failure to pay wages and fringe benefits

7.7.1 Notwithstanding any provision of this Agreement to the contrary, it shall not be a violation of this Agreement for any Union to withhold the services of its members (but not the right to picket) from a particular Contractor who:

(a) fails to timely pay its weekly payroll; or

(b) fails to make timely payments to the Union's Joint Labor/Management Trust Funds in accordance with the provisions of the applicable Master Labor Agreements. Prior to withholding its members' services for the Contractor's failure to make timely payments to the Union's Joint Labor/Management Trust Funds, the Union shall give at least ten (10) days (unless a lesser period of time is provided in the Union's Master Labor Agreement, but in no event less than forty-eight (48) hours) written notice of such failure to pay by registered or certified mail, return receipt requested, and by facsimile transmission to the involved Contractor and to the City. Union will meet within the ten (10) day period to attempt to resolve the dispute.

7.7.2 Upon the payment of the delinquent Contractor of all monies due and then owing for wages and/or fringe benefit contributions, the Union shall direct its members to return to work and the Contractor shall return all such members back to work.

Section 7.8 Expedited Enforcement Procedure Any party, including the City, which the Parties agree is a Party to the Agreement for purposes of this Article and an intended beneficiary of this Article, or the CWA Administrator, may institute the following procedures, in lieu of or in addition to any other action at law or equity, when a breach of Section 7.1 or 7.5, above, or Section 8.3 is alleged.

7.8.1 The Party invoking this procedure shall notify the first arbitrator identified in the List of Arbitrators attached hereto as **Attachment D**. If this arbitrator identified in Attachment D is unavailable at any time, any one of the permanent Arbitrators who is notified shall appoint his alternate to hear the matter. Expenses incurred in arbitration shall be borne equally by the Parties involved in the arbitration and the decision of the arbitrator shall be final and binding on the Parties, provided, however, that the arbitrator shall not have the authority to alter or amend or add to or delete from the provisions of this Agreement in any way. Notice to the arbitrator shall be by the most expeditious means available, with notices to the Parties alleged to be in violation, and to the Trades Council if it is a Union alleged to be in violation. For purposes of this Article, written notice may be given by telegram, facsimile, hand delivery or overnight mail and will be deemed effective upon receipt.

7.8.2 Upon receipt of said notice, the arbitrator named above or his/her alternate shall sit and hold a hearing within twenty-four (24) hours if it is contended that the violation still exists, but not sooner than twenty-four (24) hours after notice has been dispatched to the Executive Secretary and the Senior Official(s) as required by Section 7.6, as above.

7.8.3 The arbitrator shall notify the Parties of the place and time chosen for this hearing. Said hearing shall be completed in one session, which, with appropriate recesses at the arbitrator's

discretion, shall not exceed 24 hours unless otherwise agreed upon by all Parties. A failure of any Party or Parties to attend said hearings shall not delay the hearing of evidence or the issuance of any award by the arbitrator.

7.8.4 The sole issue at the hearing shall be whether or not a violation of Sections 7.1 or 7.5, above, or Section 8.3 has in fact occurred. The arbitrator shall have no authority to consider any matter in justification, explanation or mitigation of such violation. The award shall be issued in writing within three (3) hours after the close of the hearing, and may be issued without an opinion. If any Party desires a written opinion, one shall be issued within fifteen (15) days, but its issuance shall not delay compliance with, or enforcement of, the Award. The arbitrator may order cessation of the violation of the Article and other appropriate relief, and such award shall be served on all Parties by hand or registered mail upon issuance.

7.8.5 Such award shall be final and binding on all Parties and may be enforced by any court of competent jurisdiction upon the filing of this Agreement and all other relevant documents referred to herein above in the following manner. Written notice of the filing of such enforcement proceedings shall be given to the other Party. In any judicial proceeding to obtain a temporary order enforcing the arbitrator's award as issued under this Article, all Parties waive the right to a hearing and agree that such proceedings may be ex parte. Such agreement does not waive any Party's right to participate in a hearing for a final order of enforcement. The court's order or orders enforcing the arbitrator's award shall be served on all Parties by hand or by delivery to their address as shown on this Agreement (for a Union), as shown on their business contract for work under this Agreement (for a Contractor) and to the representing Union (for an employee), by certified mail by the Party or Parties first alleging the violation.

7.8.6 Any rights created by statute or law governing arbitration proceedings inconsistent with the above procedure or which interfere with compliance hereto are hereby waived by the Parties to whom they accrue.

7.8.7 The fees and expenses of the arbitrator shall be equally divided between the Party or Parties initiating this procedure and the respondent Party or Parties.

ARTICLE 8 WORK ASSIGNMENTS AND JURISDICTIONAL DISPUTES

Section 8.1 Assignment of Work The assignment of Project Work will be solely the responsibility of the Contractor performing the work involved; and such work assignments will be in accordance with the Plan for the Settlement of Jurisdictional Disputes in the Construction Industry (the "Plan") or any successor Plan.

Section 8.2 The Plan All jurisdictional disputes on Project Work between or among the building and construction trades Unions and the craft employers parties to this Agreement, shall be settled and adjusted according to the present Plan established by the Building and Construction Trades Department or any other plan or method of procedure that may be adopted in the future by the Building and Construction Trades Department. Decisions rendered shall be final, binding and conclusive on the Employers and Unions parties to this Agreement.

8.2.1 If a dispute arising under this Article involves the Southwest Mountain States Regional Council of Carpenters or any of its subordinate bodies, an Arbitrator shall be chosen by the procedures specified in Article V, Section 5, of the Plan from a list composed of John Kagel, Robert Hirsch, and Thomas Pagan, and the Arbitrator's hearing on the dispute shall be held at the offices of the Trades Council within fourteen (14) days of the selection of the Arbitrator. All other procedures shall be as specified in the Plan.

Section 8.3 No Work Disruption Over Jurisdiction All jurisdictional disputes shall be resolved without the occurrence of any strike, work stoppage, or slow-down of any nature, and the Employer's assignment shall be adhered to until the dispute is resolved. Individuals violating this section shall be subject to immediate discharge.

Section 8.4 Pre-Job Conferences As provided in Article 16, each Contractor will conduct a pre-job conference with the appropriate affected Union(s) prior to commencing work; provided however, at no time shall the City be responsible for additional costs related to, associated with, or resulting from Union(s) jurisdictional disputes. The Trades Council and the CWA Administrator shall be advised in advance of all such conferences and may participate if they wish.

Section 8.5 Resolution of Jurisdictional Disputes If any actual or threatened strike, sympathy strike, work stoppage, slow down, picketing, hand-billing or otherwise advising the public that a labor dispute exists, or interference with the progress of Project Work by reason of a jurisdictional dispute or disputes occurs, the Parties shall exhaust the expedited procedures set forth in the Plan, if such procedures are in the plan then currently in effect, or otherwise as in Article 7 above.

ARTICLE 9 MANAGEMENT RIGHTS

Section 9.1 Contractor and City Rights The Contractors and the City have the sole and exclusive right and authority to oversee and manage construction operations on Project Work without any limitations unless expressly limited or required by a specific provision of this Agreement or an MLA. In addition to the following and other rights of the Contractors enumerated in this Agreement, the Contractors expressly reserve their management rights and all the rights conferred upon them by law. The Contractor's rights include, but are not limited to, the right to:

- (a) Plan, direct and control operations of all work;
- (b) Hire, promote, transfer and layoff their own employees, respectively, as deemed appropriate to satisfy work and/or skill requirements;
- (c) Promulgate and require all employees to observe reasonable job rules and security and safety regulations;
- (d) Discharge, suspend or discipline their own employees for just cause;
- (e) Utilize, in accordance with City approval, any work methods, procedures or techniques, and select, use and install any types or kinds of materials, apparatus or equipment,

regardless of source of manufacture or construction; assign and schedule work at their discretion; and

(f) Assign overtime, determine when it will be worked and the number and identity of employees engaged in such work, subject to such provisions in the applicable Master Labor Agreement (s) requiring such assignments be equalized or otherwise made in a nondiscriminatory manner.

Section 9.2 Specific City Rights In addition to the following and other rights of the City enumerated in this Agreement, the City expressly reserves its management rights and all the rights conferred on it by law. The City's rights (and those of the Contract Administrator on its behalf) include but are not limited to the right to:

(a) Inspect any construction site or facility to ensure that the Contractor follows the applicable safety and other work requirements;

(b) Require Contractors to establish a different work week or shift schedule for particular employees as required to meet the operational needs of the Project Work at a particular location;

(c) At its sole option, terminate, delay and/or suspend any and all portions of the covered work at any time; prohibit some or all work on certain days or during certain hours of the day to accommodate the ongoing operations of the City's Facilities and/or to mitigate the effect of ongoing Project Work on businesses and residents in the neighborhood of the Project site; and/or require such other operational or schedule changes it deems necessary, in its sole judgment, to effectively maintain its primary mission and remain a good neighbor to those in the area of its facilities. (In order to permit the Contractors and Unions to make appropriate scheduling plans, the City will provide the CWA Administrator, and the affected Contractor(s) and Union(s) with reasonable notice of any changes it requires pursuant to this section; provided, however, that if notice is not provided in time to advise employees not to report for work, show-up pay shall be due pursuant to the provision of Article 6, Section 6.6);

(d) Approve any work methods, procedures and techniques used by Contractors whether or not these methods, procedures or techniques are part of industry practices or customs; and

(e) Investigate and process complaints, through the CWA Administrator, in the matter set forth in Articles 7 and 10.

