



CITY OF MONTEBELLO
CALL AND NOTICE OF A SPECIAL CITY COUNCIL MEETING AGENDA

WEDNESDAY, AUGUST 1, 2022 AT 5:00 P.M.

**CITY HALL COUNCIL CHAMBERS
1600 WEST BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA 90640**

NOTICE IS HEREBY GIVEN that a Special Meeting for the City of Montebello City Council is hereby called to be held on **Monday, August 1, 2022 at 5:00 p.m. at City Hall, Council Chambers, located at 1600 West Beverly Boulevard, Montebello, CA 90640**. The meeting will be live streamed and can be watched on the City's website at: <https://www.cityofmontebello.com/government/live-streaming.html>, and may also be viewed on Spectrum Public Access Channel 3 for all Spectrum cable subscribers.

COVID-19 NOTICE: The City Council rescinded the Declaration of the Local Emergency and the continuation of teleconferencing open meetings pursuant to AB 361 by adopting Resolution No. 22-21 on Wednesday, April 13, 2022. This City Council Meeting will be held in person and will meet at **City Hall – City Council Chambers, 1600 West Beverly Boulevard, Montebello, California.**

AMERICANS WITH DISABILITIES ACT: In compliance with the Americans with Disabilities Act (ADA) any person with a disability who requires special accommodations in order to participate in a meeting should contact the Administration Office at (323) 887-1437 Monday-Thursday from 7:30 a.m.-5:30 p.m. Please call 48 hours prior to the meeting to ensure that reasonable arrangements can be made to provide accessibility to this meeting (28 CFR 35.102-35.104 ADA Title II 1203). If you require translation services, please contact the City Clerk's office 48 hours before this meeting. **Si necesita servicios de traducción, comuníquese con la Oficina del Secretario Municipal 72 horas antes de esta reunión. 如果您需要翻译服务，请在会议前 72 小时联系市书记员办公室**

RULES OF DECORUM:

As Established by Ordinance 2443, adopted on October 27, 2021: Signs, placards, banners, horns, noise-making devices, or other similar items shall not be permitted in the audience during a Public Meeting if the presence of such item disturbs, disrupts or otherwise impedes the orderly conduct of the meeting. All persons attending a public meeting shall remain seated in the seats provided, unless addressing the body at the podium or entering or leaving the meeting. No member of the audience shall willfully interrupt the orderly conduct at the meeting, this includes clapping or otherwise speaking from their seats. The presiding officer

shall direct the removal of any individual whose willful interruption renders infeasible the orderly conduct of the meeting. In the event the removal of the individual or individuals willfully interrupting the meeting does not restore order, the presiding officer may order the meeting room cleared and continue in session. Speakers shall not engage in willful conduct which interrupts the meeting or interferes with the orderly conduct of the meeting. Any person who becomes boisterous while addressing the Council or who otherwise disrupts the orderly conduct of the Council's business shall be subject to removal from the Chambers after being admonished by the presiding officer.

PUBLIC COMMENTS:

In-Person: For those interested in participating during the Public Comment period(s) or public testimony period for Public Hearings of the City Council meetings, you may address the City Council ***in person the day of the meeting***. Speakers will be required to fill out a speaker card provided at the door and turn it into the Deputy City Clerk prior to each Public Comment announcement period. Staff will number and call each speaker card in the order received. Closed Session begins at 5:00 p.m. and Regular Session begins no later than 6:00 p.m.

Via Email: The public may also submit emailed comments via the City's email address: ccpubliccomment@cityofmontebello.com, up until the day of the meeting, **Monday, August 1, 2022 by 3:00 p.m.** These comments will be submitted to all members of the City Council and may not be read aloud but will be entered into the record of the proceedings to the extent they relate to matters listed on the posted agenda. Any requests to provide public comment which is submitted after the deadlines indicated above will not be submitted to the City Council.

AGENDA MATERIALS: The agenda/agenda packet are available for public inspection at City's website at: <https://www.cityofmontebello.com/council-agendas.html>. The agenda cover sheets may also be emailed upon request.

**IN CONSIDERATION OF OTHERS, PLEASE TURN OFF, OR MUTE, ALL CELL PHONES AND PAGERS.
THANK YOU FOR YOUR COOPERATION.**

OPENING CEREMONIES**CALL TO ORDER****ROLL CALL****PUBLIC COMMENTS ON AGENDA ITEMS ONLY (30 MINUTES)**

At this time, the general public may ***only*** address the City Council during this Special Meeting on items which have been described in the notice of this Special meeting in accordance with Government Code Section 54954.3(a). Please be aware that the maximum time allotted for members of the public to speak on shall not exceed three (3) minutes per person. State Law prohibits the City Council from taking action or entertaining extended discussion on a topic not listed on the agenda. Please show courtesy to others and direct all of your comments to the Mayor.

CLOSED SESSION

1. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code Section 54956.8

Property: 901 Via San Clemente, Montebello CA

Agency's Negotiator: René Bobadilla, City Manager

Negotiating Party: Topgolf

Under Negotiation: Price and Terms

2. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Government Code Section 54956.9(d)(2)

One Matter Related To SB 1383 Compliance

3. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code Section 54956.8

Property: 701 West Whittier Boulevard, Montebello

Agency Negotiator: René Bobadilla, City Manager

Negotiating Party: Jimmy's Property

Under Negotiation: Price and Terms

4. CONFERENCE WITH REAL PROPERTY NEGOTIATORS

Government Code Section 54956.8

Property: Bus Depot

Agency Negotiator: René Bobadilla, City Manager

Negotiating Party: Pico Rivera

Under Negotiation: Price and Terms

5. PUBLIC EMPLOYEE PERFORMANCE EVALUATION

Government Code Section 54957

Title: City Manager René Bobadilla

REGULAR SESSION – 5:00 P.M.

CORRECTIONS TO THE AGENDA – CITY MANAGER

REGULAR BUSINESS

6. ADOPT RESOLUTION NO. 22-60 AUTHORIZING THE CITY OF MONTEBELLO TO INITIATE THE PROCESS TO DISCONTINUE ROUTE 60 TRANSPORTATION SERVICES PROVIDED BY AND THROUGH MONTEBELLO BUS LINES FOR THE WINTER/SPRING 2023 SHAKEUP

RECOMMENDATION: It is recommended that the City Council:

- 1) Adopt Resolution No. 22-60 authorizing the City of Montebello ("Montebello") to initiate the process to discontinue Route 60 transportation services provided by and through Montebello Bus Lines ("MBL") for the Winter/Spring 2023 shakeup,

- including but not limited to, the issuance of a termination notice to the City of Pico Rivera ("Pico Rivera") and scheduling of the required public hearing; and
- 2) Take such additional, related action that may be desirable.

CONSENT CALENDAR

All matters listed under the Consent Calendar are considered to be routine. Any items a Councilmember wishes to discuss should be designated at this time. All other items may be approved in a single motion. Such approval will also waive the reading of any ordinance.

7. APPROVE AMENDMENT OF RESOLUTION NO. 22-55 AND RESOLUTION NO. 22-57 TO ADD THE OFFICE OF CITY TREASURER TO THE NOVEMBER 2022 BALLOT

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve amendment of Resolution No. 22-55 calling for the holding of a General Municipal Election to be held on Tuesday, November 8, 2022, for the election of certain officers as required by the provisions of the laws of the State of California relating to General Law Cities to add the office of City Treasurer to the November 2022 ballot; and
- 2) Approve amendment of Resolution No. 22-57 requesting the Board of Supervisors of the County of Los Angeles to consolidate a General Municipal Election to be held on Tuesday, November 8, 2022 with other Los Angeles County and State of California elections to be held on the date pursuant to § 10403 of the Elections Code to add the office of City Treasurer to the November 2022 ballot.

8. APPROVE RESOLUTION NO.'S 22-63 AND 22-64 AUTHORIZING APPLICATIONS FOR THE LOS ANGELES COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT MEASURE A COMPETITIVE GRANT PROGRAMS

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve Resolution No.'s 22-63 and 22-64 authorizing the submission of applications for Los Angeles County Regional Park and Open Space District (LARPOSD) Measure A Competitive Grant Recreation Access and Youth and Veteran Job Training and Placement Programs; and
- 2) Take such additional, related, action that may be desirable.

9. AWARD OF CONSTRUCTION CONTRACT – HYRAP STREETS PROJECT FISCAL YEAR 2022-23 (CP NO. 897)

RECOMMENDATION: It is recommended that the City Council:

- 1) Award a construction contract for the HYRAP Streets Project (CP 897) in the amount of \$2,440,259 to Manhole Adjusting, Inc.; and

- 2) Authorize the Director of Public Works to review and approve change orders within a 10% contingency of the contract amount as recommended by the City Engineer; and
- 3) Authorize the City Manager to execute the Contract Agreement, on behalf of the City; and
- 4) Amend the Fiscal Year 2022-23 budget by reallocating funds in Fund 222 (Measure M) by \$600,000 (Account No. 222-99-7116) and in Fund 220 (Measure R) by \$90,000 (Account No. 220-99-7116); and
- 5) Take such additional, related, action that may be desirable.

10. APPROVE NINTH AMENDMENT TO AGREEMENT NO. 2883 WITH SAN GABRIEL VALLEY WATER COMPANY FOR THE OPERATION OF THE CITY'S WATER SYSTEM

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve a Ninth Amendment to Agreement No. 2883 with San Gabriel Valley Water Company for the operation of the City's Water System; and
- 2) Authorize the City Manager to execute the Amendment on behalf of the City; and
- 3) Take such additional, related, action that may be desirable

11. AUTHORIZE NOTICE INVITING BIDS – MONTEBELLO MUNICIPAL GOLF COURSE RENOVATION PROJECT (CP NO. 894)

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve the Plans, Specifications, and Estimate (PS&E) for the Montebello Municipal Golf Course Renovation Project – Phase 1 (CP No. 897-1) and authorize the City Clerk to publish the Notice Inviting Bids (Attachment A); and
- 2) Approve the Plans, Specifications, and Estimate (PS&E) for the Montebello Municipal Golf Course Renovation Project – Phase 2 (CP No. 897-2) and authorize the City Clerk to publish the Notice Inviting Bids (Attachment B); and
- 3) Approve the Notice of Exemption (Attachment C) for the subject project and authorize the City Clerk to file the Notice of Exemption with Los Angeles Registrar-Recorder; and
- 4) Approve Amendment No. 2 to Agreement No. 3937 with SportFive Golf, LLC (Attachment D) for additional architectural and engineering design services in the amount not-to-exceed \$149,980; and
- 5) Award Task Order No. 3 via an Engagement Letter (Attachment E) under Master Retainer Agreement No. 3919 with AIM Consulting Services for additional Program Management Services for a not-to-exceed-fee of \$188,841; and
- 6) Amend the Fiscal Year 2022-23 budget by increasing appropriations by \$149,980 (SportFive Golf LLC) in Account No. 610-99-6040.80 (Golf Course, Engineering Services), and \$188,841 (AIM Consulting Servings) in Account No. 610-99-6040.95 (Golf Course, Other Professional Services); and
- 7) Take such additional, related, action that may be desirable.

12. ANNUAL CONCRETE REPAIR PROGRAM (CP NO. 891) – ENGAGEMENT LETTER FOR CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES BY ONWARD ENGINEERING

- 1) Award Task Order No. 3 via an Engagement Letter under Master Retainer Agreement No. 3920 with Onward Engineering for a not-to-exceed-fee of \$83,100; and
- 2) Authorize the City Manager to execute the Agreement, on behalf of the City; and
- 3) Take such additional, related, action that may be desirable.

13. APPROVE MATERIAL RECOVERY FACILITIES (MRF) USE AGREEMENT NO. 4010 WITH ARAKELIAN ENTERPRISES, INC. (DBA ATHENS SERVICES)

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve the Material Recovery Facilities (MRF) Use Agreement (Attachment A) with Arakelian Enterprises, Inc. (DBA Athens Services); and
- 2) Authorize the Mayor to execute the agreement on behalf of the City; and
- 3) Take such additional, related, action that may be desirable.

14. APPROVE A SOLE-SOURCE AGREEMENT NO. 3978 WITH OPTIBUS, INC., FOR SCHEDULING SOFTWARE LICENSES AND SUPPORT SERVICES

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve a sole-source agreement with Optibus, Inc. (“Optibus”), for scheduling software licenses and support services; and
- 2) Authorize the City Manager and/or his designee to execute an agreement on behalf of the City; and
- 3) Take such additional, related, action that may be desirable.

15. APPROVAL TO SUBMIT APPLICATION FOR THE SAN GABRIEL AND LOWER LOS ANGELES RIVERS AND MOUNTAINS CONSERVANCY (RMC) WILDFIRE PREVENTION GRANT PROGRAM

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve the submission of the grant application for the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) Wildfire Prevention Grant Program; and
- 2) Take such additional, related, action that may be desirable.

16. APPROVAL TO APPLY FOR THE PERMANENT LOCAL HOUSING ALLOCATION PROGRAM FORMULA FUNDING

RECOMMENDATION: It is recommended that the City Council:

- 1) Approve Application for the Permanent Local Housing Allocation Program Formula Funding; and
- 2) Take such additional, related, action that may be desirable.

ADJOURNMENT

The City of Montebello will adjourn to the next **Regular Meeting on Wednesday, August 10, 2022 at 5:00 p.m.** which can be live streamed at www.cityofmontebello.com (Click on Live Stream).

Dated and Posted Before: July 31, 2022 by 5:00 p.m.

I, Alicia Fernandez, Deputy City Clerk for the City of Montebello hereby certify that a copy of this agenda and Notice of a Special Meeting has been posted at City Hall, the City's website, and delivered to each member of the City of Montebello City Council **no less than 24-hours before the start of the Special Meeting.**

A handwritten signature in black ink, appearing to read 'Alicia Fernandez', is written over a horizontal line.

Alicia Fernandez, Deputy City Clerk



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: Lupita Ibarra, Director of Transportation

SUBJECT: **Adopt Resolution No. 22-60 Authorizing the City of Montebello to Initiate the Process to Discontinue Route 60 Transportation Services Provided by and Through Montebello Bus Lines for the Winter/Spring 2023 Shakeup**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Adopt Resolution No. 22-60 authorizing the City of Montebello ("Montebello") to initiate the process to discontinue Route 60 transportation services provided by and through Montebello Bus Lines ("MBL") for the Winter/Spring 2023 shakeup, including but not limited to, the issuance of a termination notice to the City of Pico Rivera ("Pico Rivera") and scheduling of the required public hearing; and
- 2) Take such additional, related action that may be desirable.

FISCAL IMPACT

The 2020 National Transit Database (NTD) Agency Profile (see Attachment "A") identifies the cost per vehicle revenue hour as \$147.81 for MBL. The daily total revenue service time provided by the one (1) transit bus on Route 60 is 12.21 hours. Operating transportation services on Route 60 impacts the Transit Operations Budget by approximately \$1,805 per day with an anticipated annual cost of approximately \$469,238. Discontinuing service on Route 60 will be reflected in the Local Transportation Fund and adjusted through the annual Los Angeles County Formula Allocation process.

Adopt Resolution No. 22-60 Authorizing the City Of Montebello to Initiate the Process to Discontinue Route 60 Transportation Services Provided by and Through Montebello Bus Lines for the Winter/Spring 2023 Shakeup

Page 2 of 4

BACKGROUND

On March 4, 2020, the State of California, the Los Angeles County Board of Supervisors, and the Los Angeles County Health Officer declared public health emergencies related to the global coronavirus (COVID-19) pandemic. In response, the Montebello City Council (“City Council”) declared a local emergency on March 12, 2020, with subsequent action taken on March 16, 2020. The action taken to protect the public health and the community included reducing fixed-route transportation services Montebello provides through MBL to Montebello and the surrounding communities, including Pico Rivera. Consequently, service to Route 60 was temporarily halted based on health guidelines and operational efficiency.