Section 9.3 Use of Materials There should be no limitations or restriction by Union upon a Contractor's choice of materials or design, nor, regardless of source or location, upon the full use and utilization, of equipment, machinery, packaging, precast, prefabricated, prefinished, or preassembled materials, tools or other labor saving devices, subject to the application of the State Public Contracts and Labor Codes as required by law. The onsite installation or application of such items shall be performed by the craft having jurisdiction over such work.

Section 9.4 Special Equipment, Warranties and Guaranties

9.4.1 It is recognized that certain equipment of a highly technical and specialized nature may be installed at Project Work sites. The nature of the equipment, together with the requirements for manufacturer's warranties, may dictate that it be prefabricated pre-piped and/or pre-wired and that it be installed under the supervision and direction of the City's and/or manufacturer's personnel. The Unions agree to install such equipment without incident.

9.4.2 The Parties recognize that the Contractor will initiate from time to time the use of new technology, equipment, machinery, tools, and other labor-savings devices and methods of performing Project Work. The Union agrees that they will not restrict the implementation of such devices or work methods. The Unions will accept and will not refuse to handle, install or work with any standardized and/or catalogue: parts, assemblies, accessories, prefabricated items, preassembled items, partially assembled items, or materials whatever their source of manufacture or construction.

9.4.3 If any disagreement between the Contractor and the Unions concerning the methods of implementation or installation of any equipment, or device or item, or method of work, arises, or whether a particular part or pre-assembled item is a standardized or catalog part or item, the work will precede as directed by the Contractor and the Parties shall immediately consult over the matter. If the disagreement is not resolved, the affected Union(s) shall have the right to proceed through the procedures set forth in Article 10.

Section 9.5 No Less Favorable Treatment The parties agree that Project Work will not receive less favorable treatment than that on any other project which the Unions, Contractors and employees work.

ARTICLE 10 SETTLEMENT OF GRIEVANCES AND DISPUTES

Section 10.1 Cooperation and Harmony on Site

10.1.1 This Agreement is intended to establish and foster continued close cooperation between management and labor. The Trades Council shall assign a representative to this Project for the purpose of assisting the local Unions, and working with the CWA Administrator, together with the Contractors, to complete the construction of the Project economically, efficiently, continuously and without any interruption, delays or work stoppages.

10.1.2 The CWA Administrator, the Contractors, Unions, and employees collectively and individually, realize the importance to all Parties of maintaining continuous and uninterrupted performance Project Work, and agree to resolve disputes in accordance with the grievance provisions set forth in this Article or, as appropriate, those of Article 7 or 8.

10.1.3 The CWA Administrator shall oversee the processing of grievances under this Article and Articles 7 and 8, including the scheduling and arrangements of facilities for meetings, selection of the arbitrator from the agreed-upon panel to hear the case, and any other administrative

matters necessary to facilitate the timely resolution of any dispute; provided, however, it is the responsibility of the principal parties to any pending grievance to insure the time limits and deadlines are met.

Section 10.2 Processing Grievances Any questions arising out of and during the term of this Agreement involving its interpretation and application, which includes applicable provisions of the Master Labor Agreement, but not jurisdictional disputes or alleged violations of Section 7.1 and 7.4 and similar provisions, shall be considered a grievance and subject to resolution under the following procedures.

Step 1. Employee Grievances When any employee subject to the provisions of this Agreement feels aggrieved by an alleged violation of this Agreement, the employee shall, through his local Union business representative or, job steward, within ten (10) working days after the occurrence of the violation, give notice to the work site representative of the involved Contractor stating the provision(s) alleged to have been violated. A business representative of the local Union or the job steward and the work site representative of the involved Contractor shall meet and endeavor to resolve the matter within ten (10) working days after timely notice has been given. If they fail to resolve the matter within the prescribed period, the grieving party may, within ten (10) working days thereafter, pursue Step 2 of this grievance procedure provided the grievance is reduced to writing, setting forth the relevant information, including a short description thereof, the date on which the alleged violation occurred, and the provision(s) of the Agreement alleged to have been violated. Grievances and disputes settled at Step 1 shall be non-precedential except as to the parties directly involved.

Union or Contractor Grievances Should the Union(s) or any Contractor have a dispute with the other Party(ies) and, if after conferring within ten (10) working days after the disputing Party knew or should have known of the facts or occurrence giving rise to the dispute, a settlement is not reached within five (5) working days, the dispute shall be reduced to writing and processed to Step 2 in the same manner as outlined in Step 1 above for the adjustment of an employee complaint.

Step 2. The business manager of the involved Union or his designee, together with the site representative of the involved Contractor, and the labor relations representative of the CWA Administrator, shall meet within seven (7) working days of the referral of the dispute to this second step to arrive at a satisfactory settlement thereof. If the Parties fail to reach an agreement, the dispute may be appealed in writing in accordance with the provisions of Step 3 within seven (7) calendar days after the initial meeting at Step 2.

Step 3. (a) If the grievance shall have been submitted but not resolved under Step 2, either the Union or Contractor Party may request in writing to the CWA Administrator (with copy(ies) to the other Party(ies) within seven (7) calendar days after the initial Step 2 meeting, that the grievance be submitted to an arbitrator selected from the agreed upon list in "Attachment (D)" attached hereto, on a rotational basis in the order listed. The CWA Administrator shall notify the parties to the grievance of the date, time and location of the hearing. The failure of any party to attend said hearing shall not delay the hearing of evidence or the issuance of any decision by the arbitrator. The decision of the arbitrator shall be final and binding on all parties.

Should any party seek confirmation of the award made by the arbitrator, the prevailing party shall be entitled to receive its reasonable attorney fees and costs.

(b) Failure of the grieving Party to adhere to the time limits established herein shall render the grievance null and void. The time limits established herein may be extended only by consent of the Parties involved at the particular step where the extension is agreed upon. The arbitrator shall have the authority to make decisions only on issues presented and shall not have the authority to change, amend, add to or detract from any of the provisions of this Agreement.

(c) The fees and expenses incurred by the arbitrator, as well as those jointly utilized by the Parties (i.e. conference room, court reporter, etc.) in arbitration, shall be divided equally by the Parties to the arbitration, including Union(s) and Contractor(s) involved.

Section 10.3 Limit on Use of Procedures The procedures contained in this Article shall not be applicable to any alleged violation of Articles 7 or 8, with a single exception that any employee discharged for violation of Section 7.2, or Section 8.3, may resort to the procedures of this Article to determine only if he/she was, in fact, engaged in that violation.

Section 10.4 Notice The CWA Administrator (and the City, in the case of any grievance regarding the Scope of this Agreement), shall be notified by the involved Contractor of all actions at Steps 2 and 3, and further, the CWA Administrator shall, upon its own request, be permitted to participate fully as a party in all proceedings at such steps.

ARTICLE 11 REGULATORY COMPLIANCE

Section 11.1 Compliance with All Laws The Trades Council and all Unions, Contractors, and their employees shall comply with all applicable federal and state laws, ordinances and regulations including, but not limited to, those relating to safety and health, employment and applications for employment. All employees shall comply with the safety regulations established by the City, the CWA Administrator or the Contractor. Employees must promptly report any injuries or accidents to a supervisor.

Section 11.2 Prevailing Wage Compliance All Contractors shall comply with the state laws and regulations, as well as Santa Ana Municipal Code section 33-206 on prevailing wages. Compliance with this obligation may be enforced by the appropriate parties through Article 10 above, or by pursuing the remedies available under state law through the Labor Commissioner or the Department of Industrial Relations.

Section 11.3 Violations of Law Should there be a finding by a Court or administrative tribunal of competent jurisdiction that a Contractor has violated federal and/or state law or regulation, the City, upon notice to the Contractor that it or its subcontractors is in such violation (including any finding of non-compliance with the California prevailing wage obligations as enforced pursuant to DIR regulations), the City, and in the absence of the Contractor or subcontractor remedying such violation, may take such action as it is permitted by law or contract to encourage that

Contractor to come into compliance, including, but not limited to, assessing fines and penalties and/or removing the offending Contractor from Project Work.

ARTICLE 12 SAFETY AND PROTECTION OF PERSON AND PROPERTY

Section 12.1 Safety

12.1.1 It shall be the responsibility of each Contractor to ensure safe working conditions and employee compliance with any safety rules contained herein or established by the City or the Contractor, whichever is most restrictive shall apply. It is understood that employees have an individual obligation to use diligent care to perform their work in a safe manner and to protect themselves and the property of the Contractor and the City.

12.1.2 Employees shall be bound by the safety, security and visitor rules established by the Contractor and/or the City. These rules will be published and posted. An employee's failure to satisfy his/her obligations under this section will subject him/her to discipline, up to and including discharge.

12.1.3 The Parties shall adopt the Substance Abuse Policy attached hereto as **Attachment "E,"** which shall be the policy and procedure utilized under this Agreement.

Section 12.2 Suspension of Work for Safety A Contractor may suspend all or a portion of the job to protect the life and safety of employees. In such cases, employees will be compensated only for the actual time worked; provided, however, that where the Contractor requests employees to remain at the site and be available for work, the employees will be compensated for stand-by time at their basic hourly rate of pay.

Section 12.3 Water and Sanitary Facilities The Contractor shall provide adequate supplies of drinking water and sanitary facilities for all employees as required by state law or regulation.

ARTICLE 13 TRAVEL AND SUBSISTENCE

Travel expenses, travel time, subsistence allowances, zone rates and parking reimbursements shall be paid in accordance with the applicable Master Labor Agreement unless superseded by the applicable prevailing wage determination.