In September 2021, with the easing of COVID-19 emergency protocols, Pico Rivera requested that Montebello consider restoring service to Route 60. Through bilateral discussions, Montebello agreed to meet Pico Rivera’s request to restore transportation services provided by MBL to Route 60 in accordance with the MOU between Montebello and Pico Rivera (see Attachment “B”). MBL resumed operations, Monday through Friday, from 6:00 a.m. to 6:30 p.m., beginning and ending at Arrington Ave. and Telegraph Rd., Pico Rivera, with service to Route 60 provided using one (1) transit bus looping northbound to southbound on the route, making stops every eighty (80) minutes.

The MOU allows for termination of Route 60 with thirty (30) days’ notice with or without cause. Based on the proposed timing to discontinue Route 60 (i.e., Winter/Spring 2023 shakeup), the total notice will be approximately six (6) months which includes a 90 day notification period to host a public hearing.

In May 2021, Montebello contracted with Nelson\Nygaard Consulting Associates, Inc. (Consultant), to conduct a Comprehensive Operational Analysis (“Montebello Moves”) for MBL. The purpose of Montebello Moves was to provide an in-depth evaluation of MBL’s existing transportation system, garner public and stakeholder feedback regarding service priorities, and identify short-term and long-term actions to improve the efficiency and effectiveness of the transportation system that better aligns service with community needs. MBL has eight (8) fixed routes that serve 4.5 million passengers annually throughout 13 different cities. Each route within MBL’s system was evaluated for potential improvements, realignments, or discontinuation.

After months of extensive research, ridership assessments, an online survey, and multiple virtual public meetings, the Consultant determined that Route 60 is significantly underperforming and recommended to remove the route from the MBL service footprint (see Attachment “C”). The low performance, low utilization, and lack of support during the public involvement process are clear indications that Montebello’s transportation resources can be better utilized in other areas that further develop the transportation system. This revised service change enables additional enhancements to higher performing services throughout the MBL system that received high levels of public

Adopt Resolution No. 22-60 Authorizing the City Of Montebello to Initiate the Process to Discontinue Route 60 Transportation Services Provided by and Through Montebello Bus Lines for the Winter/Spring 2023 Shakeup

Page 3 of 4

support, including extensions to Cal State Los Angeles and the South Pasadena Gold Line Station.

ANALYSIS

Route 60 is among the lowest ridership routes within the MBL system and lags behind other routes in rebounding ridership throughout the recovery from the COVID-19 pandemic. Furthermore, Route 60 has steadily declined over the past five years, losing 73% of its ridership since 2017.

As a result of the low demand for service observed on the Passons Boulevard corridor, it is recommended that Route 60 be discontinued from the MBL system, allowing resources to be redistributed to improve service in areas with higher demand.

The Consultant conducted multiple community outreach programs and received minimal responses from direct Route 60 riders. The purpose of the programs was to evaluate ridership behavior and demographics for the community, identify satisfaction with various aspects of MBL service, and determine priorities for service improvements.

The Consultant preliminarily considered an alternate option of combining Routes 60 and 70 into a single route to more efficiently utilize existing resources and maintain coverage within the area. Nonetheless, following the lack of support through community outreach initiatives for the preliminary service change proposal, a revised recommendation was developed that included removing Route 60 from service altogether.

In addition, the Transportation Ad Hoc Committee (“Committee”) met to discuss Route 60, riding this route, on Wednesday, June 29, 2022. Based on the Committee’s observations, they concluded that Route 60 should be discontinued due to the dwindling route productivity as it operates along a predominantly residential street. As such, if authorized by the City Council, MBL will start the process to discontinue Route 60 for the Winter/Spring 2023 shakeup including hosting a public hearing through a 90-day notification period. This process will also include public and stakeholder notifications.

SUMMARY

Staff recommends that the City Council consider the adoption of Resolution No. 22-60 (see Attachment “D”) authorizing the City of Montebello to initiate the process to discontinue Route 60 transportation services provided by and through Montebello Bus Lines for the Winter/Spring 2023 shakeup, including but not limited to, the issuance of a termination notice to the City of Pico Rivera and scheduling of the required public hearing; and direct staff to take such additional related, action that may be desirable.

Adopt Resolution No. 22-60 Authorizing the City Of Montebello to Initiate the Process to Discontinue Route 60 Transportation Services Provided by and Through Montebello Bus Lines for the Winter/Spring 2023 Shakeup

Page 4 of 4

ATTACHMENTS:

- A. Attachment A – 2019 National Transit Database (NTD) Agency Profile – MBL
- B. Attachment B – MOU (No. 21-11) between the City of Montebello and the City of Pico Rivera
- C. Attachment C – Nelson\Nygaard Consulting Associates, Inc. Route 60 Recommendation Memorandum
- D. Attachment D – Proposed Resolution No. 22-60 authorizing the City of Montebello to initiate the process to discontinue Route 60 transportation services provided by and through Montebello Bus Lines for the Winter/Spring 2023 shakeup

Notes:
^aDemand Response - Taxi (DT) and non-dedicated fleets do not report fleet age data.

**MEMORANDUM OF UNDERSTANDING NO. 21-11
BY AND BETWEEN THE CITY OF MONTEBELLO
(BY AND THROUGH MONTEBELLO BUS LINES)
AND THE CITY OF PICO RIVERA**

This Memorandum of Understanding ("MOU") is entered into on October 13, 2021 ("Effective Date") by and between the City of Montebello (by and through Montebello Bus Lines ("MBL")), a California municipal corporation (hereinafter "Montebello"), and the City of Pico Rivera, a California municipal corporation (hereinafter "Pico Rivera"), for the purpose of resuming service to Route 60 provided by MBL. Montebello and Pico Rivera are at times referred to herein individually as a "Party" and jointly as the "Parties."

WHEREAS, MBL provides public transportation services to Montebello and neighboring communities including Pico Rivera;

WHEREAS, on March 4, 2020, the Los Angeles County Public Health Officer (the "County") declared a local health emergency based on an imminent and proximate threat to public health from the introduction of a novel coronavirus ("COVID-19") in Los Angeles County (the "COVID-19 Emergency");

WHEREAS, on March 4, 2020, the Governor of the State of California declared a State of Emergency in California as a result of the threat of COVID-19;

WHEREAS, on March 12, 2020, Montebello signed a local emergency declaration ratifying the local health emergency declared by the County;

WHEREAS, on March 13, 2020, the President of the United States issued a Proclamation on Declaring a National Emergency Concerning the COVID-19 Outbreak;

WHEREAS, on March 16, 2020, Montebello took subsequent action to protect the health, safety, and welfare of the community by reducing the fixed transportation services provided by MBL to Montebello and surrounding communities;

WHEREAS, service to Route 60 provided by MBL operating two (2) buses, one (1) running northbound and one (1) running southbound; stopping every thirty-five (35) minutes, halted due to the COVID-19 Outbreak;

WHEREAS, recently, with the easing of COVID-19 Emergency protocols, Pico Rivera requested Montebello consider restoring service to Route 60;

WHEREAS, in order to meet Pico Rivera's request to restore transportation services, the Parties have agreed that MBL shall provide and resume service to Route 60 described herein running to and around Pico Rivera;

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE CITY OF MONTEBELLO (BY AND THROUGH
MONTEBELLO BUS LINES) AND THE CITY OF PICO RIVERA
Page 2 of 6

WHEREAS, Montebello, by and through MBL, agrees to resume Route 60 with service to and around Pico Rivera starting on September 20, 2021 according to an agreed-upon schedule;

WHEREAS, as a recipient of Federal Transit Administration (FTA) Funds MBL will comply with Federal rules and regulations such as FTA Circular 4702.1B, which provides guidance and instructions necessary to carry out U.S. Department of Transportation ("DOT") Title VI regulations (49 CFR part 21) and to integrate into their programs and activities considerations expressed in the DOT's Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficient ("LEP") Persons (70 FR 74087, December 14, 2005); and

WHEREAS, this MOU is a legally binding agreement based on the promises of the Parties outlined herein.

NOW THEREFORE, in consideration of the mutual obligations set forth herein, Montebello, by and through MBL, and Pico Rivera agree as follows:

1. PURPOSE OF THIS MEMORANDUM OF UNDERSTANDING

The purpose of this MOU is to re-establish an agreement between Montebello and Pico Rivera where MBL will resume service using one (1) bus looping northbound to southbound on route. To effectuate this agreement between the Parties, the service will commence on September 20, 2021, Monday through Friday, from the hours of 6:55 a.m. to 6:28 p.m., beginning and ending in Pico Rivera.

2. TERM AND TERMINATION

The term of this MOU shall commence on September 20, 2021 and shall remain in effect until terminated by a further written communication. Either Party may terminate this MOU with or without cause upon thirty (30) days advanced written notice to the other Party.

3. PARTIES' RESPONSIBILITIES:

The Parties will work together to effectuate Route 60 bus service described herein running to and around Pico Rivera. Pico Rivera shall not be obligated to provide any form of service to Route 60. All service will be provided by MBL.

A. MBL will adhere to the following schedule to resume Route 60 operations:

- i. MBL will resume operations beginning September 20, 2021, Monday through Friday ("Weekdays"), from 6:55 a.m. to 6:28 p.m., beginning and ending at Arrington Ave. and Telegraph Rd., Pico Rivera, as described in Attachment A ("Line 60 Bus Stops"), attached hereto and incorporated herein by this reference.

**MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE CITY OF MONTEBELLO (BY AND THROUGH
MONTEBELLO BUS LINES) AND THE CITY OF PICO RIVERA**

Page 3 of 6

- ii. MBL will restore service to Route 60 using one (1) bus looping northbound to southbound on route, making stops every seventy (70) minutes.
- B. MBL will not be required to provide service for Route 60 after 6:28 p.m. ("Evenings"), Saturdays or Sundays ("Weekends"), or Legal Holidays.
- C. Montebello is conducting a Comprehensive Operational Analysis of MBL's entire transit system which may provide future recommendations that may impact current service and routing for Route 60. Should the analysis recommend changes (i.e., increase/decrease/pause/eliminate) to service of Route 60 due to ridership demand, the Parties may amend this MOU in writing in accordance with Subsection (C) "Amendments" of Section 4 "General Conditions and Procedures" described below.
 - i. MBL will conduct all necessary outreach and communication to satisfy the stated goals, objectives and policies of MBL's Public Participation Plan in accordance with FTA Circular 4702.1B Chapter III-5 Promoting Inclusive Public Involvement; to promote public involvement in transit planning decision-making activities prior to making any final determination or decision regarding potential service changes to Route 60.
- D. Pico Rivera shall agree to indemnify, hold harmless, and defend Montebello in accordance with Subsection (B) "Indemnity" of Section 4 "General Conditions and Procedures" described below.

4. GENERAL CONDITIONS AND PROCEDURES

- A. **Personnel.** For purposes of this MOU, Montebello and Pico Rivera shall remain independent public entities. Pico Rivera shall not be considered employees or contractors of Montebello or MBL for any purpose. Staff and personnel shall, during the term of this MOU, remain employees of their respective employer for all purposes. The officers, officials, employees, and agents of Montebello and Pico Rivera shall, at all times during the term of this MOU, be under the exclusive control of their respective employer.
- B. **Indemnity.** Pico Rivera agrees to indemnify and hold Montebello, including MBL, its members, officials, officers, volunteers, agents, and staff harmless from and against any and all actions, claims, damages, liabilities, losses, or expenses, including any "non-compliance" claim under the American with Disabilities Act (ADA), legal costs, and attorneys' fees, whether or not suit is actually filed, as a result of action, inaction or conduct by the City of Pico Rivera, its members, officials, officers, volunteers or employees that may be asserted against or incurred by Montebello with respect to or in any way arising out of or in connection with

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE CITY OF MONTEBELLO (BY AND THROUGH
MONTEBELLO BUS LINES) AND THE CITY OF PICO RIVERA

Page 4 of 6

Route 60 services to Pico Rivera, or any other person or entity involved by, for, with or on behalf of Pico Rivera, in the performance of this MOU.

Montebello agrees to indemnify and hold Pico Rivera, its members, officials, officers, volunteers, agents, and staff harmless from and against any and all actions, claims, damages, liabilities, losses, or expenses, including any "non-compliance" claim under the American with Disabilities Act (ADA), legal costs, and attorneys' fees, whether or not suit is actually filed, as a result of action or conduct by the City of Montebello, its members, officials, officers, volunteers or employees that may be asserted against or incurred by Pico Rivera with respect to or in any way arising out of or in connection with Route 60 services to Pico Rivera, or any other person or entity involved by, for, with or on behalf of Montebello, in the performance of this MOU.

- C. Amendments.** This MOU may be amended or modified at any time upon the written approval of both Parties. Montebello reserves the right to adjust service (i.e., increase/decrease/pause/eliminate) as necessary and will provide a ten (10) day written notice to Pico Rivera. MBL will comply with all Federal regulations in accordance with FTA Circular 4702.1B prior to any necessary service adjustment.

5. MISCELLANEOUS

- A. Notices.** All notices which the Parties requires or desires to give hereunder shall be in writing and shall be given when delivered personally or ten (10) business days after mailing by registered or certified mail (return receipt requested) to the following address or as such other addresses as the Parties may from time to time designate by written notice in the aforesaid manner:

If to MBL:

Montebello Bus Lines
Attn: Director of Transportation
400 S. Taylor Avenue
Montebello, CA 90640

If to Pico Rivera:

City of Pico Rivera
Attn: City Manager
6615 Passons Boulevard
Pico Rivera, CA 90660

- B. Waiver.** Waiver by either Party of any term, condition, or covenant of this MOU shall not constitute a waiver of any other term, condition, or covenant. Waiver by

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE CITY OF MONTEBELLO (BY AND THROUGH
MONTEBELLO BUS LINES) AND THE CITY OF PICO RIVERA
Page 5 of 6

a Party to any breach of the provisions of this MOU shall not constitute a waiver of any other provision or a waiver of any subsequent breach of any provision of this MOU.

C. Assignment of Rights. The Parties shall not delegate, transfer, or assign its duties or rights hereunder, either in whole or in part, without prior written consent and any attempt to so shall be void and of no effect.

D. Compliance with All Applicable Laws. The Parties shall comply with all applicable City, state, and federal laws and regulations during the term of this MOU.

E. Governing Law; Venue. This MOU shall be interpreted, construed, and governed according to the laws of the State of California. In the event of litigation between the Parties, venue shall lie exclusively in a Superior Court of the County of Los Angeles.

F. No Presumption in Drafting. The Parties to this MOU agree that the general rule that an agreement is to be interpreted against the Party drafting it, or causing it to be prepared, shall not apply.

G. Severability. If any term, provision, condition, or covenant of this MOU is declared or determined by any court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this MOU shall not be affected thereby and this MOU shall be read and construed without the invalid, void, or unenforceable provision(s).

H. Entire Agreement. This MOU constitutes the entire agreement of the Parties with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, whether written or oral, with respect thereto.

I. Authority to Execute this Agreement. The person or persons executing this MOU on behalf of each Party warrants and represents that he or she has the authority to execute this MOU on behalf of the respective Party and has the authority to bind the same.

[SIGNATURE PAGE TO FOLLOW]

MEMORANDUM OF UNDERSTANDING
BY AND BETWEEN THE CITY OF MONTEBELLO (BY AND THROUGH
MONTEBELLO BUS LINES) AND THE CITY OF PICO RIVERA
Page 6 of 6

IN WITNESS WHEREOF, the Parties have executed this contract as of the date indicated below and it is effective as of the date indicated above.

CITY OF MONTEBELLO, a California
municipal corporation

CITY OF PICO RIVERA, a California
municipal corporation

By: Kimberly Ann Cobos-Cawthorne
Kimberly Ann Cobos-Cawthorne, Mayor

By: Raul Elias
Raul Elias, Mayor

Signature: Kimberly Ann Cobos-Cawthorne

Signature: Raul Elias

Dated: 11/23/21

Dated: 11/17/21

ATTEST:

Chris Jimenez
Christopher Jimenez, City Clerk
City of Montebello

ATTEST:

Anna Jerome
Anna Jerome, City Clerk
City of Pico Rivera

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman
Arnold M. Alvarez-Glasman, City Attorney



MEMORANDUM

To: Lupita Ibarra, Montebello Bus Lines

From: James Gamez, Nelson\Nygaard
Peter Soderberg, Nelson\Nygaard

Date: June 13, 2022

Subject: Montebello Moves Recommendations – Line 60 – Passons Blvd

The Montebello Moves study includes a comprehensive review of the existing Montebello Bus Lines (MBL) system, public and stakeholder feedback regarding service priorities, and a series of recommendations to improve efficiency and better align service with community needs. Each route in the MBL system was evaluated for potential improvements, realignments, or discontinuation. This technical memorandum presents the findings, public feedback, and recommendations related to MBL's Line 60 – Passons Blvd.

Existing Service

Line 60 – Passons Blvd provides local north-south service between Northgate Market and the LA County Probation Training Center in Pico Rivera. The route operates along Passons Blvd and primarily provides connections between residential neighborhoods, grocery stores, and several schools in Pico Rivera, the most prominent of which is El Rancho High School. Service on Line 60 is generally limited, operating infrequent service approximately every 80 minutes on weekdays only between 6:00 a.m. and 6:30 p.m.

Line 60 was suspended in April 2020 during the Covid-19 Pandemic and restored in September 2021. Due to this suspension, a sample of post-pandemic ridership was not available for Line 60 during the existing conditions evaluation. Instead,

Figure 1 Line 60 Stop Level Boardings Northbound and Southbound (October 2019)



Montebello Moves Line 60 Recommendations

Montebello Bus Lines

ridership from October 2019 was used to assess the pre-pandemic service characteristics of Line 60.

At that time, Line 60 averaged approximately 420 daily riders (about 3% of system ridership), ranking among the lowest ridership routes in the MBL system (Figure 2). Additionally, ridership appears to be highly oriented around school service with the highest ridership trips around school start and end times (7:00 a.m. and 3:00 p.m.), as shown in Figure 2, and the highest ridership stops located at El Rancho High School (Figure 1). Approximately 80% of bus stops served by Line 60 average fewer than 10 daily boardings.

Figure 2 MBL Average Daily Ridership by Route (October 2019)

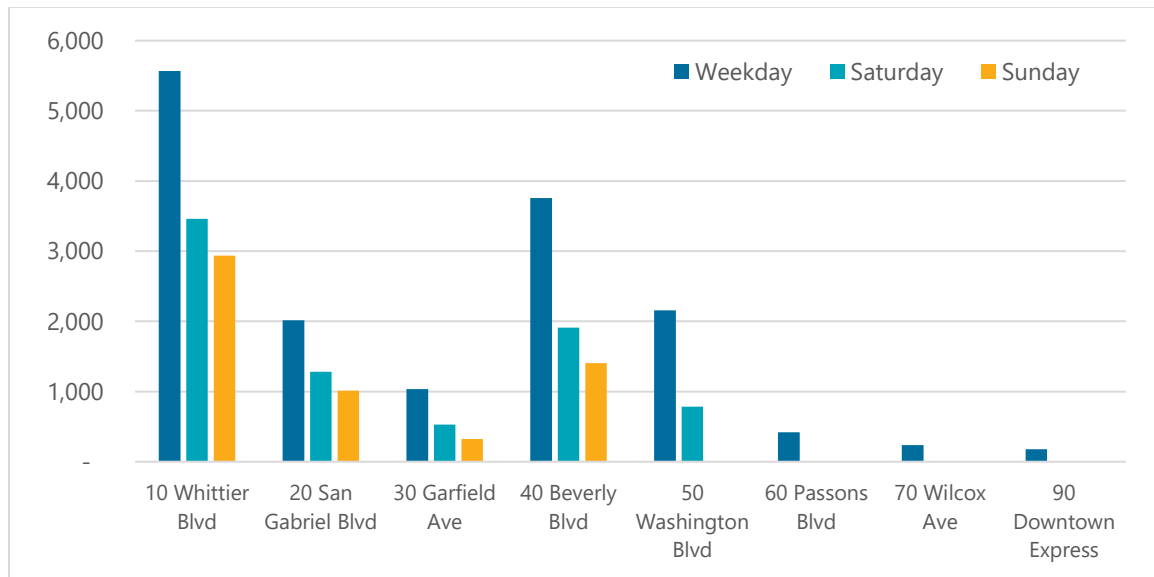
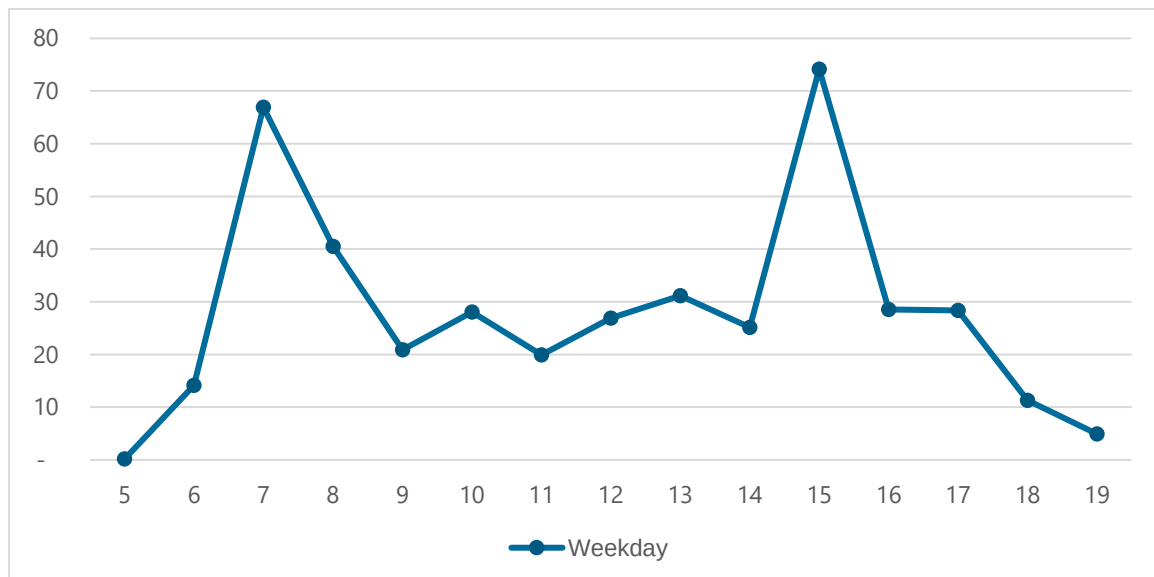


Figure 3 Line 60 Average Weekday Boardings by Hour (October 2019)

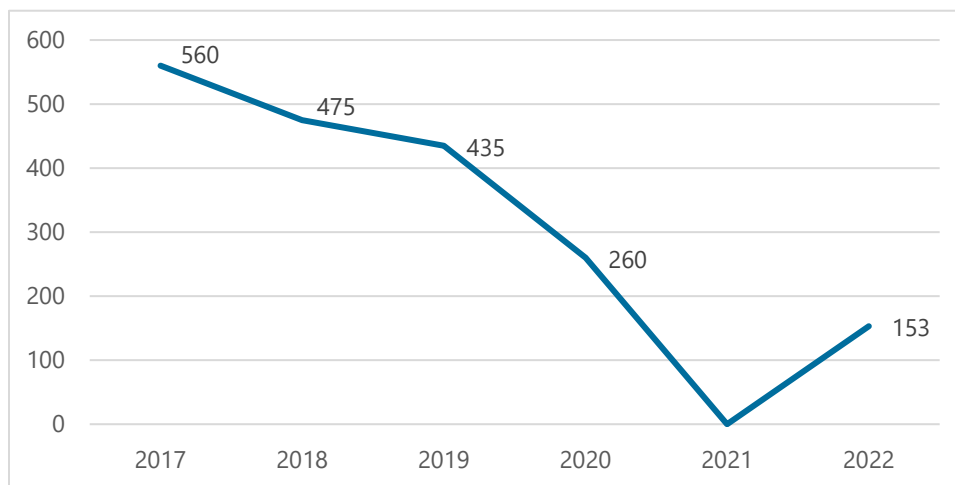


Historical Performance

Ridership

Average weekday ridership for Line 60 between 2017 and 2022 is shown in Figure 4. Ridership on Line 60 has been steadily declining since 2017, decreasing from a high of 560 average passengers per weekday to a low of 153 average passengers per weekday in 2022 (a 73% decrease). No ridership is reported for 2021 as the route was suspended for much of the year. Ridership for 2020 is reported from the month of March, the last full month of service that year, and reflects a decrease related to the Covid-19 Pandemic. 2022 ridership is reported for the month of May, which is the most recent full month of service and represents ridership levels nine months after service restoration.

Figure 4 Line 60 Average Weekday Ridership by Year

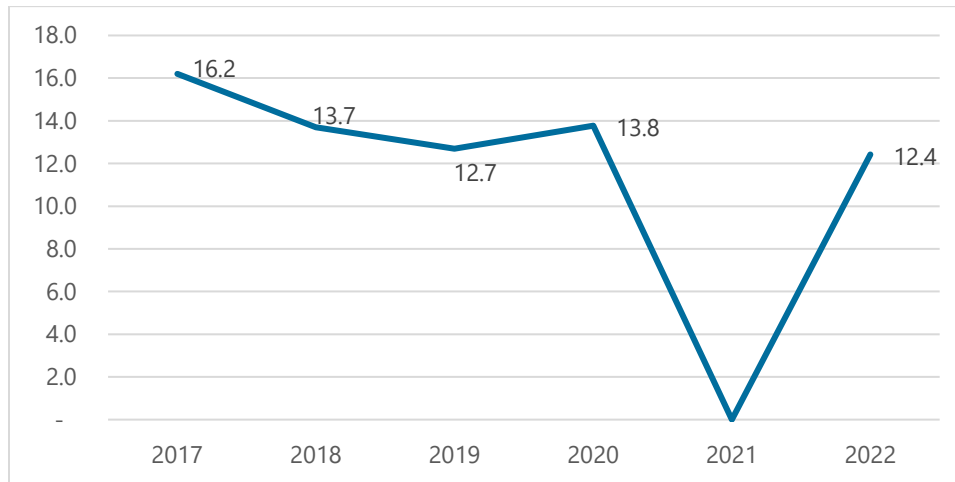


Productivity

Average weekday boardings per revenue hour, also known as productivity, is an indication of how efficient transit service is for attracting ridership with a given amount of service. The productivity for Line 60 from 2017 to 2022 is shown below in Figure 5. Productivity steadily declined from 2017 to 2019 before increasing slightly in 2020. No service was operated during this sample period in 2021, but productivity in 2022 decreased to a new low of 12.4 boardings per revenue hour. Productivity decreased 23% over this five-year period from 2017 to 2022.

Montebello Moves Line 60 Recommendations
Montebello Bus Lines

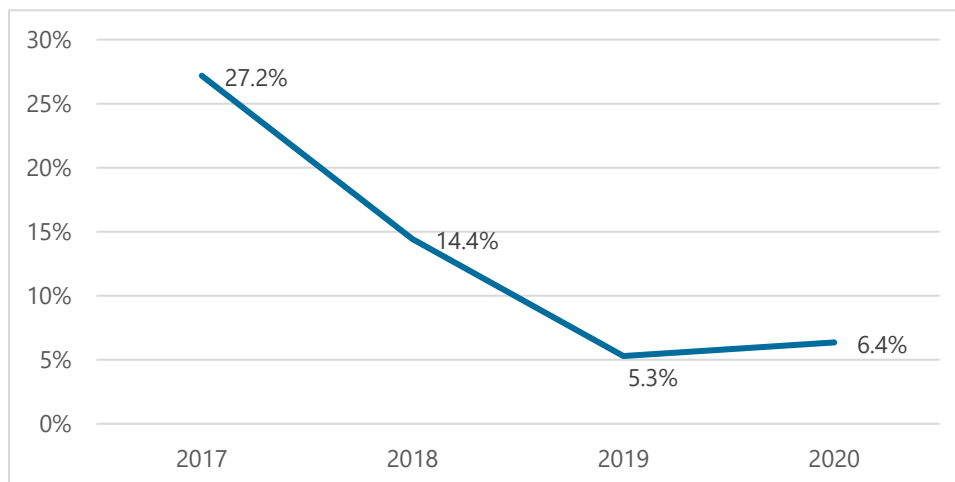
Figure 5 Line 60 Average Weekday Boardings per Revenue Hour



Farebox Recovery Ratio

Farebox recovery ratio is a metric used to denote the percentage of operating costs that are directly covered by passenger fares. This metric is often used to denote how cost-effective transit services are, with lower farebox recovery representing services with higher passenger subsidies. Historical farebox recovery for Line 60 is shown in Figure 6 from 2017 to 2020. No data is reported for 2021 due to the service suspension and farebox recovery has not yet been calculated for 2022. Over this three-year period, farebox recovery decreased by 77% from a high of 27.2% in 2017 to 6.4% in 2020. This suggests that service on Line 60 has become more expensive to provide relative to the fare revenue generated by ridership.

Figure 6 Line 60 Farebox Recovery Ratio



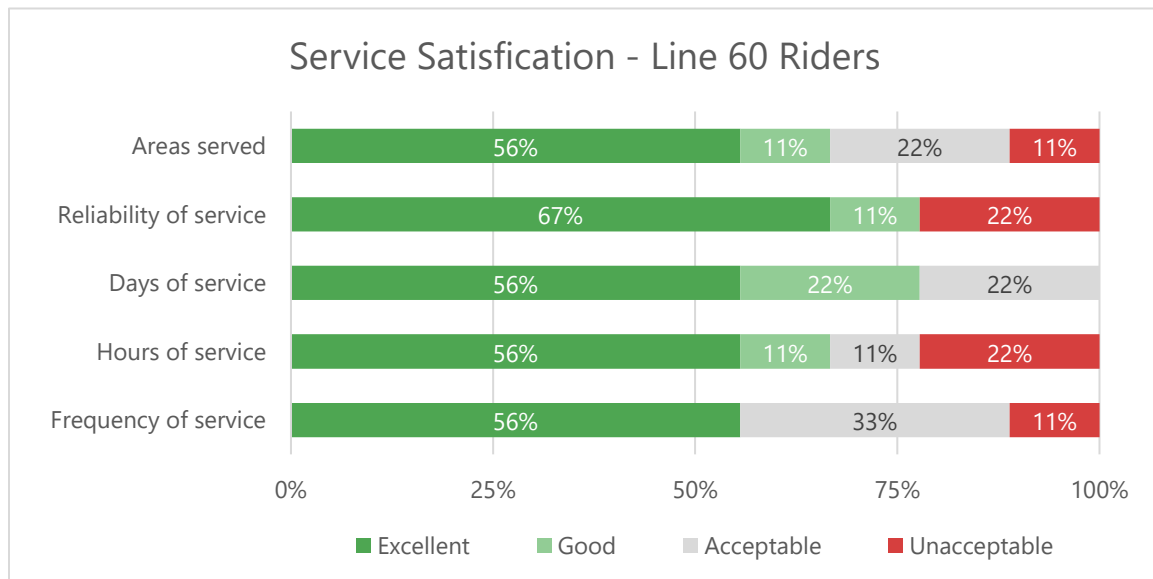
Phase I Public Outreach Summary

Online Community Survey

An online community survey was open between October 11, 2021, and December 3, 2021. The purpose of the survey was to evaluate ridership behavior and demographics for the community, identify satisfaction of various aspects of MLB service, and determine priorities for service improvements. The survey was advertised through paper flyers posted on board vehicles, at major stops, and in public buildings, social media posts on city accounts, and through information sharing with stakeholder networks and constituencies. Additionally, a \$50 target gift card was made available as a raffle prize to further incentivize participation in the survey.

The survey received 155 unique responses. Of these respondents, nine individuals identified as Line 60 riders, accounting for approximately 6% of all survey respondents, roughly double the proportion of Line 60 ridership within the MBL system. Four of the nine respondents (44%) who identified as Line 60 riders also identified as residents of Pico Rivera, while the other 56% reside in other communities in the Gateway Cities or Los Angeles. Line 60 riders were generally supportive of MBL service, with only 1-2 respondents rating frequency, service span, reliability, and areas of service as unacceptable (Figure 7).

Figure 7 Online Community Survey – Service Satisfaction (Line 60 Riders Only)



Preliminary Service Proposal and Phase II Outreach Summary

Due to low ridership on Line 60, a preliminary recommendation included a proposal to combine Lines 60 and 70 into a single route to more efficiently utilize existing resources and maintain coverage within the area, as shown in Figure 8. This approach attempted to combine two lower performing services into a new route that would serve more destinations and operate more efficiently.