ARTICLE 14 APPRENTICES

Section 14.1 Importance of Training The Parties recognize the need to maintain continuing support of the programs designed to develop adequate numbers of competent workers in the construction industry, the obligation to capitalize on the availability of the local work force in the area served by the City, and the opportunities to provide continuing work under the construction program. To these ends, the Parties will facilitate, encourage, and assist local residents

to commence and progress in Labor/Management Apprenticeship and/or training Programs in the construction industry leading to participation in such apprenticeship programs. The City and the Trades Council, will work cooperatively to identify, or establish and maintain, effective programs and procedures for persons interested in entering the construction industry and which will help prepare them for the formal joint labor/management apprenticeship programs maintained by the signatory Unions.

Section 14.2 Use of Apprentices

14.2.1 Apprentices used on Projects under this Agreement shall be registered in Joint Labor Management Apprenticeship Programs approved by the State of California. Apprentices may comprise up to thirty percent (30%) of each craft's work force (calculated by hours worked) at any time, unless the standards of the applicable joint apprenticeship committee confirmed by the Division of Apprenticeship Standards ("DAS"), establish a lower or higher maximum percentage. Where the standards permit a higher percentage, such percentage shall apply on Project Work. Where the applicable standards establish a lower percentage, the applicable Union will use its best efforts with the Joint Labor Management apprenticeship committee and, if necessary, the DAS to permit up to thirty percent (30%) apprentices on the Project.

14.2.2 The Unions agree to cooperate with the Contractor in furnishing apprentices as requested up to the maximum percentage. The apprentice ratio for each craft shall be in compliance, at a minimum, with the applicable provisions of the Labor Code relating to utilization of apprentices. The City shall encourage such utilization, and, both as to apprentices and the overall supply of experienced workers, the CWA Administrator will work with the Trades Council to assure appropriate and maximum utilization of apprentices and the continuing availability of both apprentices and journey persons.

14.2.3 The Parties agree that apprentices will not be dispatched to Contractors working under this Agreement unless there is a journeymen working on the project where the apprentice is to be employed who is qualified to assist and oversee the apprentice's progress through the program in which he is participating.

14.2.4 All apprentices shall work under the direct supervision of a journeyman from the trade in which the apprentice is indentured. A journeyman shall be defined as set forth in the California Code of Regulations, Title 8 [apprenticeship] section 205, which defines a journeyman as a person who has either completed an accredited apprenticeship in his or her craft, or has completed the equivalent of an apprenticeship in length and content of work experience and all other requirements in the craft which has workers classified as journeyman in the apprenticeable occupation. Should a question arise as to a journeyman's qualification under this subsection, the Contractor shall provide adequate proof evidencing the worker's qualification as a journeyman to the Trades Council.

ARTICLE 15 WORKING CONDITIONS

Section 15.1 Meal and Rest Periods There will be no non-working times established during working hours except as may be required by applicable state law or regulations. Meal periods and Rest periods shall be as provided for in Wage Order 16. Individual coffee containers will be permitted at the employees' work location; however, there will be no organized coffee breaks.

Section 15.2 Work Rules The City, the CWA Administrator, and/or relevant Contractor shall establish such reasonable work rules as they deem appropriate and not inconsistent with this Agreement. These rules will be posted at the work sites by the Contractor and may be amended thereafter as necessary. Failure to observe these rules and regulations by employees may be grounds for discipline up to and including discharge.

Section 15.3 Emergency Use of Tools and Equipment There should be no restrictions on the emergency use of any tools by any qualified employee or supervisor, or on the use of any tools or equipment for the performance of work within the jurisdiction, provided the employee can safely use the tools and/or equipment involved and is compliance with applicable governmental rules and regulations.

Section 15.4 Access Restrictions for Cars Recognizing the nature of the work being conducted on the site, employee access by a private automobile may be limited to certain roads and/or parking areas.

ARTICLE 16 PRE-JOB CONFERENCES

Section 16.1 Each Primary Contractor which is awarded a Construction Contract by the City for Project Work shall conduct a Pre-Job conference with the appropriate affected Union(s) prior to commencing work. All Contractors who have been awarded contracts by the Primary Contractor shall attend the Pre-Job conference. The Trades Council and the CWA Administrator shall be advised in advance of all such conferences and may participate if they wish. All work assignments shall be disclosed by the Primary Contractor and all Contractors at the Pre-Job conference in accordance with industry practice. Should there be any formal jurisdictional dispute raised under Article 8, the CWA Administrator shall be promptly notified. Primary Contractor shall have available at the Pre-Job conference the plans and drawing for the work to be performed on the Project. Should additional Project Work not previously included within the scope of the Project Work be added, the Contractors performing such work will conduct a separate pre-job for such newly included work.

ARTICLE 17 LABOR/MANAGEMENT COOPERATION

Section 17.1 Joint Committee The Parties to this Agreement may establish a six (6) person Joint Administrative Committee (JAC). This JAC shall be comprised of three (3) representatives selected by the City and three (3) representatives selected by the Trades Council to monitor

compliance with the terms and conditions of this Agreement and to recommend amendments to this Agreement, with the exception of the dollar threshold specified in Section 2.2(a) and the term of this Agreement under Section 22.1, when doing so would be to the mutual benefit of the Parties. Each representative shall designate an alternate who shall serve in his or her absence for any purpose contemplated by this Agreement. A quorum will consist of at least two (2) representatives selected by the City and at least two (2) representatives selected by the Trades Council. For voting purposes, only an equal number of City and Union representatives present may constitute a voting quorum.

Section 17.2 Functions of Joint Committee The Committee shall meet on a schedule to be determined by the Committee or at the call of the joint chairs, to discuss the administration of the Agreement, the progress of the Project, general labor management problems that may arise, and any other matters consistent with this Agreement. Substantive grievances or disputes arising under Articles 7, 8 or 10 shall not be reviewed or discussed by this Committee, but shall be processed pursuant to the provisions of the appropriate Article. The CWA Administrator shall be responsible for the scheduling of the meetings, the preparation of the agenda topics for the meetings, with input from the Unions the Contractors and the City. Notice of the date, time and place of meetings, shall be given to the Committee members at least three (3) days prior to the meeting. The CWA Administrator shall prepare quarterly reports on apprentice utilization and the training and employment of City residents, and a schedule of Project Work and estimated number of craft workers needed. The Committee or an appropriate subcommittee, may review such reports and make any recommendations for improvement, if necessary, including increasing the availability of skilled trades, and the employment of local residents or other individuals who should be assisted with appropriate training to qualify for apprenticeship programs.

ARTICLE 18

SAVINGS AND SEPARABILITY

Section 18.1 Savings Clause It is not the intention of the City, the CWA Administrator, Contractor or the Union parties to violate any laws governing the subject matter of this Agreement. The Parties hereto agree that in the event any provision of this Agreement is finally held or determined to be illegal or void as being in contravention of any applicable law or regulation, the remainder of the Agreement shall remain in full force and effect unless the part or parts so found to be void are wholly inseparable from the remaining portions of this Agreement. Further, the Parties agree that if and when any provision(s) of this Agreement is finally held or determined to be illegal or void by a court of competent jurisdiction, the Parties will promptly enter into negotiations concerning the substantive effect of such decision for the purposes of achieving conformity with the requirements of any applicable laws and the intent of the Parties hereto. If the legality of this Agreement is challenged and any form of injunctive relief is granted by any court, suspending temporarily or permanently the implementation of this Agreement, then the Parties agree that all Project Work that would otherwise be covered by this Agreement should be continued to be bid and constructed without application of this Agreement so that there is no delay or interference with the ongoing planning, bidding and construction of any Project Work.

Section 18.2 Effect of Injunctions or Other Court Orders The Parties recognize the right of the City to withdraw, at its absolute discretion, the utilization of the Agreement as part of any bid

specification should a Court of competent jurisdiction issue any order, or any applicable statute which could result, temporarily or permanently in delay of the bidding, awarding and/or construction on the Project. Notwithstanding such an action by the City, or such court order or statutory provision, the Parties agree that the Agreement shall remain in full force and the fact on covered Project Work to the maximum extent legally possible.

ARTICLE 19 WAIVER

A waiver of or a failure to assert any provisions of this Agreement by any or all of the Parties hereto shall not constitute a waiver of such provision for the future. Any such waiver shall not constitute a modification of the Agreement or change in the terms and conditions of the Agreement and shall not relieve, excuse or release any of the Parties from any of their rights, duties or obligations hereunder.

ARTICLE 20 AMENDMENTS

The provisions of this Agreement can be renegotiated, supplemented, rescinded or otherwise altered only by mutual agreement in writing, hereafter signed by the negotiating Parties hereto. In the event of any conflict or ambiguity between this Agreement and any Attachment or exhibit, the provisions of this Agreement shall govern.

ARTICLE 21 DURATION OF THE AGREEMENT

Section 21.1 Duration

21.1.1 This Agreement shall be effective from the date signed by all Parties and shall remain in effect for a period of ten (10) years. Any covered Project Work awarded during the term of this Agreement shall continue to be covered hereunder, until completion of the Project Work, notwithstanding the expiration date of this Agreement.

21.1.2 This Agreement may be extended by written mutual consent of the City, as directed by the City Council and the signatory Unions for such further periods as the Parties shall agree to.

Section 22.2 Turnover and Final Acceptance of Completed Work

22.2.1 Construction of any phase, portion, section, or segment of Project Work shall be deemed complete when such phase, portion, section or segment has been turned over to the City by the Contractor and the City has accepted such phase, portion, section, or segment. As areas and systems of the Project are inspected and construction-tested and/or approved and accepted by the City or third parties with the approval of the City, the Agreement shall have no further force or effect on such items or areas, except when the Contractor is directed by the City to engage and repairs or modifications required by its contract(s) with the City.