An online survey and virtual public meeting were again used to solicit feedback on the preliminary service change proposals. This initial proposal for Line 60 received mixed feedback from the 138 respondents who participated in the survey, including 45% indicating support, 44% indicating opposition, and 11% remaining undecided (Figure 9).

Of the 138 survey respondents, four identified as Line 60 riders, accounting for 3% of respondents, roughly proportional with Line 60 ridership within the MBL system. Open-ended comments regarding this service change also included mixed feedback with comments both supporting and opposing this specific change to Line 60. All four respondents who identified as Line 60 riders were not supportive of this proposed service change.

Following the lack of support for the preliminary service change proposal, a revised recommendation was developed that included removing Line 60 from service due to low performance, low utilization, and lack of support during the public involvement process. This revised service change enables additional enhancements to higher performing services throughout the MBL system that received high levels of public support, including extensions to Cal State LA and the South Pasadena Gold Line Station, improvements that received 79% support from survey respondents. Other areas with proposed service reductions include shortening the proposed Line 55 to terminate at La Mirada Blvd and Imperial Highway, removing low performing service south of Imperial Highway.

Montebello Moves Line 60 Recommendations

Montebello Bus Lines

Figure 8 MBL Moves Preliminary Service Change Proposal – Montebello – Pico Rivera Subarea

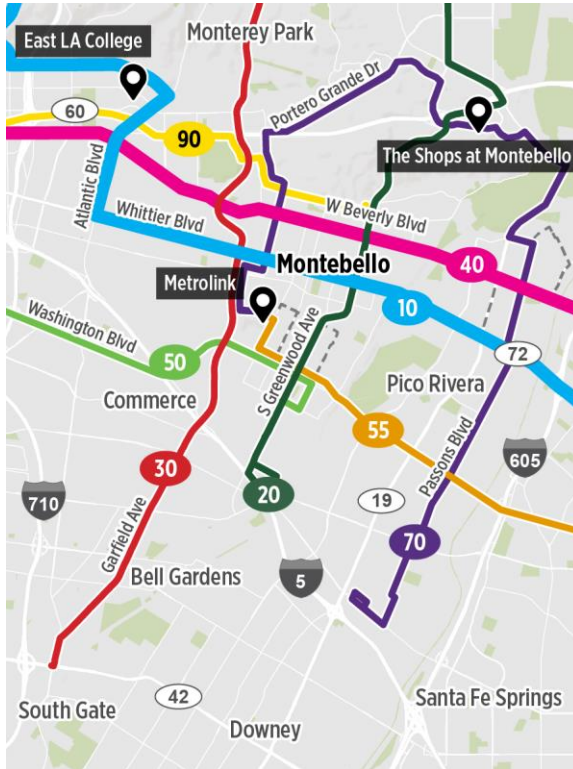
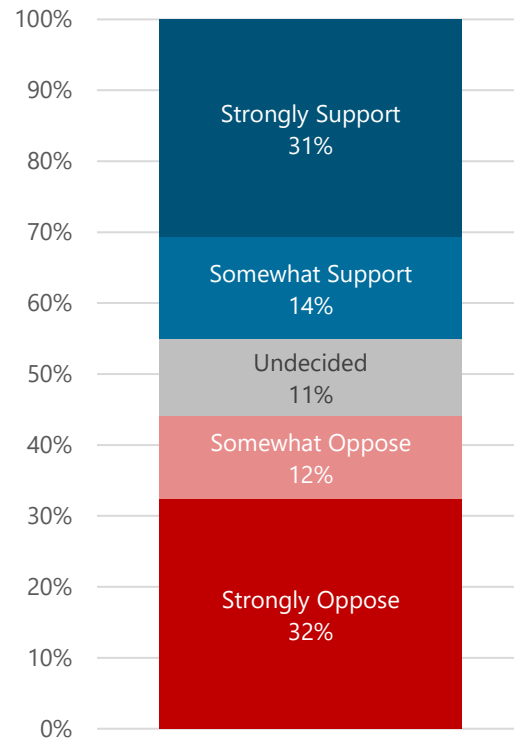


Figure 9 Preliminary Service Change Proposal Feedback – Montebello – Pico Rivera Subarea



Pico Rivera Public Meeting Summary

A virtual public meeting was held at 6:00 p.m. on Monday June 6, 2022 that was advertised specifically to the Pico Rivera community, El Rancho Unified School District, and City of Pico Rivera to discuss this revised service change proposal. The meeting was advertised through direct invitations to stakeholders in the community, social media posts, updates to the project website, and flyers posted on board vehicles and at bus stops in Pico Rivera. Attendance varied throughout the course of the meeting with approximately 12-16 attendees present at any given time.

The virtual public meeting included a presentation from the project team detailing the project background and timeline, key findings from the existing conditions evaluation related to Line 60, updates to the proposed service change, and an open discussion between the project team and community meeting participants. The project team received comments from 11 different attendees, including:

- Six members of the community
- One board member from El Rancho Unified School District
- Four representatives from the City of Pico Rivera

Common themes from these questions and discussions included:

- Concerns about access to El Rancho High School following state mandate for later start times in Fall 2023
- Questions on implementation timeline and potential for a Title VI Equity Analysis associated with the service change
- Concerns regarding a lack of alternative transportation options in the City of Pico Rivera
- Questions regarding alternative funding mechanisms to continue providing this service

Following the Pico Rivera Public Meeting, representatives from the City of Pico Rivera requested additional details regarding the decision-making process, Title VI requirements, community survey data, project timeline refinements, and detailed historical operating characteristics. This technical memorandum provides responses to several of these requests, however additional follow up and analysis may be required to directly respond to all supplemental requests made by the City of Pico Rivera.

Next Steps

Following the feedback received during the Pico River Public Meeting, additional analysis and outreach is being planned and conducted to directly respond to the supplemental requests made by the City of Pico Rivera. These may include additional data analysis, supplemental

Montebello Moves Line 60 Recommendations

Montebello Bus Lines

outreach to members of the community, discussions regarding alternative funding sources, and, where appropriate, revisions to implementation timelines to ensure adequate engagement with the community and sufficient notice prior to service changes are effective.

Title VI Equity Analysis

Additionally, initial conversations with compliance officers at the Federal Transit Administration Region 9 during service suspension in April 2020 indicated that removing Line 60 from service does not trigger the overall 20% service change threshold necessary to require a Title VI Equity Analysis as a part of this service change. However, the larger package of service changes included within the Montebello Moves comprehensive operational analysis may trigger the 20% service change threshold requiring a Title VI Equity Analysis. This requirement will not be known until all service changes are finalized into a single comprehensive package than can be measured against Montebello Bus Lines current Title VI Program requirements.

Recommendations

Line 60 is among the lowest ridership routes in the MBL system, has been steadily declining for the past five years, losing 73% of its ridership since 2017, and is lagging behind other routes in rebounding ridership throughout the pandemic recovery.

As a result of the low demand for service observed on the Parsons Blvd corridor it is recommended that Line 60 be discontinued from MBL service, allowing resources to be redistributed to improve service in areas with higher demand for service.

RESOLUTION NO. 22-60

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO,
CALIFORNIA, AUTHORIZING THE CITY OF MONTEBELLO TO
INITIATE THE PROCESS TO DISCONTINUE ROUTE 60
TRANSPORTATION SERVICES PROVIDED BY AND THROUGH
MONTEBELLO BUS LINES FOR THE WINTER/SPRING 2023 SHAKEUP**

RECITALS

WHEREAS, on March 4, 2020, the State of California, the Los Angeles County Board of Supervisors, and the Los Angeles County Health Officer declared public health emergencies related to the global coronavirus (COVID-19) pandemic; and

WHEREAS, in response, the Montebello City Council declared a local emergency on March 12, 2020; and

WHEREAS, on March 16, 2020, the City of Montebello (“Montebello”) took action to protect the public health and our community included a reduction of fixed-route transportation services City provides through Montebello Bus Lines (“MBL”) to Montebello and the surrounding communities including the City of Pico Rivera (“Pico Rivera”), and consequently, service to Route 60 was temporarily halted based on health guidelines and operational efficiency; and

WHEREAS, in September 2021, with the easing of COVID-19 emergency protocols, Pico Rivera requested that Montebello consider restoring service to Route 60; and

WHEREAS, on October 13, 2021, Montebello and Pico Rivera entered a Memorandum of Understanding (No. 21-11) (the “MOU”) to restore Route 60 transportation services provided by Montebello and through Montebello Bus Lines; and

WHEREAS, in May 2021, Montebello contracted with Nelson\Nygaard Consulting Associates, Inc. (the “Consultant”), to conduct a Comprehensive Operational Analysis (“Montebello Moves”) for MBL for the purpose of providing an in-depth evaluation of MBL’s existing transportation system, garner public and stakeholder feedback regarding service priorities, and identify short-term and long-term actions to improve the efficiency and effectiveness of the transportation system that better aligns service with community needs; and

WHEREAS, after months of extensive research, a cost-benefit analysis, ridership assessment, an online survey, and multiple virtual public meetings, the Consultant determined that Route 60 is significantly underperforming and recommended it be removed from service altogether; and

RESOLUTION NO. 22-60

Page 2 of 3

WHEREAS, pursuant to the MOU, “Term and Termination”, either Party may terminate the MOU with or without cause upon thirty (30) days advanced written notice to the other Party; and

WHEREAS, the City will provide a ninety (90) days notification period to host a public hearing that will inform internal and external stakeholders of the intent to terminate Route 60.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO HEREBY RESOLVES, FINDS, AND DECLARES AS FOLLOWS:

AUTHORIZE THE CITY OF MONTEBELLO TO INITIATE THE PROCESS TO DISCONTINUE ROUTE 60 TRANSPORTATION SERVICES PROVIDED BY AND THROUGH MONTEBELLO BUS LINES (MBL); AND

SECTION 1: Further Approvals and Directions.

1. The City is hereby authorized to provide the City of Pico Rivera a thirty (30) days’ notice of termination pursuant to the MOU (Term and Termination”) provisions.
2. The City is hereby given the authority to initiate the process to discontinue Route 60 transportation services provided, and all that is necessary and reasonable in furtherance of that process, by and through MBL for the Winter/Spring 2023 shakeup, providing the City of Pico Rivera approximately five (5) months from Montebello’s thirty (30) days’ notice to prepare alternative transportation services to the affected area.
3. When convenient, the MBL Director is authorized provide a ninety (90) days notification period to schedule a public hearing that will inform internal and external stakeholders of the intent to terminate Route 60.

SECTION 2: That the City Clerk shall certify to the passage and adoption of this Resolution and that the same shall be in full force and effect.

APPROVED AND ADOPTED this 1st day of August 2022.

Kimberly A. Cobos-Cawthorne, Mayor

RESOLUTION NO. 22-60

Page 3 of 3

ATTEST:

APPROVED AS TO FORM:

Christopher Jimenez, City Clerk

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF MONTEBELLO)

I, Christopher Jimenez, City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 22-60 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 1th day of August 2022 and that said Resolution was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

The undersigned, City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: _____

Christopher Jimenez, City Clerk



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: Alicia Fernandez, Senior Deputy City Clerk

SUBJECT: **Approve Amendment of Resolution No. 22-55 and Resolution No. 22-57 to Add the Office of City Treasurer to the November 2022 Ballot**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve amendment of Resolution No. 22-55 calling for the holding of a General Municipal Election to be held on Tuesday, November 8, 2022, for the election of certain officers as required by the provisions of the laws of the State of California relating to General Law Cities to add the office of City Treasurer to the November 2022 ballot; and
- 2) Approve amendment of Resolution No. 22-57 requesting the Board of Supervisors of the County of Los Angeles to consolidate a General Municipal Election to be held on Tuesday, November 8, 2022 with other Los Angeles County and State of California elections to be held on the date pursuant to § 10403 of the Elections Code to add the office of City Treasurer to the November 2022 ballot.

FISCAL IMPACT

The actual cost of the November 8, 2022 General Municipal Election is uncertain. Historically, budgets are prepared which provide for an estimated cost, since the actual cost is unknown until after the election is completed and an invoice is received from the County of Los Angeles. Over the last three fiscal years, the actual cost of elections has been: \$291,492, \$126,271 and \$107,563 (Fiscal Years 2018-19, 2019-20, and 2020-21).

The Fiscal Year 2022-23 adopted budget includes \$200,000 for the November 8, 2022 election. Based on prior year data, this appears to be a reasonable estimate of final costs.

CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 1, 2022
Approve Amendment of Resolution No. 22-55 and Resolution No. 22-57 to Add the Office of City Treasurer to the November 2022 Ballot
Page 2 of 2

Due to the ongoing circumstances surrounding COVID-19, the Los Angeles County Registrar-Recorder/County Clerk's (RR/CC) office is continuing mail ballot which increases the cost of the election (versus prior years). City Clerk Staff will work closely with the County Registrar-Recorder to properly account for all municipal election results.

BACKGROUND

The City Treasurer, Rafael Gutierrez, was elected as City Treasurer for a full four (4) year term on the November 2018 General Election; therefore, the office of the City Treasurer is up for election for the November 8, 2022 General Election.

Resolution No. 22-55 and Resolution No. 22-57 have been amended (Attachments A and B) to include the office of the City Treasurer on the ballot for the General Municipal Election to be held on Tuesday, November 8, 2022, along with all five (5) City Council District seats in the City of Montebello.

SUMMARY

Staff recommends that the City Council approve the amended Resolution No. 22-55 and Resolution 22-57 to add the office of City Treasurer to the ballot for the General Municipal Election to be held on Tuesday, November 8, 2022.

ATTACHMENTS:

- A. Attachment A – Amended Resolution No. 22-55
- B. Attachment B – Amended Resolution No. 22-57

AMENDED RESOLUTION NO. 22-55

AN AMENDED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES

RECITALS

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held on Tuesday, November 8, 2022, for the election of Municipal Officers.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, HEREBY RESOLVES, FINDS, AMENDS AND DECLARES AS FOLLOWS:

SECTION 1. That pursuant to the requirements of the laws of the State of California relating to General Law Cities, there is called and ordered to be held in the City of Montebello, California, on Tuesday, November 8, 2022, a General Municipal Election for the purpose of electing five (5) Members of the City Council, one (1) from each of the five (5) City Council districts and one City Treasurer for a four (4) year term. The term for City Treasurer will be four (4) years, set to expire November 2026. City Council seats for Districts 2 and 4 will be placed on the ballot for two (2) year terms, set to expire November 2024, and City Council seats for Districts 1, 3 and 5 will be placed on the ballot for four (4) year terms, set to expire in 2026.

SECTION 2. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 3. That the City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

SECTION 4. That the polls for the election shall open at seven (7) o'clock a.m. of the day of the election and shall remain open continuously from that time until eight (8) o'clock p.m. of the same day when the polls shall be closed pursuant to Election Code §10242, except as provided in § 14212, 14401 of the Elections Code of the State of California.

SECTION 5. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 6. That notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

AMENDED RESOLUTION NO. 22-55

Page 2 of 2

SECTION 7. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 8. The City Council authorizes the City Clerk to administer said election and all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

AMENDED, APPROVED AND ADOPTED this 1st day of August 2022.

Kimberly A. Cobos-Cawthorne, Mayor

ATTEST:

APPROVED AS TO FORM:

Christopher Jimenez, City Clerk

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF MONTEBELLO)

I, Christopher Jimenez, City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 22-55 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 1st day of August 2022 and that said Resolution was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

The undersigned, City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: _____

Christopher Jimenez, City Clerk

AMENDED RESOLUTION NO. 22-57

AN AMENDED RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2022, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE DATE PURSUANT TO § 10403 OF THE ELECTIONS CODE

RECITALS

WHEREAS, the City Council of the City of Montebello, California, called a General Municipal Election to be held on Tuesday, November 8, 2022, for the purpose of the election of five (5) Members of the City Council through a By-District process and the election of the City Treasurer through an at-large process.