22.2.2 Notice of each final acceptance received by the Contractor will be provided to the Trades Council with the description of what portion, segment, etc. has been accepted. Final acceptance may be subject to a “punch” list, and in such case, the Agreement will continue to apply to each such item on the list until it is completed to the satisfaction of the City and Notice of Completion is issued by the City or its representative to the Contractor. At the request of the Union, complete information describing any “punch” list work, as well as any additional work required of a Contractor at the direction of the City pursuant to Section 22.2.1 above, involving otherwise turned-over and completed facilities which have been accepted by the City, will be available from the CWA Administrator.

IN WITNESS whereof the Parties have caused this Community Workforce Agreement to be executed as of the date and year above stated.

CITY OF SANTA ANA

LOS ANGELES/ORANGE COUNTIES
BUILDING & CONSTRUCTION
TRADES COUNCIL


By: _____
Kristine Ridge
City Manager

By: _____
Chris Hannan
Executive Secretary

ATTEST:

By: _____
Jennifer L. Hall
City Clerk

APPROVED AS TO FORM:



Jose Montoya
Assistant City Attorney

RECOMMENDED BY:

Nabil Saba, P.E.
Executive Director Public Works

LOS ANGELES/ORANGE COUNTIES BUILDING AND CONSTRUCTION
TRADES COUNCIL CRAFT UNIONS AND DISTRICT COUNCILS

| | |
|---|--|
| Asbestos Heat & Frost Insulators (Local 5) | |
| Boilermakers (Local 92) | |
| Bricklayers & Allied Craftworkers (Local 4) | |
| Cement Masons (Local 500) | |
| District Council of Laborers | |
| Electricians (Local 441) | |
| Elevator Constructors (Local 18) | |
| Gunitite Workers (Local 345) | |
| Iron Workers (Reinforced – Local 416) | |
| Iron Workers (Structural – Local 433) | |
| Laborers (Local 300) (remediation) | |
| Laborers (Local 652) | |
| Operating Engineers (Local 12) | |
| Operating Engineers (Local 12) | |
| Operating Engineers (Local 12) | |
| Painters & Allied Trades DC 36 | |
| Pipe Trades (Local 250) | |
| Pipe Trades (Local 345) | |
| Pipe Trades (Plumbers/Fitters Local 582) | |
| Pipe Trades (Sprinkler Fitters Local 709) | |
| Plasterers (Local 200) | |
| Plaster Tenders Local (1414) | |
| Roofers & Waterproofers (Local 220) | |
| Sheet Metal Workers (Local 105) | |
| Teamsters (Local 986) | |
| Southwest Mountain States | |
| Regional Council of Carpenters | |

ATTACHMENT A – LETTER OF ASSENT

To be signed by all contractors awarded work covered by the City of Santa Ana
Community Workforce Agreement prior to commencing work.

[Contractor's Letterhead]
CWA Administrator
City of Santa Ana
1234 address
City, state, zip code
Attn: _____

Re: Community Workforce Agreement - Letter of Assent

Dear Sir:

This is to confirm that [name of company] agrees to be party to and bound by the City of Santa Ana Community Workforce Agreement effective June 6, 2023, as such Agreement may, from time to time, be amended by the negotiating parties or interpreted pursuant to its terms. Such obligation to be a party and bound by this Agreement shall extend to all work covered by the agreement undertaken by this Company on the project and this Company shall require all of its contractors and subcontractors of whatever tier to be similarly bound for all work within the scope of the Agreement by signing and furnishing to you an identical letter of assent prior to their commencement of work.

Sincerely.

[Name of Construction Company]

By: [_____] Name and Title of Authorized Executive

Contractor State License No.: _____

[Copies of this letter must be submitted to the CWA Administrator and to the Trades Council
Consistent with Section 2.6 (b).]

ATTACHMENT B

FIRST TIER ZIP CODES (CITY BOUNDARY)

***Some Zip Codes shared with neighboring cities**

92701
92702
92703
92704
92705
92706
92707
92711
92712
92725
92735
92799
*92866
*92868

ATTACHMENT B – Continued

**SECOND TIER ZIP CODES
REMAINDER OF ORANGE COUNTY,**

| Zip Code | City |
|-----------------------|------------------|
| 90620 | Buena Park |
| 90621 | Buena Park |
| 90622 | Buena Park |
| 90623 | La Palma |
| 90624 | Buena Park |
| 90630 | Cypress |
| 90631 | La Habra |
| 90632 | La Habra |
| 90633 | La Habra |
| 90680 | Stanton |
| 90720 | Los Alamitos |
| 90721 | Los Alamitos |
| 90740 | Seal Beach |
| 90742 | Sunset Beach |
| 90743 | Surfside |
| 92602 | Irvine |
| 92603 | Irvine |
| 92604 | Irvine |
| 92605 | Huntington Beach |
| 92606 | Irvine |
| 92607 | Laguna Niguel |
| 92609 | El Toro |
| 92610 | Foothill Ranch |
| 92612 | Irvine |
| 92614 | Irvine |
| 92615 | Huntington Beach |
| 92616 | Irvine |
| 92617 | Irvine |
| 92618 | Irvine |
| 92619 | Irvine |
| 92620 | Irvine |
| 92623 | Irvine |
| 92624 | Capistrano Beach |
| 92625 | Corona Del Mar |

| | |
|-----------------------|---------------------|
| 92626 | Costa Mesa |
| 92627 | Costa Mesa |
| 92628 | Costa Mesa |
| 92629 | Dana Point |
| 92630 | Lake Forest |
| 92637 | Laguna Woods |
| 92646 | Huntington Beach |
| 92647 | Huntington Beach |
| 92648 | Huntington Beach |
| 92649 | Huntington Beach |
| 92650 | East Irvine |
| 92651 | Laguna Beach |
| 92652 | Laguna Beach |
| 92653 | Laguna Hills |
| 92654 | Laguna Hills |
| 92655 | Midway City |
| 92656 | Aliso Viejo |
| 92657 | Newport Coast |
| 92658 | Newport Beach |
| 92659 | Newport Beach |
| 92660 | Newport Beach |
| 92661 | Newport Beach |
| 92662 | Newport Beach |
| 92663 | Newport Beach |
| 92672 | San Clemente |
| 92673 | San Clemente |
| 92674 | San Clemente |
| 92675 | San Juan Capistrano |
| 92676 | Silverado |
| 92677 | Laguna Niguel |
| 92678 | Trabuco Canyon |
| 92679 | Trabuco Canyon |

| | |
|------------------------------|------------------------|
| <u>92683</u> | Westminster |
| <u>92684</u> | Westminster |
| <u>92685</u> | Westminster |
| <u>92688</u> | Rancho Santa Margarita |
| <u>92690</u> | Mission Viejo |
| <u>92691</u> | Mission Viejo |
| <u>92692</u> | Mission Viejo |
| <u>92693</u> | San Juan Capistrano |
| <u>92694</u> | Ladera Ranch |
| <u>92697</u> | Irvine |
| <u>92698</u> | Aliso Viejo |
| <u>92708</u> | Fountain Valley |
| <u>92709</u> | Irvine |
| <u>92710</u> | Irvine |
| <u>92728</u> | Fountain Valley |
| <u>92780</u> | Tustin |
| <u>92781</u> | Tustin |
| <u>92782</u> | Tustin |
| <u>92801</u> | Anaheim |
| <u>92802</u> | Anaheim |
| <u>92803</u> | Anaheim |
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| <u>92809</u> | Anaheim |
| <u>92811</u> | Atwood |
| <u>92812</u> | Anaheim |
| <u>92814</u> | Anaheim |
| <u>92815</u> | Anaheim |
| <u>92816</u> | Anaheim |
| <u>92817</u> | Anaheim |
| <u>92821</u> | Brea |
| <u>92822</u> | Brea |

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| <u>92823</u> | Brea |
| <u>92825</u> | Anaheim |
| <u>92831</u> | Fullerton |
| <u>92832</u> | Fullerton |
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| <u>92838</u> | Fullerton |
| <u>92840</u> | Garden Grove |
| <u>92841</u> | Garden Grove |
| <u>92842</u> | Garden Grove |
| <u>92843</u> | Garden Grove |
| <u>92844</u> | Garden Grove |
| <u>92845</u> | Garden Grove |
| <u>92846</u> | Garden Grove |
| <u>92850</u> | Anaheim |
| <u>92856</u> | Orange |
| <u>92857</u> | Orange |
| <u>92859</u> | Orange |
| <u>92861</u> | Villa Park |
| <u>92862</u> | Orange |
| <u>92863</u> | Orange |
| <u>92864</u> | Orange |
| <u>92865</u> | Orange |
| <u>92866</u> | Orange |
| <u>92867</u> | Orange |
| <u>92868</u> | Orange |
| <u>92869</u> | Orange |
| <u>92870</u> | Placentia |
| <u>92871</u> | Placentia |
| <u>92885</u> | Yorba Linda |
| <u>92886</u> | Yorba Linda |
| <u>92887</u> | Yorba Linda |
| <u>92899</u> | Anaheim |

ATTACHMENT C

CITY OF SANTA ANA CRAFT REQUEST FORM

TO THE CONTRACTOR: Please complete and fax this form to the applicable union to request craft workers that fulfill the hiring requirements for this project. After faxing your request, please call the Local to verify receipt and substantiate their capacity to furnish workers as specified below. Please print your Fax Transmission Verification Reports and keep copies for your records.