WHEREAS, it is desirable that the General Municipal Election be consolidated with the State General Election to be held on the same date and that within the City the precincts, polling places and election officers of the elections be the same, and that County Elections Department of the County of Los Angeles canvass the returns of the General Municipal Election and that the Election be held in all respects as if there were only one Election.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, HEREBY RESOLVES, FINDS, AMENDS AND DECLARES AS FOLLOWS:

SECTION 1. That pursuant to the requirements of §10403 of the Elections Code, the Board of Supervisors of the County of Los Angeles is hereby requested to consent and agree to the consolidation of a General Municipal Election with the Statewide General Election on Tuesday, November 8, 2022, for the purpose of the election of five (5) Members of the City Council through a By-District election process and the City Treasurer by an At-large election process, as follows:

City Council

District 1: 4-year term.

District 2: 2-year term.

District 3: 4-year term.

District 4: 2-year term.

District 5: 4-year term.

City Treasurer: 4-year term

SECTION 2. That the County Elections Department is authorized to canvass the returns of the General Municipal Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The election will be held and conducted in accordance with the provisions of law regulating the Statewide Election.

AMENDED RESOLUTION NO. 22-57

Page 2 of 3

SECTION 3. That the Board of Supervisors is requested to issue instructions to the County Elections Department to take any and all steps necessary for the holding of the consolidated election.

SECTION 4. That the City of Montebello, recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

SECTION 5. That the City Clerk is hereby directed to file a certified copy of this resolution with the Board of Supervisors and the County Elections Department of the County of Los Angeles.

SECTION 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

AMENDED, APPROVED AND ADOPTED this 1st day of August 2022.

Kimberly A. Cobos-Cawthorne, Mayor

ATTEST:

APPROVED AS TO FORM:

Christopher Jimenez, City Clerk

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF MONTEBELLO)

I, Christopher Jimenez, City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 22-57 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 1st day of August 2022 and that said Resolution was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

AMENDED RESOLUTION NO. 22-57

Page 3 of 3

The undersigned, City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: _____

Christopher Jimenez, City Clerk



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: David Sosnowski, Director of Recreation and Community Services

SUBJECT: **Approve Resolution No.'s 22-63 and 22-64 Authorizing Applications for the Los Angeles County Regional Park and Open Space District Measure A Competitive Grant Programs**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve Resolution No.'s 22-63 and 22-64 authorizing the submission of applications for Los Angeles County Regional Park and Open Space District (LARPOSD) Measure A Competitive Grant Recreation Access and Youth and Veteran Job Training and Placement Programs; and
- 2) Take such additional, related, action that may be desirable.

FISCAL IMPACT

The LARPOSD currently has two competitive grant programs available. Depending on the list and scope of the project, the City could potentially receive up to \$1,200,000 for each project with no requirement of local matching funds. If grants are awarded, staff will return to City Council with a request to appropriate funds in the total grant amount awarded.

BACKGROUND

In November 2016, Measure A (The Safe, Clean Neighborhood Parks, Open Space Beaches, River Protection, and Water Conservation Measure) was approved by voters in Los Angeles County, and replaces the expiring Proposition A to ensure parks, open spaces, beaches, and waterways are built and protected for future generations. The

Approve Resolution No.'s 22-63 and 22-64 Authorizing Applications for the Los Angeles County Regional Park and Open Space District Measure A Competitive Grant Programs

Page 2 of 2

current round of competitive grants consists of \$22 million in funding available for the two available programs. The application process requires a Resolution by the City Council authorizing the grant application.

There are currently two grant programs available. The Recreation Access program aims to increase Los Angeles County residents' accessibility to public lands, park facilities, and park amenities. The Youth and Veteran Job Training and Placement program aims to provide education and career development or certification and job placement in the field of parks and recreation to youth and veterans.

Staff is proposing to utilize funding from the Recreation Access grant program to provide Montebello residents with recreational community trips to various locations in the region. Additionally, staff is proposing to utilize funding from the Youth and Veteran Job Training and Placement program to expand the City's current Youth Employment Program. The additional funding would allow for the City to increase the number of participants in the program.

SUMMARY

That the City Council authorize the submission of applications for Los Angeles County Regional Park and Open Space District Measure A Competitive Grant Programs.

ATTACHMENTS:

- A. Attachment A – Resolution No. 22-63 Recreation Access Program
- B. Attachment B – Resolution No. 22-64 Youth and Veteran Job Training and Placement Program

ATTACHMENT A

RESOLUTION NO. 22-63

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, APPROVING THE FILING OF AN APPLICATION FOR GRANT FUNDS FROM THE LOS ANGELES COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT FOR MONTEBELLO REC ON THE GO

RECITALS

WHEREAS, the voters of the County of Los Angeles on November 8, 2016, approved the Safe, Clean Neighborhood Parks, Open Space Beaches, Rivers Protection, and Water Conservation Measure (Measure A); and

WHEREAS, Measure A also designated the Los Angeles County Regional Park and Open Space District (the "District") to administer said funds; and

WHEREAS, the District has set forth the necessary policies and procedures governing the application for grant funds under Measure A; and

WHEREAS, the District's policies and procedures require the governing body of the City of Montebello to approve of the filing of an application before submission of said application to the District; and

WHEREAS, said application contains assurances that the City of Montebello must comply with; and

WHEREAS, the City of Montebello will enter into Agreement with the District to provide funds for acquisition projects, development projects, and/or programs.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO HEREBY RESOLVES, FINDS, AND DECLARES AS FOLLOWS:

SECTION 1. Approves the filing of an application with the Los Angeles County Regional Park and Open Space District for Measure A Funds for the above-named project or program; and

SECTION 2. Certifies that the City of Montebello understands the assurances and will comply with the assurances in the application form; and

SECTION 3. Appoints the Director of Recreation and Community Services, or designee, to conduct all negotiations, and to execute and submit all documents including, but not limited to, applications, agreements, amendments, payment requests and so forth, which may be necessary for the completion of projects or programs.

RESOLUTION NO. 22-63

Page 2 of 2

APPROVED AND ADOPTED this 1st day of August 2022.

Kimberly A. Cobos-Cawthorne, Mayor

ATTEST:

APPROVED AS TO FORM:

Christopher Jimenez, City Clerk

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF MONTEBELLO)

I, Christopher Jimenez, City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 22-63 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 1st day of August 2022 and that said Resolution was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

The undersigned, City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: _____

Christopher Jimenez, City Clerk

RESOLUTION NO. 22-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO, CALIFORNIA, APPROVING THE FILING OF AN APPLICATION FOR GRANT FUNDS FROM THE LOS ANGELES COUNTY REGIONAL PARK AND OPEN SPACE DISTRICT FOR THE YOUTH EMPLOYMENT PROGRAM

RECITALS

WHEREAS, the voters of the County of Los Angeles on November 8, 2016, approved the Safe, Clean Neighborhood Parks, Open Space Beaches, Rivers Protection, and Water Conservation Measure (Measure A); and

WHEREAS, Measure A also designated the Los Angeles County Regional Park and Open Space District (the "District") to administer said funds; and

WHEREAS, the District has set forth the necessary policies and procedures governing the application for grant funds under Measure A; and

WHEREAS, the District's policies and procedures require the governing body of the City of Montebello to approve of the filing of an application before submission of said application to the District; and

WHEREAS, said application contains assurances that the City of Montebello must comply with; and

WHEREAS, the City of Montebello will enter into Agreement with the District to provide funds for acquisition projects, development projects, and/or programs.

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO HEREBY RESOLVES, FINDS, AND DECLARES AS FOLLOWS:

SECTION 1. Approves the filing of an application with the Los Angeles County Regional Park and Open Space District for Measure A Funds for the above-named project or program; and

SECTION 2. Certifies that the City of Montebello understands the assurances and will comply with the assurances in the application form; and

SECTION 3. Appoints the Director of Recreation and Community Services, or designee, to conduct all negotiations, and to execute and submit all documents including, but not limited to, applications, agreements, amendments, payment requests and so forth, which may be necessary for the completion of projects or programs.

RESOLUTION NO. 22-64

Page 2 of 2

APPROVED AND ADOPTED this 1st day of August 2022.

Kimberly A. Cobos-Cawthorne, Mayor

ATTEST:

APPROVED AS TO FORM:

Christopher Jimenez, City Clerk

Arnold M. Alvarez-Glasman, City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) SS:
CITY OF MONTEBELLO)

I, Christopher Jimenez, City Clerk of the City of Montebello, County of Los Angeles, State of California, hereby certify that the foregoing Resolution No. 22-64 was passed and adopted by the City Council of the City of Montebello, signed by the Mayor and attested by the City Clerk at a regular meeting of said Council held on the 1st day of August 2022 and that said Resolution was adopted by the following vote, to-wit:

AYES:

NOES:

ABSTAIN:

ABSENT:

The undersigned, City Clerk of the City of Montebello, does hereby attest and certify that the foregoing Resolution is a true, full and correct copy of a resolution duly adopted at a meeting of said City which was duly convened and held on the date stated thereon, and that said document has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

DATE: _____

Christopher Jimenez, City Clerk



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: James Enriquez, P.E., Director of Public Works / City Engineer

SUBJECT: **Award of Construction Contract – HYRAP Streets Project Fiscal Year 2022-23 (CP No. 897)**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Award a construction contract for the HYRAP Streets Project (CP 897) in the amount of \$2,440,259 to Manhole Adjusting, Inc.; and
- 2) Authorize the Director of Public Works to review and approve change orders within a 10% contingency of the contract amount as recommended by the City Engineer; and
- 3) Authorize the City Manager to execute the Contract Agreement, on behalf of the City; and
- 4) Amend the Fiscal Year 2022-23 budget by reallocating funds in Fund 222 (Measure M) by \$600,000 (Account No. 222-99-7116) and in Fund 220 (Measure R) by \$90,000 (Account No. 220-99-7116); and
- 5) Take such additional, related, action that may be desirable.

FISCAL IMPACT

The adopted Fiscal Year 2022-23 Capital Improvement Program (CIP) budget included \$2,000,000 from Road Maintenance and Rehabilitation Act (SB1) Fund 201 for this project (CP No. 887). The total construction cost is estimated at \$2,684,259, which includes \$244,000 in contingency funds.

CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 1, 2022
Award of Construction Contract – HYRAP Streets Project Fiscal Year 2022-23 (CP No. 897)
Page 2 of 3

It is recommended that the City Council approve a budget adjustment to the FY 2022-23 CIP Budget reallocating funds in the following amounts from two different CIP projects to this project: 1) \$600,000 in Measure M funds (Fund 222) reallocated from the Lincoln Ave Traffic Calming Project (CP 903); and 2) \$90,000 in Measure R funds (Fund 220) reallocated from the Slurry Seal Project FY 2022-23 (CP 904).

This reallocation of appropriated funds does not change the total amount of appropriations in the FY 2022-23 adopted budget. The recommended action moves existing funding from two CIP projects (C.P. Nos. 904 and 904) to this project (C.P. No. 897).

BACKGROUND

This Project includes resurfacing of 16 residential streets as shown in the Project Location Map (Attachment C). The work will consist of pavement micro-grinding and other preparatory work followed by pavement resurfacing with a two-layered system. The bottom pavement layer is an Asphalt-Rubber Aggregate Membrane (ARAM) and is topped with the final layer of HYRAP asphalt pavement.

The Paving the Way Program utilized this pavement system in a pilot program in FY 2020-21. The pavement on the streets included in the Paving the Way Program has performed well and the system has proven a cost-effective alternative to a complete street reconstruction for streets that are not good candidates for a traditional grind-and-overlay resurfacing or slurry seal and would otherwise require much more expensive total reconstruction. This project was presented to the Street Ad Hoc Committee on March 7, 2022.

On May 25, 2022, the City Council approved the plans and specifications and authorized the Public Works Department to advertise the project for public bidding.

The Notice Inviting Bids was published on June 8, 2022, in the local newspaper and the Green Sheet. The notice, plans and specifications were also posted on Planet Bids thru the City of Montebello's Website.

On June 20, 2022 at 11:00 AM, one (1) bid was received and opened publicly, as follows:

Manhole Adjusting Inc.	\$2,440,259
------------------------	-------------

The bid was analyzed and Manhole Adjusting Inc., was determined to be the lowest responsive and responsible bidder. The average cost per square foot of pavement included in the bid is consistent with the final cost of the pilot project. Award of a construction contract to Manhole Adjusting Inc., in the amount of \$2,440,259 is recommended.

ANALYSIS

A Summary of the projected cost is as follows:

\$ 2,440,259	Construction Low Bid
<u>\$ 244,000</u>	<u>Contingency (10%)</u>
\$ 2,684,259	Total

ENVIRONMENTAL

On May 25, 2022, the City Council found the project categorically exempt pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) and approved the filling of the Notice of Exemption.

SUMMARY

Upon approval of the recommended actions, staff will execute the contract agreement with Manhole Adjusting Inc. and coordinate the completion of the Project. In addition, the City Council will approve a budget adjustment, reallocating funds in the FY 2022-23 CIP program as follows: 1) \$600,000 in the Measure M Fund (Account No. 222-99-7116, C.P. No. 903) and 2) \$90,000 the Measure R Fund (Account No. 220-99-7116, C.P. No. 904).

ATTACHMENTS:

- A. Attachment A – Bid Summary
- B. Attachment B – Construction Contract Agreement
- C. Attachment C – Project Location Map



City of Montebello
 Department of Public Works
 1600 W. Beverly Boulevard
 Montebello, CA 90640
 (323) 887-4555

BID SUMMARY
HYRAP Streets Project
FY 2022-2023

CP 897
June 20, 2022

ITEM No.	BID ITEM	QTY.	UNITS	Bidder No. 1	
				Manhole Adjusting Inc.	
				BID PRICE	TOTAL AMT.
1	BLUFF ROAD FROM WASHINGTON BOULEVARD TO DATE STREET	1	LS	\$ 238,997	\$ 238,997
2	DATE STREET FROM BLUFF ROAD TO MONTEBELLO BOULEVARD	1	LS	\$ 167,744	\$ 167,744
3	HUGHES AVENUE FROM BLUFF ROAD TO MONTEBELLO BLVD	1	LS	\$ 214,755	\$ 214,755
4	HUGHES AVENUE FROM MONTEBELLO BOULEVARD TO END	1	LS	\$ 121,094	\$ 121,094
5	JACMAR DRIVE FROM THIRD STREET TO MONTEBELLO BOULEVARD	1	LS	\$ 196,016	\$ 196,016
6	MINES STREET FROM BLUFF ROAD TO MONTEBELLO BOULEVARD	1	LS	\$ 251,643	\$ 251,643
7	MONTEBELLO BOULEVARD FROM WALNUT AVENUE TO MINES STREET	1	LS	\$ 114,935	\$ 114,935
8	MONTEBELLO BOULEVARD FROM DATE STREET TO WASHINGTON BOULEVARD	1	LS	\$ 231,168	\$ 231,168
9	S TENTH STREET FROM HUGHES STREET TO END	1	LS	\$ 48,891	\$ 48,891
10	S TENTH STREET FROM BEACH STREET TO END	1	LS	\$ 79,685	\$ 79,685
11	S FIFTH STREET FROM MINES AVENUE TO WALNUT AVENUE	1	LS	\$ 88,328	\$ 88,328
12	S SIXTH STREET FROM JACMAR DRIVE TO BEACH STREET	1	LS	\$ 111,915	\$ 111,915
13	S SIXTH STREET FROM ROOSEVELT AVENUE TO MINES STREET	1	LS	\$ 173,772	\$ 173,772
14	SAN MARINO AVENUE FROM MONTEBELLO BOULEVARD TO GREENWOOD AVENUE	1	LS	\$ 157,130	\$ 157,130
15	S SPRUCE STREET FROM BEACH STREET TO HUGHES STREET	1	LS	\$ 103,993	\$ 103,993
16	WALNUT AVENUE FROM MONTEBELLO BOULEVARD TO END	1	LS	\$ 140,193	\$ 140,193
TOTAL BASE BID				\$ 2,440,259	

AGREEMENT NO. 4008

**CITY OF MONTEBELLO
STANDARD PUBLIC WORKS AGREEMENT**

THIS STANDARD PUBLIC WORKS AGREEMENT ("AGREEMENT") is made and entered into on August 1, 2022 ("Effective Date") by and between the CITY OF MONTEBELLO, a California municipal corporation (the "CITY") and MANHOLE ADJUSTING, INC., a California corporation ("CONTRACTOR"). The CITY and CONTRACTOR are sometimes referred to herein individual as the "Party," and jointly as the "Parties."

RECITALS

WHEREAS, the CITY desires to retain a qualified professional contractor to provide work consisting of the HYRAP Streets Project Fiscal Year 2022-23 to the CITY (C.P. #897) ("PROJECT"); and

WHEREAS, on August 1, 2022, the City Council accepted the bid of CONTRACTOR as the lowest responsible, responsive bid received and directed that a written contract be entered into with CONTRACTOR for the PROJECT; and

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

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements herein contained, the parties do hereby agree as follows:

SECTION 1. INCORPORATION OF RECITALS AND CONTRACT DOCUMENTS

a. The above-referenced Recitals constitute a material part hereof and shall hereby be incorporated by reference. Moreover, the CONTRACT DOCUMENTS for the PROJECT shall consist of the Notice Inviting Sealed Bids, the Instructions to Bidders, Bidders Proposal, Addendums, CONTRACTOR's Bid for the PROJECT, Scope of Work, general specifications and all referenced specifications, details, standard drawings, and appendices, together with this Agreement and all required bonds, and insurance certificates. All of the "Agreement Documents" are intended to complement the other documents so that any work called for in one, and not mentioned in the others, or vice versa, is to be executed the same as if mentioned in all of said documents. The CONTRACT DOCUMENTS are incorporated herein by this reference and made part hereof as though they were fully set forth herein.

b. In case any of the CONTRACT DOCUMENTS conflict with each other, the order of preference for the CONTRACT DOCUMENTS is:

1. This AGREEMENT and its Exhibits and or Attachments, including any and all addenda or supplemental agreements.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 2 of 14

2. CONTRACTOR'S June 20, 2022 electronic bid
3. Standard drawings
4. Details
5. Special provisions, if any
7. General specifications and all referenced specifications

SECTION 2. THE WORK

For and in consideration of the payments and agreements to be made and performed by the CITY, CONTRACTOR agrees to furnish all materials and perform all work required for the PROJECT and to fulfill all other obligations as set forth in the CONTRACT DOCUMENTS.

SECTION 3. TERM; AND TIME FOR COMPLETION

a. The work shall commence upon issuance of a written "Notice to Proceed" (as further defined below) by the CITY. Work for the PROJECT shall be completed within thirty-five (35) working days from the issuance of the Notice to Proceed. This Agreement shall expire six (6) months from the Effective Date, unless terminated earlier as hereinafter provided. This Agreement may be extended for a maximum additional six (6) months upon such terms and conditions mutually agreed upon by the Parties in writing.

b. Notice to Proceed. Any work or service contemplated under this Agreement shall not commence until the CITY has issued a written Notice to Proceed issued by the CITY's applicable, department head.

SECTION 4. COMPENSATION

CONTRACTOR hereby agrees to receive and accept the total amount of **Two Million Four Hundred Forty Thousand Two Hundred Fifty-nine Dollars (\$2,440,259)**, which is based on performing all of the work shown on Bidders Proposal as full compensation for furnishing all materials, performing all work, and fulfilling all obligations hereunder. Said compensation shall cover all expenses, losses, damages, and consequences arising out of the nature of the work during its progress or prior to its acceptance including those for well and faithfully completing the work and the whole thereof in the manner and time specified in the CONTRACT DOCUMENTS, and also including those arising from actions of the elements, unforeseen difficulties or obstructions encountered in the prosecution of the work, suspension or discontinuance of the work, and all other unknowns or risks of any description connected with the work. CITY shall herein retain five percent (5%) of said price until said time as the provisions of SEC. 18 herein have been met.

4.1. Progress Payments

Progress Payments shall be made in accordance with section the General Provisions and the provisions of this Section 4.1. Upon receipt of a properly presented payment request, the CITY shall process the payment request in accordance with Public Contract Code Section 20104.50. The CITY shall review the payment request as soon as possible.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 3 of 14

If the CITY rejects the payment request, it shall be returned to the CONTRACTOR within seven (7) days of its receipt by the CITY with an explanation for the reasons of its rejection. If the payment request is approved in writing by the CITY, payment shall be made in thirty (30) days of receipt of an undisputed and properly presented payment request. Late payments shall bear interest at the legal rate of interest in accordance with Code of Civil Procedure 685.010. The CITY shall pay CONTRACTOR a sum based upon ninety five percent (95%) of the Agreement price apportionment of the labor and materials incorporated into the work under the Agreement during the period covered by said statement. The remaining five percent (5%) thereof shall be retained as performance security. Refer to Section 4.2 of this Agreement for retention of funds.

4.2. Retention of Funds

Progress payments shall be made in accordance with the provisions of Section 4.1 of this Agreement. In accordance with said section, the CITY shall pay CONTRACTOR a sum based upon ninety five percent (95%) of the Agreement price in proportion to the labor and materials incorporated into the work under the Agreement during the month covered by said statement. The remaining five percent (5%) thereof shall be retained as performance security to be paid to the CONTRACTOR within sixty (60) days after final acceptance of the work by the City Council of the CITY ("City Council"), after CONTRACTOR shall have furnished the CITY with a release of all undisputed Agreement amounts, if required by the CITY. In the event there are any claims specifically excluded by CONTRACTOR from the operation of the release, the CITY may retain proceeds (per Public Contract Code 7107) of up to 150% of the amount in dispute. CITY's failure to deduct or withhold shall not affect CONTRACTOR's obligations hereunder.

4.3. Substitution of Securities

Pursuant to Public Contract Code Sec. 22300, CONTRACTOR shall be allowed to substitute securities for any moneys withheld by the CITY to ensure performance under an Agreement, unless, federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of CONTRACTOR, securities equivalent to the amount withheld shall be deposited with the CITY, or with a state or federally chartered bank in this state as the escrow agent, who shall then pay those moneys to CONTRACTOR. Upon satisfactory completion of the Agreement, the securities shall be returned to CONTRACTOR.

SECTION 5. UNDOCUMENTED WORKERS

CONTRACTOR hereby promises and agrees to comply with all of the provisions of Federal and/or State law as the same shall apply to this PROJECT pertaining to the employment of unauthorized aliens as defined therein. Should CONTRACTOR so employ unauthorized aliens for the performance of work and/or services covered by this Agreement, and should the Federal Government impose sanctions against the CITY for use of unauthorized aliens, CONTRACTOR hereby agrees to, and shall, hold harmless, indemnify and defend CITY for the cost of all such sanctions imposed, together with any and all costs, including attorneys' fees, incurred by the CITY in connection therewith.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 4 of 14

SECTION 6. NOTICE TO PROCEED

CONTRACTOR shall commence work on the date specified in the Notice to Proceed to be issued in writing to CONTRACTOR by the CITY and shall complete work on the PROJECT within **35** Working Days from the commencement thereof.

SECTION 7. DISCOVERY OF HAZARDOUS OR LATENT CONDITIONS

- a. CONTRACTOR shall, without disturbing the condition, notify the CITY in writing as soon as CONTRACTOR, or any SUB-CONTRACTOR, agent or employees have knowledge and reporting is possible, of the discovery of any of the following conditions:
 1. The presence of any material that the CONTRACTOR believes is hazardous waste, as defined in Section 25117 of the Health and Safety Code;
 2. Subsurface or latent physical conditions at the site differing from those indicated in the specifications; or,
 3. Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in this Agreement.
- b. Pending a determination by the CITY of appropriate action to be taken, CONTRACTOR shall provide security measures (e.g., fences) adequate to prevent the hazardous waste or physical conditions from causing bodily injury to any person.
- c. The CITY shall promptly investigate the reported conditions. If the CITY, through the City Engineer or his/her designee, and in the exercise of its sole discretion, determines that the conditions do materially differ, or do involve hazardous waste, and will cause a decrease or increase in CONTRACTOR's cost of or time required for performance of any part of the work, then the CITY shall issue a change order.
- d. In the event of a dispute between the CITY and CONTRACTOR as to whether the conditions materially differ or involve hazardous waste or cause a decrease or increase in CONTRACTOR's cost of, or time required for performance of any part of the work, CONTRACTOR shall not be excused from any schedule completion date, and shall proceed with all work to be performed under the Agreement. CONTRACTOR shall retain any and all rights which pertain to the resolution of disputes and protests between the parties.

SECTION 8. MISCELLANEOUS STATUTORY REQUIREMENTS

8.1. CONTRACTOR License.

CONTRACTOR shall possess a california CONTRACTOR's license type Class A for the performance of the Project.

8.2. Ineligible CONTRACTOR Prohibited.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 5 of 14

Any CONTRACTOR or SUB-CONTRACTOR who is ineligible to perform work on a public works project pursuant to Section 1777.1 or 1777.7 of the Labor Code is prohibited from performing work under this Agreement.

8.3. Compliance with SB 854 Registration.

This PROJECT is subject to compliance monitoring and enforcement by the Department of Industrial Relations. No prime CONTRACTOR or SUBCONTRACTOR may be awarded an Agreement for public work on a public works project (awarded on or after April 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5. CONTRACTOR will be required to post job site notices as described in 8 California Code of Regulation section 16451(d).

8.4. Trench and Pipeline Safety.

If this Agreement is for more than \$25,000 and involves excavation of any trench five feet or more in depth, CONTRACTOR shall submit a detailed plan of shoring, bracing, sloping or other provisions to be made for worker protection in accordance with Labor Code Section 6705. Such plan shall be approved by a qualified representative of the CITY.

8.5. Utility Relocation.

The CITY is responsible for removal, relocation, or protection of existing main or trunkline utilities to the extent such utilities were not identified in the invitation for bids or specifications. The CITY shall reimburse CONTRACTOR for any costs incurred in locating, repairing damage not caused by CONTRACTOR and removing or relocating such unidentified utility facilities, including equipment idled during such work. CONTRACTOR shall not be assessed liquidated damages for delay arising from the removal or relocation of such unidentified utility facilities.

8.6. Third Party Claims Notification.

The CITY shall timely notify CONTRACTOR in writing of any third party claims relating to the Agreement.

8.7. Unfair Business Practices Claims.

The CONTRACTOR or SUB-CONTRACTOR offers and agrees to assign to the CITY all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2, (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services or materials pursuant to the public works Agreement or the sub-Agreement. This assignment shall be made and become effective at the time the CITY renders final payment to CONTRACTOR without further acknowledgment by the parties. (Section 7103.5, California Public Contract Code.).

8.8. Day's Work.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 6 of 14

CONTRACTOR acknowledges that under California Labor Code sections 1810 and following, eight (8) hours of labor constitutes a legal day's work. CONTRACTOR will forfeit as a penalty to CITY the sum of \$25.00 for each worker employed in the execution of this Agreement by CONTRACTOR or any SUB-CONTRACTOR for each calendar day during which such worker is required or permitted to work more than eight (8) hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of Labor Code section 1810. (Labor Code § 1813).

8.9. Payroll Records.

CONTRACTOR shall maintain the certified payroll records required by Labor Codes Sec. 1776 and shall report such records directly to the California Labor Commissioner as required by Labor Code Sec. 1771.4. CONTRACTOR shall inform the CITY of the location of the records enumerated under Labor Code Sec. 1776, including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

8.10. Employment of Apprentices.

Nothing in this Agreement prevents CONTRACTOR or any SUB-CONTRACTOR from employing properly registered apprentices in the execution of the Agreement. CONTRACTOR is responsible for compliance with Labor Code section 1777.5 for all apprenticeable occupations. This statute requires that CONTRACTORS and SUBCONTRACTORS must submit Agreement award information to the applicable joint apprenticeship committee, must employ apprentices in apprenticeable occupations in a ratio of not less than one hour of apprentice's work for every five hours of labor performed by a journeyman (unless an exception is granted under §1777.5), must contribute to the fund or funds in each craft or trade or a like amount to the California Apprenticeship Council, and that CONTRACTORS and SUB-CONTRACTORS must not discriminate among otherwise qualified employees as apprentices solely on the ground of sex, race, religion, creed, national origin, ancestry or color. Only apprentices defined in Labor Code section 3077, who are in training under apprenticeship standards and who have written apprentice Agreements, may be employed on public works in apprenticeable occupations.

8.11. Records Audit

In accordance with Government Code, Section 8546.7, records of both the CITY and CONTRACTOR shall be subject to examination and audit by the Auditor General for a period of three (3) years after final payment.

SECTION 9. PREVAILING WAGES

a. CONTRACTOR shall pay prevailing Wage rates for this Project in accordance with the "General Wage Determination Made by the Director of Industrial Relations ("DIR") Pursuant To California Labor Code, Part 7, Chapter 1, Article 2, Sections 1770, 1773 and 1773.1", for Los Angeles County. Wage rates shall conform with those posted at the DIR website and the Project site.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 7 of 14

b. The following Labor Code sections are hereby referenced and made a part of this Agreement:

1. Section 1775 - Penalty for Failure to Comply with Prevailing Wage Rates.
2. Section 1777.4 - Apprenticeship Requirements.
3. Section 1777.5 - Apprenticeship Requirements.
4. Section 1813 - Penalty for Failure to Pay Overtime.
5. Sections 1810 and 1811 - Working Hour Restrictions.
6. Section 1775 - Payroll Records.
7. Section 1773.8 - Travel and Subsistence Pay.

SECTION 10. INDEMNITY, DEFENSE AND HOLD HARMLESS

a. CONTRACTOR shall indemnify, defend with legal counsel approved by the CITY, and hold harmless the CITY, its officers, officials, employees and volunteers from and against all liability, loss, damage, expense, cost (including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation) of every nature arising out of or in connection with CONTRACTOR's negligence, recklessness or willful misconduct in the performance of work hereunder or its failure to comply with any of its obligations contained in this Agreement, except such loss or damage which is caused by the sole or active negligence or willful misconduct of the CITY. Should conflict of interest principles preclude a single legal counsel from representing both the CITY and CONTRACTOR, or should the CITY otherwise find CONTRACTOR's legal counsel unacceptable, then CONTRACTOR shall reimburse the CITY its costs of defense, including without limitation reasonable legal counsel fees, expert fees and all other costs and fees of litigation. CONTRACTOR shall promptly pay any final judgment rendered against the CITY (and its officers, officials, employees and volunteers) with respect to claims determined by a trier of fact to have been the result of CONTRACTOR's negligent, reckless or wrongful performance. It is expressly understood and agreed that the foregoing provisions are intended to be as broad and inclusive as is permitted by the law of the State of California and will survive termination of this Agreement.

b. CONTRACTOR obligations under this section apply regardless of whether such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, or liability was caused in part or contributed to by an Indemnatee. However, without affecting the rights of the CITY under any provision of this agreement, CONTRACTOR shall not be required to indemnify and hold harmless the CITY for liability attributable to the active negligence of CITY, provided such active negligence is determined by agreement between the parties or by the findings of a court of competent jurisdiction. In instances where the CITY is shown to have been actively negligent and where the CITY'S active negligence accounts for only a percentage of the liability involved, the obligation of CONTRACTOR will be for that entire portion or percentage of liability not attributable to the active negligence of the CITY.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 8 of 14

SECTION 11. BONDS

- a. CONTRACTOR, before commencing said PROJECT, shall furnish and file with the CITY, a Performance Bond, or bonds in the sum of one hundred percent (100%) of the Agreement price thereof conditioned upon the faithful performance of this Agreement in the form attached hereto as Exhibit "B."
- b. CONTRACTOR, before commencing said PROJECT, shall furnish and file with CITY, a Payment Bond in the sum of 100% of the Agreement price, conditioned upon the payment of all labor and materials furnished in connection with this Agreement in the form attached hereto as Exhibit "C."
- c. CONTRACTOR, before commencing said PROJECT, shall furnish and file with CITY, a Warranty Bond in the amount of 50% of the Agreement price, conditioned upon the guaranty and warranty of the work and labor and materials in connection with the work performed on the Project pursuant to this Agreement in the form attached hereto as Exhibit "D."