The City of Santa Ana Community Workforce Agreement establishes a goal that 30% of the total work hours shall be:

First, from qualified workers residing in those in those U. S. Postal Service zip codes which overlap all of the City of Santa Ana, as set forth in Attachment B and veterans, regardless of where they reside (Tier 1); and,

Second, qualified workers residing within Orange County and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, regardless of where they reside.

For Dispatch purposes, employees residing within either of these two (2) tiers, as well as Veterans and individuals who have successfully completed the Building Trades Multi-Craft Core Curriculum Pre-Apprenticeship Program, regardless of where they reside, shall be referred to as Local Residents.

TO THE UNION: Please complete the "Union Use Only" section on the next page and fax this form back to the requesting Contractor. Be sure to retain a copy of this form for your records.

CONTRACTOR USE ONLY

To: Union Local # _____ **Fax#** () _____ **Date:** _____
Cc: CWA Administrator
From: Company: _____ Issued By: _____
Contact Phone : () _____ Contact Fax: () _____

PLEASE PROVIDE ME WITH THE FOLLOWING UNION CRAFT WORKERS.

| Craft Classification (i.e., plumber, painter, etc.) | Journeyman or Apprentice | Local Resident, Veteran or General Dispatch | Number of workers needed | Report Date | Report Time |
|--|--------------------------------|--|-----------------------------------|-------------|-------------|
| | | | | | |
| | | | | | |
| | | | | | |
| TOTAL WORKERS REQUESTED = _____ | | | | | |

Please have worker(s) report to the following work address indicated below:

Project Name: _____ Site: _____ Address: _____

Report to: _____ On-site Tel: _____ On-site Fax: _____

Comment or Special Instructions: _____

UNION USE ONLY

| |
|--------------------------------------|
| Date dispatch request received: |
| Dispatch received by: |
| Classification of worker requested: |
| Classification of worker dispatched: |

WORKER REFERRED

| |
|---|
| Name: |
| Date worker was dispatched: |
| Is the worker referred a: (check all that apply) |

| | | |
|--|-----------|----------|
| JOURNEYMAN | Yes _____ | No _____ |
| APPRENTICE | Yes _____ | No _____ |
| LOCAL RESIDENT | Yes _____ | No _____ |
| VETERAN | Yes _____ | No _____ |
| GENERAL DISPATCH FROM OUT OF WORK LIST | Yes _____ | No _____ |

ATTACHMENT D

List of Neutral Arbitrators

Mark Burstein
Fred Horowitz
Najeeb Khoury

ATTACHMENT “E”

SUBSTANCE ABUSE POLICY

The Parties recognize the problems which drug and alcohol abuse have created in the construction industry and the need to develop drug and alcohol abuse prevention programs. Accordingly, the Parties agree that in order to enhance the safety of the work place and to maintain a drug and alcohol free work environment, individual Contractors may require applicants or employees to undergo drug and alcohol testing.

1. It is understood that the use, possession, transfer or sale of illegal drugs, narcotics, or other unlawful substances, as well as being under the influence of alcohol and the possession or consuming alcohol is absolutely prohibited while employees are on the Contractor’s job premises or while working on any jobsite in connection with work performed under the Community Workforce Agreement (“CWA”).

2. No Contractor may implement a drug testing program which does not conform in all respects to the provisions of this Policy.

3. No Contractor may implement drug testing at any jobsite unless written notice is given to the Union setting forth the location of the jobsite, a description of the project under construction, and the name and telephone number of the Project Work Supervisor. Said notice shall be addressed to the office of each Union signing the CWA. Said notice shall be delivered in person or by registered mail before the implementation of drug testing. Failure to give such notice shall make any drug testing engaged in by the Contractor a violation of the CWA, and the Contractor may not implement any form of drug testing at such jobsite for the following six months.

4. An employer who elects to implement drug testing pursuant to this Agreement shall require all employees on the Project Work to be tested. With respect to individuals who become employed on the Project Work subsequent to the proper implementation of this drug testing program, such test shall be administered upon the commencement of employment on the project, whether by referral from a Union Dispatch Office, transfer from another project, or another method. Individuals who were employed on the project prior to the proper implementation of this drug testing program may only be subjected to testing for the reasons set forth in Paragraph 5(f) (1) through 5(f) (3) of this Policy. Refusal to undergo such testing shall be considered sufficient grounds to deny employment on the project.

5. The following procedure shall apply to all drug testing:

a. The Contractor may request urine samples only. The applicant or employee shall not be observed when the urine specimen is given. An applicant or employee, at his or her sole option, shall, upon request, receive a blood test in lieu of a urine test. No employee of the Contractor shall draw blood from a bargaining unit employee, touch or handle urine specimens, or in any way become involved in the chain of custody of urine or blood specimens. A Union Business Representative, subject to the approval of the individual applicant or employee, shall be permitted

to accompany the applicant or employee to the collection facility to observe the collection, bottling, and sealing of the specimen.

b. The testing shall be done by a laboratory approved by the Substance Abuse & Mental Health Services Administration (SAMHSA), which is chosen by the Contractor and the Union.

c. An initial test shall be performed using the Enzyme Multiplied Immunoassay Technique (EMZT). In the event a question or positive result arises from the initial test, a confirmation test must be utilized before action can be taken against the applicant or employee. The confirmation test will be by Gas Chromatography Mass Spectrometry (GC/MS). Cutoff levels for both the initial test and confirmation test will be those established by the SAMHSA. Should these SAMHSA levels be changed during the course of this agreement or new testing procedures are approved, then these new regulations will be deemed as part of this existing agreement. Confirmed positive samples will be retained by the testing laboratory in secured long-term frozen storage for a minimum of one year. Handling and transportation of each sample must be documented through strict chain of custody procedures.

d. In the event of a confirmed positive test result the applicant or employee may request, within forty-eight (48) hours, a sample of his/her specimen from the testing laboratory for purposes of a second test to be performed at a second laboratory, designated by the Union and approved by SAMHSA. The retest must be performed within ten (10) days of the request. Chain of custody for this sample shall be maintained by the Contractor between the original testing laboratory and the Union's designated laboratory. Retesting shall be performed at the applicant's or employee's expense. In the event of conflicting test results the Contractor may require a third test.

e. If, as a result of the above testing procedure, it is determined that an applicant or employee has tested positive, this shall be considered sufficient grounds to deny the applicant or employee his/her employment on the Project Work.

f. No individual who tests negative for drugs or alcohol pursuant to the above procedure and becomes employed on the Project Work shall again be subjected to drug testing with the following exceptions:

1. Employees who are involved in industrial accidents resulting in damage to plant, property or equipment or injury to him/herself or others may be tested pursuant to the procedures stated hereinabove.

2. The Contractor may test employees following thirty (30) days advance written notice to the employee(s) to be tested and to the applicable Union. Notice to the applicable Union shall be as set forth in Paragraph 3 above and such testing shall be pursuant to the procedures stated hereinabove.

3. The Contractor may test an employee where the Contractor has reasonable cause to believe that the employee is impaired from performing his/her job. Reasonable

cause shall be defined as exhibiting aberrant or unusual behavior, the type of which is a recognized and accepted symptom of impairment (i.e., slurred speech, unusual lack of muscular coordination, etc.). Such behavior must be actually observed by at least two persons, one of whom shall be a Supervisor who has been trained to recognize the symptoms of drug abuse or impairment and the other of whom shall be the job steward. If the job steward is unavailable or there is no job steward on the project the other person shall be a member of the applicable Union's bargaining unit. Testing shall be pursuant to the procedures stated hereinabove. Employees who are tested pursuant to the exceptions set forth in this paragraph and who test positive will be removed from the Contractor's payroll.

g. Applicants or employees who do not test positive shall be paid for all time lost while undergoing drug testing. Payment shall be at the applicable wage and benefit rates set forth in the applicable Union's Master Labor Agreement. Applicants who have been dispatched from the Union and who are not put to work pending the results of a test will be paid waiting time until such time as they are put to work. It is understood that an applicant must pass the test as a condition of employment. Applicants who are put to work pending the results of a test will be considered probationary employees.

6. The employers will be allowed to conduct periodic job site drug testing on the Project under the following conditions:

a. The entire jobsite must be tested, including any employee or subcontractor's employee who worked on that project three (3) working days before or after the date of the test;

b. Jobsite testing cannot commence sooner than thirty (30) days after start of the work on the Project;

c. Prior to start of periodic testing, a business representative will be allowed to conduct an educational period on company time to explain periodic jobsite testing program to affected employees;

d. Testing shall be conducted by a SAMHSA certified laboratory, pursuant to the provisions set forth in Paragraph 5 hereinabove.

e. Only two periodic tests may be performed in a twelve month period.

7. It is understood that the unsafe use of prescribed medication, or where the use of prescribed medication impairs the employee's ability to perform work, is a basis for the Contractor to remove the employee from the jobsite.

8. Any grievance or dispute which may arise out of the application of this Agreement shall be subject to the grievance and arbitration procedures set forth in the CWA.

9. The establishment or operation of this Policy shall not curtail any right of any employee found in any law, rule or regulation. Should any part of this Agreement be found unlawful by a court of competent jurisdiction or a public agency having jurisdiction over the

parties, the remaining portions of the Agreement shall be unaffected and the parties shall enter negotiations to replace the affected provision.

10. Present employees, if tested positive, shall have the prerogative for rehabilitation program at the employee's expense. When such program has been successfully completed the Contractor shall not discriminate in any way against the employee. If work for which the employee is qualified exists he/she shall be reinstated.

11. The Contractor agrees that results of urine and blood tests performed hereunder will be considered medical records held confidential to the extent permitted or required by law. Such records shall not be released to any persons or entities other than designated Contractor representatives and the applicable Union. Such release to the applicable Union shall only be allowed upon the signing of a written release and the information contained therein shall not be used to discourage the employment of the individual applicant or employee on any subsequent occasion.