SECTION 12. INSURANCE REQUIREMENTS

- a. Prior to commencing work hereunder, CONTRACTOR shall provide the CITY with proof of insurance naming the CITY and each of its directors, officers, agents, and employees as additional-named insureds on a policy or policies of insurance providing and maintaining the coverages set forth in the Insurance Schedule attached hereto as Exhibit A. The CITY shall have the right to hold the policies and policy renewals, and CONTRACTOR shall promptly furnish to CITY all renewal notices and all receipts of paid premiums. CITY may make proof of loss if not made promptly by CONTRACTOR.
- b. Evidence of Insurance prior to commencement. CONTRACTOR shall provide to the CITY Certificate(s) of Insurance evidencing such coverage together with copies of the required policy endorsements no later than five (5) business days prior to commencement of service and at least fifteen (15) business days prior to the expiration of any policy. Unreasonable failure to provide such evidence may be cause for termination of the Agreement as provided herein or delay the services' commencement date. The evidence of insurance shall be U.S. mail or email to:

City of Montebello
Attn: Risk Manager
1600 West Beverly Boulevard
Montebello, CA 90640
Email: GSkibar@cityofmontebello.com

SECTION 13. LIQUIDATED DAMAGES

In addition, pursuant to the authority of California Public Contract Code Section 7102, the CITY and CONTRACTOR agree that the determination of actual damages for any unreasonable delay in performance of this Agreement caused by CITY would be extremely

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 9 of 14

difficult or impractical to determine in the event of a breach of this Agreement by the CITY. Therefore, if the CITY is determined to be liable for such unreasonable delays, the CITY and its sureties shall be liable to the CONTRACTOR for the sum of five hundred dollars \$500.00 as liquidated damages for each working day of delay in the performance of any service required hereunder.

SECTION 14. DISPUTE RESOLUTION

14.1. Claims of \$375,000 or Less

a. A claim by the CONTRACTOR for a time extension, for money damages for work, or a payment disputed by the CITY must be submitted to a resolution process in accordance with Public Contract Code Sections 20104-20104.4. A summary of Sections 20104-20104.4 are as follows:

- (1) Informal negotiation between the CITY and CONTRACTOR.
- (2) Mediation with CONTRACTOR.
- (3) Court mandated Arbitration.
- (4) Court trial. If the party requesting the court trial does not prevail, then that party must pay all court costs and attorney's fees.

14.2 Public Contract Code 9204 Claims

CONTRACTOR shall comply with the procedure set forth in Public Contract Code section 9204 for any claim, as that term is defined therein, for one or more of the following: 1) a time extension, including, without limitation, for relief from damages or penalties for delay, 2) payment of money or damages arising from work done pursuant to this Agreement, and/or 3) payment of an amount disputed by the CITY under this Agreement. A summary of the provisions of Public Contract Code Section 9204 is as follows:

1. CONTRACTOR must send a claim to the CITY for a time extension, payment for work not in the Agreement, or payments disputed by the CITY by registered mail or certified mail with return receipt requested.
2. The CITY must respond within 45 days as to which claims are disputed and undisputed.
3. If claim remains in dispute, CONTRACTOR may request informal meet and confer meeting with the CITY.
4. After meet and confer, a disputed claim remaining shall be submitted to non-binding mediation.
5. All undisputed claims shall be paid within 60 days.

SECTION 15. TERMINATION.

15.1. Termination for Convenience.

The CITY may terminate this Agreement, in whole or in part, with thirty (30) days' written notice to CONTRACTOR when it is in the CITY's best interest. CONTRACTOR shall

be paid its costs, including Agreement close-out costs, and profit on work performed up to the time of termination. CONTRACTOR shall promptly submit its termination claim to the CITY to be paid the CONTRACTOR. If CONTRACTOR has any property in its possession belonging to the CITY, CONTRACTOR will account for the same, and dispose of it in the manner the CITY directs. CONTRACTOR may terminate this Agreement, in whole, with ninety (90) days' written notice to the CITY.

15.2 Termination for Default.

If at any time CONTRACTOR is determined to be in material breach of the Agreement, a Notice of Potential Breach of Agreement shall be prepared by the CITY, and will be served upon CONTRACTOR and its sureties. If CONTRACTOR continues to neglect or refuses to comply with the Agreement or with the Notice of Potential Breach of Agreement to the satisfaction of the CITY within the time specified in such Notice, the CITY shall have the authority to terminate the Agreement for this Project.

15.3 Waiver of Remedies for any Breach.

In the event that the CITY elects to waive its remedies for any breach by CONTRACTOR of any covenant, term or condition of this Agreement, such waiver by the CITY shall not limit the CITY's remedies for any succeeding breach of that or of any other term, covenant, or condition of the Agreement.

SECTION 16. CONTRACTOR'S FAILURE TO PROCURE COMPLETION OF PROJECT

In the event CONTRACTOR fails to furnish tools, equipment, or labor in the necessary quantity or quality, or fails to prosecute the work or any part thereof contemplated by this Agreement in a diligent and workmanlike manner, and if CONTRACTOR for a period of three (3) calendar days after receipt of written demand from the CITY or its designated representative to do so, fails to furnish tools, equipment, or labor in the necessary quantity or quality, and to prosecute its work and all parts thereof in a diligent and workmanlike manner, or after commencing to do so within said three (3) calendar days, fails to continue to do so; then the CITY may exclude CONTRACTOR from the premises, or any portion thereof, and take possession of said premises or any portion thereof, together with all material and equipment thereon, and may complete the work contemplated by this Agreement or any portion of said work, either by furnishing the tools, equipment, labor or material necessary, or by letting the unfinished portion of said work, or the portion taken over by the CITY to another contractor or by a combination of such methods. In any event, the procuring of the completion of said work, or the portion thereof taken over by the CITY, shall be a charge against CONTRACTOR, and may be deducted from any money due or becoming due to CONTRACTOR from the CITY, or CONTRACTOR shall pay the CITY the amount of said charge, or the portion thereof unsatisfied. The sureties provided for under this Agreement shall become liable for payment should CONTRACTOR fail to pay in full any said cost incurred by the CITY.

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 11 of 14

SECTION 17. COMPLIANCE WITH APPLICABLE LAWS

CONTRACTOR hereby promises and agrees to comply with all provisions of all applicable state and federal laws in connection with the performance of its obligations under this Agreement.

SECTION 18. NOTICE OF COMPLETION

Upon completion of the PROJECT and acceptance of same by the City Council, the CITY shall have cause to be recorded a Notice of Completion with the office of the Los Angeles County Recorder; and, after thirty-five (35) days from the date said Notice of Completion is recorded, the Director of Finance of CITY shall release the funds retained pursuant to SEC. 4 hereof; provided there have been no mechanics' liens or stop notices filed against said work which have not been paid, withdrawn or eliminated as liens against said work.

SECTION 19. AUTHORITY

Any person executing this Agreement on behalf of CONTRACTOR warrants and represents that he or she has the authority to execute this Agreement on behalf of CONTRACTOR and has the authority to bind CONTRACTOR to the performance of its obligations hereunder.

SECTION 20. ENTIRE AGREEMENT

This Agreement, including the Agreement Documents and any other documents incorporated herein by specific reference, represents the entire and integrated Agreement between the CITY and the CONTRACTOR. This Agreement supersedes all prior oral or written negotiations, representations or agreements. This Agreement may not be modified or amended, nor any provision or breach waived, except in a writing signed by both parties that expressly refers to this Agreement.

SECTION 21. ATTORNEY'S FEES AND COSTS

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

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 12 of 14

SECTION 22. INDEPENDENT CONTRACTOR

CONTRACTOR is and shall at all times remain as to the CITY, a wholly independent CONTRACTOR. Neither the CITY, nor any of its officers, employees or agents shall have control over the conduct of CONTRACTOR or any of CONTRACTOR'S officers, employees or agents, except as herein set forth. CONTRACTOR shall not at any time or in any manner represent that it or any of its officers, employees or agents are in any manner officers, employees or agents of the CITY, nor shall the CITY officers, employees or agents be deemed the officers, employees, or agents of CONTRACTOR as a result of this Agreement.

SECTION 23. NOTICE

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered via e-mail (an "Electronic Notice" as further defined below), personally or on the second (2nd) business day after the deposit thereof in the United States mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, or approvals hereunder shall be given to the following addresses or such other addresses as the Parties may designate by written notice:

To the CITY: City of Montebello
Attn: René Bobadilla, City Manager
1600 West Beverly Boulevard
Montebello, CA 90640
(323) 887-1200
Email: rbobadilla@cityofmontebello.com

With copy to: City of Montebello – Department of Public Works
Attn: James Enriquez, P.E., Director/City Engineer
1600 West Beverly Boulevard
Montebello, CA 90640
(323) 887-1462
Email: jenriquez@cityofmontebello.com

To CONTRACTOR: Manhole Adjusting, Inc
Attn: John Corcoran, President
9500 Beverly Road
Pico Rivera, CA 90660
(323) 558-800

An electronic communication ("Electronic Notice") shall be deemed written notice for purposes of this section if sent to the electronic mail address specified above. Electronic Notice shall be deemed received at the time the party sending Electronic Notice receives verification of receipt by the receiving party. Any party receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form.

SECTION 24. PROHIBITION AGAINST ASSIGNMENT

The experience, knowledge, capability and reputation of CONTRACTOR, its principals and employees were a substantial inducement for the CITY to enter into this Agreement. Neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of the CITY. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of CONTRACTOR, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release CONTRACTOR or any surety of CONTRACTOR of any liability hereunder without the express consent of the CITY.

SECTION 25. CUMULATIVE REMEDIES

The provisions of this Agreement are cumulative and in addition to and not in limitation of any rights or remedies available to the CITY.

SECTION 26. COUNTERPARTS

This Agreement may be executed in counterpart originals, duplicate originals, or both, each of which is deemed to be an original for all purposes.

[SIGNATURE PAGE TO FOLLOW]

STANDARD PUBLIC WORKS AGREEMENT NO. 4008

Page 14 of 14

IN WITNESS WHEREOF the parties hereto have caused this Agreement to be executed on the date next to their respective officers duly authorized signatures in that behalf.

CITY OF MONTEBELLO
("CITY")

MANHOLE ADJUSTING, INC
("CONTRACTOR")

By: _____
René Bobadilla, City Manager

By: _____

Date: _____

Date: _____

ATTEST:

Christopher Jimenez, City Clerk

APPROVED AS TO FORM

Arnold M. Alvarez-Glasman, City Attorney

EXHIBITS:

- Exhibit A – Insurance Requirements
- Exhibit B – Performance Bond
- Exhibit C – Labor and Materials Payment Bond
- Exhibit D – Warranty Bond

EXHIBIT "A"
INSURANCE REQUIREMENTS

On or before beginning any of the work called for by any term of this Agreement, CONTRACTOR, at its own cost and expense, shall carry, maintain for the duration of this Agreement, and provide proof thereof that is acceptable to the CITY of its procurement of the insurance specified below from insurers and under forms of insurance satisfactory in all respects to the CITY. Such insurance shall not be in derogation of CONTRACTOR's obligations to provide indemnity under this Agreement.

1. Comprehensive General Liability and Automobile Liability Insurance Coverage.

CONTRACTOR shall carry and maintain Comprehensive General Liability and Automobile Liability Insurance which provides the following:

Minimum coverage: Bodily injury limits of \$2,000,000 for each person and \$2,000,000 for each occurrence; property damage limits of \$2,000,000 for each occurrence, \$5,000,000 aggregate.

Products/Completed Operations Hazard Insurance in an amount of not less than FIVE MILLION DOLLARS (\$5,000,000);

A combined single limit policy with aggregate limits in an amount of not less than Five MILLION DOLLARS (\$5,000,000) shall be considered equivalent to the said required minimum limits set forth herein above.

If a Commercial General Liability Insurance form or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to the work to be performed under this Agreement or the general aggregate limit shall be at least twice the required occurrence limit. Such coverage shall include but shall not be limited to, protection against claims arising from bodily and personal injury, including death resulting therefrom, and damage to property resulting from activities contemplated under this Agreement, including the use of owned and non-owned real property and automobiles. Insurance coverage shall not be subject to any type of pollution exclusion or owned property exclusions.

2. Automobile Liability.

CONTRACTOR shall carry and maintain Automobile Liability Insurance which provides a minimum coverage of at least \$5,000,000 per accident for bodily injury and property damage.

3. Worker's Compensation.

CONTRACTOR shall carry and maintain worker's compensation in the amount of \$1,000,000 as required by the California Labor Code for all persons employed directly or indirectly in connection with this Agreement by CONTRACTOR. To the extent that

CONTRACTOR utilizes any SUB-CONTRACTOR for the performance of any part of the work under this Agreement, CONTRACTOR shall require and assure that such SUB-CONTRACTOR also carry and maintain worker's compensation as required by the California Labor Code for all persons directly or indirectly in connection with this Agreement.

4. Additional Insureds.

The CITY, its officers, agents and employees must be named as additional insureds or as additional loss payees in all insurance policies required by this Agreement. An endorsement to this effect shall be delivered to the CITY prior to the commencement of any work. Satisfaction of any deductible requirement shall be the responsibility of CONTRACTOR. Such insurance shall be primary and noncontributory with any other insurance maintained by the CITY.

5. Notice of Cancellation.

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

6. Severability Clause.

Each of the policies of insurance shall contain a clause substantially as follows:

The insurance afforded by this policy applies separately to each insured against whom a claim or suit is made or suit is brought, except with respect to the limit of the insurer's liability.

7. Qualifications of Insurer.

All policies of insurance shall be issued by an insurance company acceptable to the CITY and authorized to issue said policy in the State of California.

8. Approval of Insurer.

The insurance carrier providing the insurance shall be chosen by CONTRACTOR subject to approval by the CITY, provided that such approval shall not be unreasonably withheld.

9. Payment of Premiums.

All premiums on insurance policies shall be paid by CONTRACTOR making payment, when due, directly to the insurance carrier, or in a manner agreed to by the CITY.

10. Evidence of Insurance and Claims.

CONTRACTOR shall provide certificates of insurance to the CITY as evidence of

insurance coverage required herein, along with a waiver of subrogation endorsement for workers' compensation. The CITY's Risk Manager must approve insurance certificates and endorsements prior to commencement of performance. Current certification of insurance shall be kept on file with the CITY at all times during the term of this Agreement. The CITY reserves the right to require complete, certified copies of all required insurance policies, at any time.

(Use of City Bond Form is Required)

EXHIBIT "B"

**PERFORMANCE BOND
PUBLIC WORK
(CALIFORNIA)**

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, the Principal and the City of Montebello ("Obligee") have entered into a written Agreement, hereinafter called the Agreement, a copy of which is or may be attached hereto, dated the _____ day of _____, _____ referred to and made a part hereof for _____ and all appurtenant work in accordance with Project No. _____, which agreement requires the Principal to provide Obligee with this bond.

NOW THEREFORE, we, _____, as Principal, and _____, a corporation organized under the laws of _____, and duly authorized to transact business in the State of California, as Surety, are held firmly bound unto the City of _____, as Obligee, in the sum of _____ Dollars (\$_____), lawful money of the United States of America, for the payment whereof well and truly to be made the Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The address at which the Surety may be served with notices, papers and other documents is:

The address at which the Principal may be served with notices, papers and other documents is:

The condition of the foregoing obligation is such that if the Principal, his or its heirs, executors, administrators, successors or assigns, and each of his or its SUB-CONTRACTORS shall well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of said Agreement, and during the life of any guaranty required under the Agreement, and shall also well and truly perform and fulfill all the undertakings, covenants, terms, conditions, and agreements of any and all duly authorized modifications of said Agreement that may hereafter be made, then this obligation shall be void; otherwise it shall be and remain in full force and effect.

As part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the obligee in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The Surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the agreement or to the work to be performed thereunder or the

specifications accompanying the same shall in any way affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the agreement or to the work or to the specifications.

This document is signed by the respective parties on the dates next to their names.

Principal

By: _____ Date: _____

Title: _____

Surety

By: _____ Date: _____

Title: _____

I declare under penalty of perjury under the laws of the State of California that the contents of the above Faithful Performance Bond are true and correct, and that I have been duly authorized to sign this Faithful Performance Bond on behalf of Surety. This Declaration is signed on _____, in the City of _____, State of California.