12. The Contractor shall indemnify and hold the Union harmless against any and all claims, demands, suits, or liabilities that may arise out of the application of this Agreement and/or any program permitted hereunder.

13. Employees who seek voluntary assistance for substance abuse may not be disciplined for seeking such assistance. Requests from employees for such assistance shall remain confidential and shall not be revealed to other employees or management personnel without the employee's consent. Employees enrolled in substance abuse programs shall be subject to all Contractor rules, regulations and job performance standards with the understanding that an employee enrolled in such a program is receiving treatment for an illness.

14. This Memorandum, of Understanding shall constitute the only Agreement in effect between the parties concerning drug and alcohol abuse, prevention and testing. Any modifications thereto must be accomplished pursuant to collective bargaining negotiations between the parties.

DRUG ABUSE PREVENTION AND DETECTION

APPENDIX A

CUTOFF LEVELS

| DRUG | SCREENING METHOD | SCREENING LEVEL ** | CONFIRMATION METHOD | CONFIRMATION LEVEL |
|---------------------|------------------|--------------------|---------------------|--------------------|
| Alcohol | EMIT | 0.02% | CG/MS | 0.02% |
| Amphetamines | EMIT | 1000 ng/ml* | CG/MS | 500 ng/ml* |
| Barbiturates | EMIT | 300 ng/ml | CG/MS | 200 ng/ml |
| Benzodiazepines | EMIT | 300 ng/ml | CG/MS | 300 ng/ml |
| Cocaine | EMIT | 300 ng/ml* | CG/MS | 150 ng/ml* |
| Methadone | EMIT | 300 ng/ml | CG/MS | 100 ng/ml |
| Methaqualone | EMIT | 300 ng/ml | CG/MS | 300 ng/ml |
| Opiates | EMIT | 2000 ng/ml* | CG/MS | 2000 ng/ml* |
| PCP (Phencyclidine) | EMIT | 25 ng/ml* | CG/MS | 25 ng/ml* |
| THC (Marijuana) | EMIT | 50 ng/ml* | CG/MS | 15 ng/ml* |
| Propoxyphene | EMIT | 300 ng/ml | CG/MS | 100 ng/ml |

* SAMHSA specified threshold

** A sample reported positive contains the Indicated drug at or above the cutoff level for that drug. A negative sample either contains no drug or contains a drug below the cutoff level.

EMIT - Enzyme Immunoassay

CC/MS - Gas Chromatography/Mass Spectrometry

SIDE LETTER OF AGREEMENT
TESTING POLICY FOR DRUG ABUSE

It is hereby agreed between the parties hereto that an Contractor who has otherwise properly implemented drug testing, as set forth in the Testing Policy for Drug Abuse, shall have the right to offer an applicant or employee a “quick” drug screening test. This “quick” screen test shall consist either of the “ICUP” urine screen or similar test or an oral screen test. The applicant or employee shall have the absolute right to select either of the two “quick” screen tests, or to reject both and request a full drug test.

An applicant or employee who selects one of the quick screen tests, and who passes the test, shall be put to work immediately. An applicant or employee who fails the “quick” screen test, or who rejects the quick screen tests, shall be tested pursuant to the procedures set forth in the Testing Policy for Drug Abuse. The sample used for the “quick” screen test shall be discarded immediately upon conclusion of the test. An applicant or employee shall not be deprived of any rights granted to them by the Testing Policy for Drug Abuse as a result of any occurrence related to the “quick” screen test.

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ADDENDUM 3: QUESTIONS AND ANSWERS (SET 2)
REQUEST FOR PROPOSALS (RFP) NO. 23-099A
DIGITAL MARQUEE INSTALLATION SERVICES

August 22, 2023

Notice is hereby given to Bidders that, where applicable, the City of Santa Ana Purchasing Division has made certain clarifications, modifications, additions, and/or deletions, for specifications of RFP No. 23-099A Digital Marquee Installation Services. **ALL OTHER TERMS, CONDITIONS, AND SPECIFICATIONS REMAIN UNCHANGED.**

A. In the RFP Document, Section XI. Minimum Scope and Limit of Insurance is replaced with the following:

The selected Proposer shall provide the required evidence of insurance coverage as set forth in the standard agreement within ten (10) business days after receipt of Notice of Intent to Award. Contractor must maintain, for the duration of its contract, insurance coverages as required by the City.

Additionally, Contractor shall provide the following insurance coverage:
Coverage shall be at least as broad as:

- **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal & advertising injury with limits no less than **\$1,000,000** per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location (ISO CG 25 03 or 25 04) or the general aggregate limit shall be twice the required occurrence limit.
- **Automobile Liability:** ISO Form Number CA 00 01 covering any auto (Code 1), or if Contractor has no owned autos, hired, (Code 8) and non-owned autos (Code 9), with limit no less than **\$1,000,000** per accident for bodily injury and property damage.

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- **Workers' Compensation:** as 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.
- ~~**Professional Liability (Errors and Omissions) Insurance** appropriates to the Consultant's profession, with limit no less than **\$1,000,000** per occurrence or claim, **\$2,000,000** aggregate.~~

If the Contractor maintains broader coverage and/or higher limits than the minimums shown above, the Entity requires and shall be entitled to the broader coverage and/or the higher limits maintained by the contractor. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the Entity.

Other Insurance Provisions

The insurance policies are to contain, or be endorsed to contain, the following provisions:

Additional Insured Status

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 Contractor 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 Contractor's insurance (at least as broad as ISO Form CG 20 10 11 85 or if not available, through the addition of **both** CG 20 10, CG 20 26, CG 20 33, or CG 20 38; **and** CG 20 37 if a later edition is used).

Primary Coverage

For any claims related to this contract, the Contractor's insurance coverage shall be primary coverage at least as broad as ISO CG 20 01 04 13 as respects the Entity, its officers, officials, employees, and volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees, or volunteers shall be excess of the Contractor's insurance and shall not contribute with it.

Notice of Cancellation

Each insurance policy required above shall provide that coverage shall not be canceled, except with notice to the Entity.

Waiver of Subrogation

Contractor hereby grants to Entity a waiver of any right to subrogation which any insurer of said Contractor may acquire against the Entity by virtue of the payment of any loss under such insurance. Contractor agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision

SANTA ANA CITY COUNCIL

applies regardless of whether or not the Entity has received a waiver of subrogation endorsement from the insurer.

Self-Insured Retentions

Self-insured retentions must be declared to and approved by the Entity. The Entity may require the Contractor to purchase coverage with a lower retention or provide proof of ability to pay losses and related investigations, claim administration, and defense expenses within the retention. The policy language shall provide, or be endorsed to provide, that the self-insured retention may be satisfied by either the named insured or Entity.

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.

~~**Claims Made Policies** (note—should be applicable only to professional liability, see below)~~

~~If any of the required policies provide claims-made coverage:~~

- ~~1. The Retroactive Date must be shown, and must be before the date of the contract or the beginning of contract work.~~
- ~~2. Insurance must be maintained and evidence of insurance must be provided for at least five (5) years after completion of the contract of work.~~
- ~~3. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a Retroactive Date prior to the contract effective date, the Contractor must purchase "extended reporting" coverage for a minimum of five (5) years after completion of work.~~

Verification of Coverage

Contractor shall furnish the Entity with original Certificates of Insurance including all required amendatory endorsements (or copies of the applicable policy language effecting coverage required by this clause) and a copy of the Declarations and Endorsement Page of the CGL policy listing all policy endorsements to Entity before work begins. However, failure to obtain the required documents prior to the work beginning shall not waive the Contractor's obligation to provide them. The Entity reserves the right to require complete, certified copies of all required insurance policies, including endorsements required by these specifications, at any time.

Subcontractors

Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Contractor shall ensure that Entity is an additional insured on insurance required from subcontractors.

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Special Risks or Circumstances

Entity reserves the right to modify these requirements, including limits, based on the nature of the risk, prior experience, insurer, coverage, or other special circumstances.

B. CLARIFICATIONS AND ANSWERS TO QUESTIONS ASKED PRIOR TO THE DEADLINE ARE AS FOLLOWS:

1. Q: If the City will accept a C-45 license, will you wave the insurance requirement for professional liability insurance as specialty trades such as C-45's do not carry nor do they have that insurance available for them.

A: Please see section A. of this document for the revised Minimum Scope and Limit of Insurance section, removing the Professional Liability insurance requirement.

2. Q: Considering there are no designs provided in the RFP, each bidder will need to design specific designs for each location. Assuming the answer to #3 above is, the City of Santa Ana expects additional graphic elements on each display unique to each park or neighborhood: a) Does the City of Santa Ana acknowledge each design will be unique and holds a Copy Right by the submitting bidder? b) The Copy Right does not transfer to the City of Santa Ana unless the bidder is awarded the project and the project is bidder is paid for the project? c) Does the City of Santa Ana understand the financial penalty for Copy Right infringement? d) Will the City of Santa Ana protect the Copy Right of each of the designs submitted by each bidder by not having a competing bidder not view, bid, reproduce or create a display that is similar to the copy right design?

A: The City will acknowledge copyright protection to those designs qualifying for such under Federal copyright law. However, should any copyrightable design be selected and used by the City pursuant to a written agreement for services, the design will be considered a "work made for hire", meaning that the City will be the copyright owner. All designs submitted as part of a bid proposal may be subject to disclosure under the California Public Records Act and any applicable exemptions thereto.

3. Q: We are a certified DVBE and HUBzone sign company, do you need a DVBE for this bid ?

A: No, DVBE is not a requirement of this RFP.

4. Q: Considering, 1) we are a specialty contractor located outside of Orange County, 2) our qualified lead installers do not live in the zip codes provided, 3) there is no union trade covering sign installation, 4) most of the work performed will be

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manufactured offsite, 5) most sites will require 2 to 3 days of onsite work -- can we be exempt from the Community Work Force Agreement?

A: Please see Addendum #1, Exhibit V, Community Workforce Agreement (CWA) and refer to Article 2 found therein. Since this work falls under the Scope of the Agreement, no proposers are exempt, except those subject to any applicable Exclusions as defined in the CWA.

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ADDENDUM 4: TIMELINE EXTENSION AND REVISIONS
REQUEST FOR PROPOSAL (RFP) NO. 23-099A
DIGITAL MARQUEE INSTALLATION SERVICES

August 31, 2023

Notice is hereby given to Proposers that, where applicable, the City of Santa Ana Purchasing Division has made certain clarifications, modifications, additions, and/or deletions, for specifications of RFP No. 23-099A Digital Marquee Installation Services. **ALL OTHER TERMS, CONDITIONS, AND SPECIFICATIONS REMAIN UNCHANGED.**

- A. The deadline to submit proposals is changed to **Friday, September 8th, 2023 at 4:00 PM (PDT).**

REVISIONS

- B. Section XIV. GENERAL TERMS AND CONDITIONS of the RFP Document is revised to include the following:

DD. FEDERAL CONTRACT PROVISIONS (ARPA)

The ARPA Federal Contract Provisions are incorporated by reference in the Construction Contract. A copy of the Provisions may be found in EXHIBIT VI.

- C. EXHIBIT VI - FEDERAL CONTRACT PROVISIONS (ARPA) is attached hereto for proposers' reference.

Sincerely,
Jacques Lam, Buyer
Purchasing Division

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EXHIBIT VI FEDERAL CONTRACT PROVISIONS

During the performance of this Agreement, Consultant shall comply with all applicable federal laws and regulations including, but not limited to, the federal contract provisions in this Exhibit C.

1. REQUIRED CONTRACT PROVISIONS IN ACCORDANCE WITH APPENDIX II TO PART 200 – CONTRACT PROVISIONS FOR NON-FEDERAL ENTITY CONTRACTS UNDER FEDERAL AWARDS (2 C.F.R. § 200.327)

(a) Appendix II to Part 200 (A); Appendix II to Part 200 (B): Remedies for Breach; Termination for Cause/Convenience. The Contract Documents include remedies for breach and termination for cause and convenience.

(b) Appendix II to Part 200 (C) – Equal Employment Opportunity: If this Agreement meets the definition of a “federal assisted construction contract” in 41 CFR § 60-1.3, Consultant agrees as follows during the performance of this Agreement:

(i) The Consultant will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, gender identity, or national origin. The Consultant will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, sexual orientation, gender identity, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Consultant agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.

(ii) The Consultant will, in all solicitations or advertisements for employees placed by or on behalf of the Consultant, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, sexual orientation, gender identity, or national origin.

(iii) The Consultant will not discharge or in any other manner discriminate against any employee or applicant for employment because such employee or applicant has inquired about, discussed, or disclosed the compensation of the employee or applicant or another employee or applicant. This provision shall not apply to instances in which an employee who has access to the compensation information of other employees or applicants as a part of such employee's essential job functions discloses the compensation of such other employees or applicants to individuals who do not otherwise have access to such information, unless such disclosure is in response to a formal complaint or charge, in furtherance of an investigation, proceeding, hearing, or action, including an investigation conducted by the employer, or is consistent with the Consultant's legal duty to furnish information.

(iv) The Consultant will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the Consultant's commitments under this section, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(v) The Consultant will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.

(vi) The Consultant will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(vii) In the event of the Consultant's noncompliance with the nondiscrimination clauses of this Agreement or with any of the said rules, regulations, or orders, this Agreement may be canceled, terminated, or suspended in whole or in part and the Consultant may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

(viii) The Consultant will include the portion of the sentence immediately preceding paragraph (i) and the provisions of paragraphs (i) through (vii) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The Consultant will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance:

Provided, however, that in the event the Consultant becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency, the Consultant may request the United States to enter into such litigation to protect the interests of the United States.

The City further agrees that it will be bound by the above equal opportunity clause with respect to its own employment practices when it participates in federally assisted construction work: Provided, That if the City so participating is a State or local government, the above equal opportunity clause is not applicable to any agency, instrumentality or subdivision of such government which does not participate in work on or under the Agreement.

The City agrees that it will assist and cooperate actively with the administering agency and the Secretary of Labor in obtaining the compliance of the Consultant and subcontractors with the equal opportunity clause and the rules, regulations, and relevant orders of the Secretary of Labor, that it will furnish the administering agency and the Secretary of Labor such information as they may require for the supervision of such compliance, and that it will otherwise assist the administering agency in the discharge of the agency's primary responsibility for securing compliance.

The City further agrees that it will refrain from entering into any contract or contract modification subject to Executive Order 11246 of September 24, 1965, with a contractor debarred from, or who has not demonstrated eligibility for, Government contracts and federally assisted construction contracts pursuant to the Executive Order and will carry out such sanctions and penalties for

violation of the equal opportunity clause as may be imposed upon contractors and subcontractors by the administering agency or the Secretary of Labor pursuant to Part II, Subpart D of the Executive Order. In addition, the City agrees that if it fails or refuses to comply with these undertakings, the administering agency may take any or all of the following actions: cancel, terminate, or suspend in whole or in part the grant (contract, loan, insurance, guarantee) for this project; refrain from extending any further assistance to the applicant under the program with respect to which the failure or refund occurred until satisfactory assurance of future compliance has been received from such applicant; and refer the case to the Department of Justice for appropriate legal proceedings.

(c) Appendix II to Part 200 (D) – Davis-Bacon Act: Not applicable to this Agreement since it is funded by CSLFRF.

(d) Appendix II to Part 200 (D) – Copeland “Antti-Kickback” Act: Not applicable to this Agreement since it is funded by CSLFRF.

(e) Appendix II to Part 200 (E) – Contract Work Hours and Safety Standards Act:

(i) Overtime Requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(ii) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (ii) of this section the Consultant and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (ii) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (ii) of this section.

(iii) Withholding for unpaid wages and liquidated damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the Consultant or subcontractor under any such contract or any other Federal contract with the Consultant, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the Consultant, such sums as may be determined to be necessary to satisfy any liabilities of Consultant or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (iii) of this section.

(iv) Subcontracts. The Consultant or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (ii) through (v) of this Section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The Consultant

shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (ii) through (v) of this Section.

(f) Appendix II to Part 200 (F) – Rights to Inventions Made Under a Contract or Agreement: If the Federal award meets the definition of “funding agreement” under 37 CFR § 401.2 (a) and the Consultant wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the Consultant must comply with the requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency..

(g) Appendix II to Part 200 (G) – Clean Air Act and Federal Water Pollution Control Act:

(i) Pursuant to the Clean Air Act, (1) Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq., (2) Consultant agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

(ii) Pursuant to the Federal Water Pollution Control Act, (1) Consultant agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq., (2) Consultant agrees to report each violation to the City and understands and agrees that the City will, in turn, report each violation as required to assure notification to the Federal awarding agency and the appropriate Environmental Protection Agency Regional Office, and (3) Consultant agrees to include these requirements in each subcontract exceeding \$150,000.

(h) Appendix II to Part 200 (H) – Debarment and Suspension:

(i) This Agreement is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such Consultant is required to verify that none of the Consultant, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(ii) Consultant must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(iii) This certification is a material representation of fact relied upon by City. If it is later determined that Consultant did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to the City, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(iv) Consultant warrants that it is not debarred, suspended, or otherwise excluded from or ineligible for participation in any federal programs. Consultant also agrees to verify that all subcontractors performing work under this Agreement are not debarred, disqualified, or otherwise prohibited from participation in accordance with the requirements above. Consultant

further agrees to notify the City in writing immediately if Consultant or its subcontractors are not in compliance during the term of this Agreement.

(i) Appendix II to Part 200 (I) – Byrd Anti-Lobbying Act: Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient who in turn will forward the certification(s) to the awarding agency.

(j) Appendix II to Part 200 (J) – §200.323 Procurement of Recovered Materials:

(i) Consultant shall comply with section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement.

(ii) In the performance of this Agreement, the Consultant shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired: competitively within a timeframe providing for compliance with the contract performance schedule; meeting contract performance requirements; or at a reasonable price.

(iii) Information about this requirement, along with the list of EPA-designate items, is available at EPA's Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.

(iv) The Consultant also agrees to comply with all other applicable requirements of Section 6002 of the Solid Waste Disposal Act.”

(k) Appendix II to Part 200 (K) – §200.216 Prohibition on Certain Telecommunications and Video Surveillance Services or Equipment:

(i) Consultant shall not contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system funded under this Agreement. As described in Public Law 115–232, section 889, covered telecommunications equipment is telecommunications equipment produced by Huawei Technologies Company or ZTE Corporation (or any subsidiary or affiliate of such entities).

(1) For the purpose of public safety, security of government facilities, physical security surveillance of critical infrastructure, and other national security purposes, video surveillance and telecommunications equipment produced by Hytera Communications Corporation, Hangzhou Hikvision Digital Technology Company, or Dahua Technology Company (or any subsidiary or affiliate of such entities).

(2) Telecommunications or video surveillance services provided by such entities or using such equipment.

(3) Telecommunications or video surveillance equipment or services produced or provided by an entity that the Secretary of Defense, in consultation with the Director of the National Intelligence or the Director of the Federal Bureau of Investigation, reasonably believes to be an entity owned or controlled by, or otherwise connected to, the government of a covered foreign country.

(ii) See Public Law 115-232, section 889 for additional information.

(l) Appendix II to Part 200 (L) – §200.322 Domestic Preferences for Procurement:

(i) Consultant shall, to the greatest extent practicable, purchase, acquire, or use goods, products, or materials produced in the United States (including but not limited to iron, aluminum, steel, cement, and other manufactured products). The requirements of this section must be included in all subcontracts.

(ii) For purposes of this section:

(1) “Produced in the United States” means, for iron and steel products, that all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States.

(2) “Manufactured products” means items and construction materials composed in whole or in part of nonferrous metals such as aluminum; plastics and polymer-based products such as polyvinyl chloride pipe; aggregates such as concrete; glass, including optical fiber; and lumber.

2. CONTRACTING WITH SMALL AND MINORITY FIRMS, WOMEN’S BUSINESS ENTERPRISE AND LABOR SURPLUS AREA FIRMS (2 C.F.R. § 200.321)

(a) Consultant shall be subject to 2 C.F.R. § 200.321 and will take affirmative steps to assure that minority firms, women’s business enterprises, and labor surplus area firms are used when possible and will not be discriminated against on the grounds of race, color, religious creed, sex, or national origin in consideration for an award.

(b) Affirmative steps shall include:

(i) Placing qualified small and minority businesses and women's business enterprises on solicitation lists;

(ii) Assuring that small and minority businesses, and women's business enterprises are solicited whenever they are potential sources;

(iii) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority business, and women's business enterprises;

(iv) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority business, and women's business enterprises; and

(v) Using the services/assistance of the Small Business Administration (SBA), and the Minority Business Development Agency (MBDA) of the Department of Commerce.

(c) Consultant shall submit evidence of compliance with the foregoing affirmative steps when requested by the City.

3. COMPLIANCE WITH U.S. DEPARTMENT OF THE TREASURY CORONAVIRUS LOCAL FISCAL RECOVERY FUND AWARD TERMS AND CONDITIONS

(a) Maintenance of and Access to Records. Consultant shall maintain records and financial documents sufficient to evidence compliance with section 603(c) of the Act, Treasury's regulations implementing that section, and guidance issued by Treasury regarding the foregoing. Consultant agrees to provide the City, Treasury Office of Inspector General and the Government Accountability Office, or any of their authorized representatives access to any books, documents, papers, and records (electronic and otherwise) of the Consultant which are directly pertinent to this Agreement for the purposes of conducting audits or other investigations. Records shall be maintained by Consultant for a period of five (5) years after completion of the Project.

(b) Compliance with Federal Regulations. Consultant agrees to comply with the requirements of section 603 of the Act, regulations adopted by Treasury pursuant to section 603(f) of the Act, and guidance issued by Treasury regarding the foregoing. Consultant also agrees to comply with all other applicable federal statutes, regulations, and executive orders, including, without limitation, the following:

(i) Universal Identifier and System for Award Management (SAM), 2 C.F.R. Part 25, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 25 is hereby incorporated by reference.

(ii) Reporting Subaward and Executive Compensation Information, 2 C.F.R. Part 170, pursuant to which the award term set forth in Appendix A to 2 C.F.R. Part 170 is hereby incorporated by reference.

(iii) OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Nonprocurement), 2 C.F.R. Part 180, including the requirement to include a term or condition in all lower tier covered transactions (contracts and subcontracts described in 2 C.F.R. Part 180, subpart B) that the award is subject to 2 C.F.R. Part 180 and Treasury's implementing regulation at 31 C.F.R. Part 19.

(iv) Recipient Integrity and Performance Matters, pursuant to which the award term set forth in 2 C.F.R. Part 200, Appendix XII to Part 200 is hereby incorporated by reference.

(v) Governmentwide Requirements for Drug-Free Workplace, 31 C.F.R. Part 20.

(vi) New Restrictions on Lobbying, 31 C.F.R. Part 21.

(vii) Uniform Relocation Assistance and Real Property Acquisitions Act of 1970 (42 U.S.C. §§ 4601-4655) and implementing regulations.

(c) Compliance with Federal Statutes and Regulations Prohibiting Discrimination. Consultant agrees to comply with statutes and regulations prohibiting discrimination applicable to the CSLFRF program including, without limitation, the following:

(i) Title VI of the Civil Rights Act of 1964 (42 U.S.C. §§ 2000d et seq.) and Treasury's implementing regulations at 31 C.F.R. Part 22, which prohibit discrimination on the basis of race, color, or national origin under programs or activities receiving federal financial assistance.

(ii) The Fair Housing Act, Title VIII of the Civil Rights Act of 1968 (42 U.S.C. §§ 3601 et seq.), which prohibits discrimination in housing on the basis of race, color, religion, national origin, sex, familial status, or disability.

(iii) Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794), which prohibits discrimination on the basis of disability under any program or activity receiving federal financial assistance.

(iv) The Age Discrimination Act of 1975, as amended (42 U.S.C. §§ 6101 et seq.), and Treasury's implementing regulations at 31 C.F.R. Part 23, which prohibit discrimination on the basis of age in programs or activities receiving federal financial assistance.

(v) Title II of the Americans with Disabilities Act of 1990, as amended (42 U.S.C. §§ 12101 et seq.), which prohibits discrimination on the basis of disability under programs, activities, and services provided or made available by state and local governments or instrumentalities or agencies thereto.

(d) False Statements. Consultant understands that making false statements or claims in connection with the CSLFRF program is a violation of federal law and may result in criminal, civil, or administrative sanctions, including fines, imprisonment, civil damages and penalties, debarment from participating in federal awards or contracts, and/or any other remedy available by law.

(e) Protections for Whistleblowers.

(i) In accordance with 41 U.S.C. § 4712, Consultant may not discharge, demote, or otherwise discriminate against an employee in reprisal for disclosing to any of the list of persons or entities provided below, information that the employee reasonably believes is evidence of gross mismanagement of a federal contract or grant, a gross waste of federal funds, an abuse of authority relating to a federal contract or grant, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a federal contract (including the competition for or negotiation of a contract) or grant.

(ii) The list of persons and entities referenced in the paragraph above includes the following:

(1) A member of Congress or a representative of a committee of Congress;

(2) An Inspector General;

(3) The Government Accountability Office;

(4) A Treasury employee responsible for contract or grant oversight or management;

(5) An authorized official of the Department of Justice or other law enforcement agency;

(6) A court or grand jury; or

(7) A management official or other employee of Consultant, or a subcontractor who has the responsibility to investigate, discover, or address misconduct.

(f) Increasing Seat Belt Use in the United States. Pursuant to Executive Order 13043, 62 FR 19217 (Apr. 18, 1997), Consultant is encouraged to adopt and enforce on-the-job seat belt policies and programs for their employees when operating company-owned, rented or personally owned vehicles, and encourage its subcontractors to do the same

(g) Reducing Text Messaging While Driving. Pursuant to Executive Order 13513, 74 FR 51225 (Oct. 6, 2009), Consultant should encourage its employees and subcontractors to adopt and enforce policies that ban text messaging while driving, and Consultant should establish workplace safety policies to decrease accidents caused by distracted drivers.

(h) Assurances of Compliance with Civil Rights Requirements. The Civil Rights Restoration Act of 1987 provides that the provisions of this assurance apply to the Project, including, but not limited to, the following:

(i) Consultant 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 funds, 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.

(ii) Consultant acknowledges that Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency (LEP),” seeks to improve access to federally assisted programs and activities for individuals who, because of national origin, are limited in their English proficiency. Consultant understands that the denial of access to persons to its programs, services and activities because of their limited proficiency in English is a form of national origin discrimination prohibited under Title VI of the Civil Rights Act of 1964. Accordingly, Consultant shall initiate reasonable steps, or comply with Treasury’s directives, to ensure meaningful access to its programs, services and activities to LEP persons. Consultant 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 Project.

(iii) Consultant agrees to consider the need for language services for LEP persons during development of applicable budgets and when conducting 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 LEP, please visit <http://www.lep.gov>.

(iv) Consultant acknowledges and agrees that compliance with this assurance constitutes a condition of continued receipt of federal financial assistance and is binding upon Consultant and Consultant's successors, transferees and assignees for the period in which such assistance is provided.

(v) Consultant agrees to incorporate the following language in every contract or agreement subject to Title VI and its regulations between the Consultant and the Consultant's subcontractors, successors, transferees and assignees:

The 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 Department of the Treasury 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 extends 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 Department of the Treasury Title VI regulations, 31 CFR Part 22, which are herein incorporated by reference and made a part of this contract (or agreement).

(vi) Consultant 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 Consultant, 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 Consultant for the period during which it retains ownership or possession of the property.

(vii) Consultant 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. Consultant shall comply with information requests, on-site compliance reviews, and reporting requirements.

(viii) Consultant shall maintain a complaint log and inform the Department of the Treasury of any accusations 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. Consultant must also inform the Department of the Treasury if Consultant has received no complaints under Title VI.

(ix) Consultant 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 agreements between the Consultant and the administrative agency that made the finding. If the Consultant settles a case or matter alleging such discrimination, Consultant must provide documentation of the settlement. If Consultant has not been the subject of any court or administrative agency finding of discrimination, please so state.

(x) If Consultant makes sub-awards to other agencies or other entities, Consultant is responsible for assuring that sub-recipients also comply with Title VI and all of the applicable authorities covered in this assurance.