--OR--

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

State of California)
County of _____)

On _____ before me, _____ (here insert name and title of the officer), personally appeared _____,

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

-- AND --

(Proof of signature authorization or power of attorney must be attached)

APPROVED AS TO FORM:

City Attorney

(Use of City Bond Form is Required)

EXHIBIT "C"
Labor and Materials Payment Bond
PUBLIC WORK (CALIFORNIA)

KNOW ALL MEN BY THESE PRESENTS:

WHEREAS, _____, as Principal, has entered into an Agreement dated _____, _____, (the "Agreement") with the City of _____ (Obligee) referred to and made a part hereof to perform the following work of public improvement, to wit:

_____ and _____ all appurtenant work in accordance with the plans and specifications for Project No. _____, which requires Principal to file this bond to secure claims made under Civil Code Sections 9550-9554..

NOW THEREFORE, we, _____, as Principal, and _____, a corporation organized under the laws of _____ and duly authorized to transact business in the State of California, as Surety, are held firmly bound unto the City of _____, as Obligee, and all SUB-CONTRACTORS, laborers, material persons and other persons employed in the performance of the referenced agreement, in the sum of _____ Dollars (\$ _____), lawful money of the United States of America, which is 100% of the amount of the Agreement, for the payment whereof well and truly to be made the Principal and Surety bind themselves, their heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

The address at which the Surety may be served with notices, papers and other documents is:

The address at which the Principal may be served with notices, papers and other documents is:

If the above bounden Principal, his or its heirs, executors, administrators, successors, assigns, or any of his or its SUB-CONTRACTORS, fails to pay for any materials, provisions, provender, or other supplies, or teams, implements or machinery, used in, upon, for or about the performance of the work agreed to be done, or for any work or labor to persons named in Section 9100 of the Civil Code, or for amounts due under the Unemployment Insurance Code with respect to such work or labor performed under the Agreement, or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the CONTRACTOR and SUB-CONTRACTORS pursuant to Section 13020 of the Unemployment Insurance Code, then the Surety on this bond will pay the same, in an amount not exceeding the sum specified in this bond, and also, in case suit is brought upon this bond, a reasonable attorney's

fee, which shall be awarded by the court to the prevailing party in said suit, said attorney's fee to be taxed as costs in said suit and to be included in the judgment herein rendered.

As part of the obligation secured hereby, the Surety shall not be exonerated or released from the obligation of the bond by any change, alteration, or modification in or of any Agreement, plans, specifications, or agreement pertaining or relating to any scheme or work of improvement or pertaining or relating to the furnishing of labor, materials, or equipment therefor, nor by any change or modification of any terms of payment or extension of the time for any payment pertaining or relating to any scheme of work of improvement, nor by any rescission or attempted rescission of the Agreement, agreement or bond, nor by any conditions precedent or subsequent in the bond attempting to limit the right of recovery of claimants otherwise entitled to recover under any such Agreement or agreement, or under the bond, nor, where the bond is given for the benefit of claimants, by any fraud practiced by any person other than the claimant seeking to recover on the bond.

This bond shall inure to the benefit of any and all persons, companies and corporations named in Civil Code Section 9100 so as to give them a right of action in a suit on this bond.

This bond is executed for the purpose of complying with the laws of the State of California designated as Title 3, Chapter 5, Payment Bond, commencing with Section 9550 of the Civil Code of the State of California and all amendments thereto, and shall inure to the benefit of any of the persons named in Section 9100 of the Civil Code of the State of California.

This document is signed by the respective parties on the dates next to their names.

Principal

By: _____ Date: _____

Title: _____

Surety

By: _____ Date: _____

Title: _____

I declare under penalty of perjury under the laws of the State of California that the contents of the above Labor and Materials Payment Bond are true and correct, and that I have been duly authorized to sign this Labor and Materials Payment Bond on behalf of Surety. This Declaration is signed on _____, in the City of _____, State of California.

--OR--

(Use of City Bond Form is Required)

EXHIBIT "D"
Warranty Bond
PUBLIC WORKS (CALIFORNIA)

WHEREAS, the City Council of the City of _____, State of California, and _____, (hereinafter designated as "Principal") have entered into a written Agreement (the "Agreement") dated _____ whereby Principal agrees to install and complete certain designated public improvements, which Agreement is hereby referred to and made a part hereof; and

WHEREAS, said Principal is required under the terms of said Agreement to furnish a bond for the guarantee and warranty of the work for a period of one (1) year following the completion and acceptance thereof against any defective work or labor done or defective materials furnished.

NOW, THEREFORE, we, the Principal and _____, a corporation organized under the laws of _____, and duly authorized to transact business in the State of California, as Surety, are held and firmly bound unto the City of _____, (hereinafter called "City"), in the penal sum _____ of _____ Dollars, (\$ _____) lawful money of the United States, which is 50% of the amount of the Agreement, for the payment of which sum well and truly to be made, we bind ourselves, our heirs, successors, executors and administrators, jointly and severally, firmly by these presents.

The address at which the Surety may be served with notices, papers and other documents is:

The address at which the Principal may be served with notices, papers and other documents is:

The condition of this obligation is such that if the above bounded principal, his or its heirs, executors, administrators, successors or assigns, shall in all things stand to and abide by, and well and truly keep and perform the covenants, conditions and provisions in the said Agreement and any alteration thereof made as therein provided, on his or their part, to be kept and performed at the time and in the manner therein specified, and in all respects according to their true intent and meaning, and shall indemnify and save harmless the CITY, its officers, agents and employees, as therein stipulated, then this obligation shall become null and void; otherwise it shall be and remain in full force and effect.

As a part of the obligation secured hereby and in addition to the face amount specified therefor, there shall be included costs and reasonable expenses and fees, including reasonable attorney's fees, incurred by the CITY in successfully enforcing such obligation, all to be taxed as costs and included in any judgment rendered.

The surety hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the Agreement or to the work to be performed thereunder or the

specifications accompanying the same shall in anywise affect its obligations on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the Agreement or to the work or to the specifications.

This document is signed by the respective parties on the dates next to their names.

Principal

By: _____ Date: _____

Title: _____

Surety

By: _____ Date: _____

Title: _____

I declare under penalty of perjury under the laws of the State of California that the contents of the above Warranty Bond are true and correct, and that I have been duly authorized to sign this Warranty Bond on behalf of Surety. This Declaration is signed on _____, in the City of _____, State of California.

--OR--

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

State of California)
)
County of _____)

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

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

WITNESS my hand and official seal.

Signature _____ (Seal)

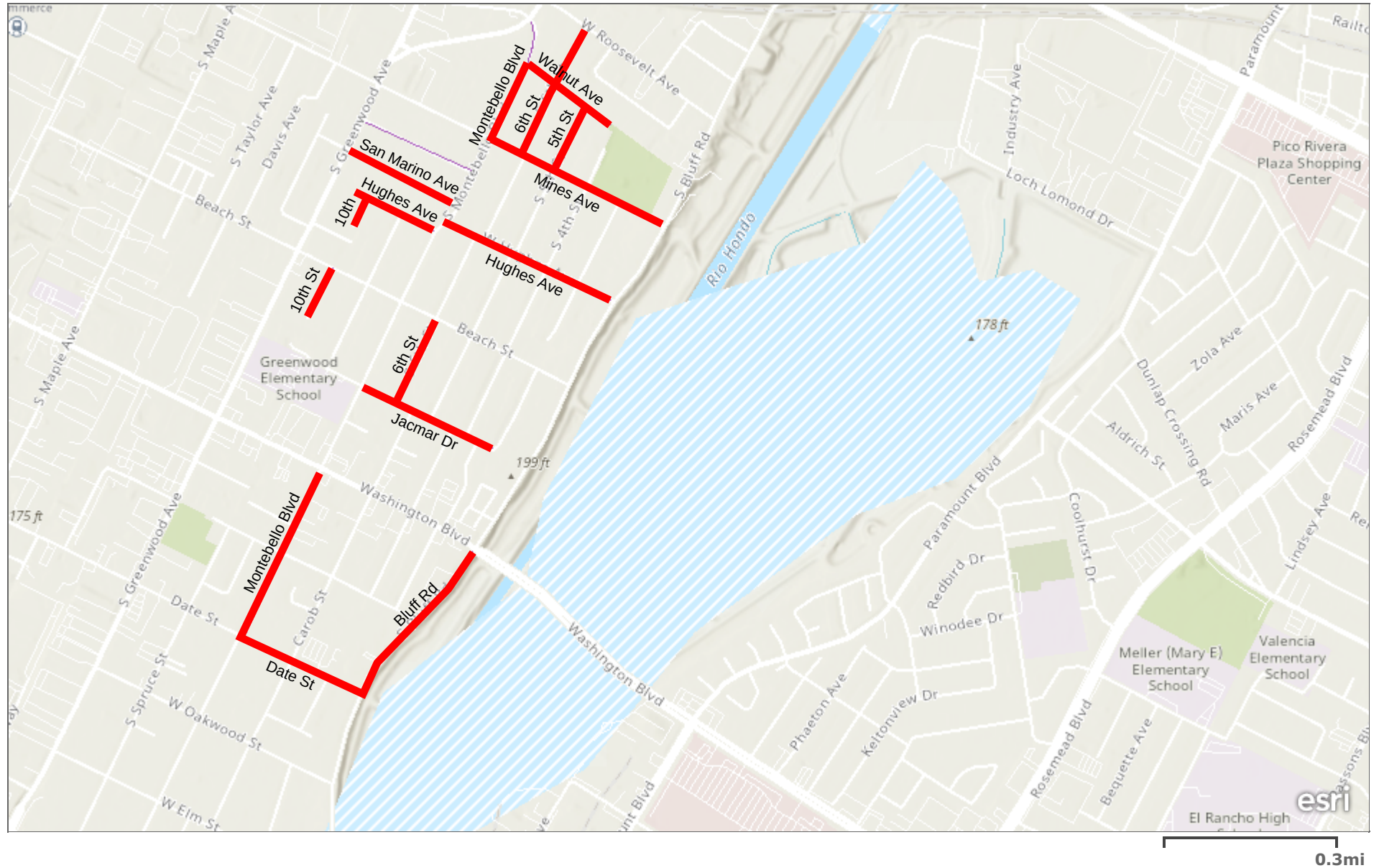
-- AND --

(Proof of signature authorization or power of attorney must be attached)

APPROVED AS TO FORM:

City Attorney

HYRAP Streets



PROJECT LOCATION MAP



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: James Enriquez, P.E., Director of Public Works / City Engineer

SUBJECT: **Approve Ninth Amendment to Agreement No. 2883 with San Gabriel Valley Water Company for the Operation of the City's Water System**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve a Ninth Amendment to Agreement No. 2883 with San Gabriel Valley Water Company for the operation of the City's Water System; and
- 2) Authorize the City Manager to execute the Amendment on behalf of the City; and
- 3) Take such additional, related, action that may be desirable.

FISCAL IMPACT

Approval of a Ninth Amendment (Attachment A) to the Water Systems Operations Agreement (Agreement No. 2883) results in no increase to the annual contract fee and remains at the current fee of \$39,422 per month or \$473,067 for one (1) year. This fee will remain effective from July 1, 2022 to June 30, 2023, unless terminated sooner by either party.

BACKGROUND

In May 2013, the City of Montebello issued a Request for Proposals (RFP) for Water System Operations to several companies and local water purveyors.

On June 20, 2013, the City received proposals from two (2) companies: Park Water Company and San Gabriel Valley Water Company.

CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 1, 2022
Approve Ninth Amendment to Agreement No. 2883 with San Gabriel Valley Water Company for the Operation of the City's Water System
Page 2 of 3

On August 14, 2013, the City Council awarded an agreement to operate and maintain its water system to San Gabriel Valley Water Company for an annual fee of \$473,067. The term of the agreement was for one (1) year with a renewal option, giving the City flexibility to extend the agreement or consider a subsequent lease of the Water System at the expiration of the one (1) year term.

On August 13, 2014, the City Council approved the First Amendment, extending the agreement for an additional one (1) year term; from October 1, 2014 to September 30, 2015.

On September 23, 2015, the City Council approved the Second Amendment, extending the agreement for an additional one (1) year term; from October 1, 2015 to September 30, 2016.

On September 14, 2016, the City Council approved the Third Amendment, extending the agreement for an additional nine (9) months term; from October 1, 2016 to June 30, 2017.

In June of 2017, the City Council approved the Fourth Amendment, extending the agreement for an additional one (1) year term; from July 1, 2017 to June 30, 2018.

In June of 2018, the City Council approved the Fifth Amendment, extending the agreement for an additional one (1) year term; from July 1, 2018 to June 30, 2019.

On June 26, 2019, the City Council approved the Sixth Amendment, extending the agreement for an additional one (1) year term; from July 1, 2019 to June 30, 2020.

On May 27, 2020, the City Council approved the Seventh Amendment, extending the agreement for an additional one (1) year term; from July 1, 2020 to June 30, 2021.

On June 9, 2021, the City Council approved the Eighth Amendment, extending the agreement for an additional one (1) year term; from July 1, 2021 to June 30, 2022.

Staff is now recommending a Ninth Amendment to amend the term of the original agreement and allow for an early termination for convenience.

ANALYSIS

San Gabriel Valley Water Company continues to perform an outstanding job in the operation and maintenance of the City's Water System. Their work has been diligent, professional and efficient. It is for these reasons that staff is recommending consideration of an extension of the agreement for an additional one (1) year, specifically until June 30, 2023, as the City considers the sale of the City Water System. Additionally, staff is recommending amending the agreement to include a "termination for convenience"

CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 1, 2022
Approve Ninth Amendment to Agreement No. 2883 with San Gabriel Valley Water Company for the Operation of the City's Water System
Page 3 of 3

clause/provision, due to the potential sale and transfer of the City's Water System, which could occur prior to the end of the Ninth Amendment term (i.e., June 30, 2023).

San Gabriel Valley Water Company is willing to continue to operate and maintain the City's Water System for an additional one (1) year at the same terms and conditions as set forth in the original Agreement, including price without any increases, as indicated in SGVWC's extension letter dated May 25, 2022 (Attachment B).

The recommended amendment is necessary in order to continue the effective and efficient operation and maintenance of the City's Water System and ensures uninterrupted service to the City's water customers.

SUMMARY

The City Council will consider approval of a proposed Ninth Amendment to Agreement No. 2883 with San Gabriel Valley Water Company for the continued operation of the City's Water System and authorize the City Manager to execute such amendment. Upon the approval of the City Council of the recommended actions, staff will coordinate with San Gabriel Valley Water Company to execute the Amendment and ensure the uninterrupted operation and maintenance of the City's Water System.

ATTACHMENTS:

- A. Attachment A – Ninth Amendment to Agreement No. 2883
- B. Attachment B – Extension Request Letter from SGVWC
- C. Attachment C – Agreement No. 2883 and Amendment Nos. 1 - 8

CITY OF MONTEBELLO
NINTH AMENDMENT
TO AGREEMENT NO. 2883
WITH SAN GABRIEL VALLEY WATER COMPANY

This Ninth Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company (**“Ninth Amendment”**) is entered into as of the ____ day of _____ 2022, by and between San Gabriel Valley Water Company (**“Contractor”**) and City of Montebello (**“City”**), with reference to the following facts:

RECITALS

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a **“Party”** and jointly as the **“Parties”**) entered into that certain Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company, dated October 1, 2013 (the **“Agreement”**), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term (**“First Amendment”**);

WHEREAS, on or about September 23, 2015, the Parties extended the Agreement for an additional one (1) year term (**“Second Amendment”**);

WHEREAS, on or about September 16, 2016, the Parties extended the Agreement for an additional nine (9) month term (**“Third Amendment”**);

WHEREAS, on or about July 1, 2017, the Parties extended the Agreement for an additional one (1) year term (**“Fourth Amendment”**);

WHEREAS, on or about July 1, 2018, the Parties extended the Agreement for an additional one (1) year term (**“Fifth Amendment”**);

WHEREAS, on or about July 1, 2019, the Parties extended the Agreement for an additional one (1) year term (**“Sixth Amendment”**);

NINTH AMENDMENT TO AGREEMENT NO. 2883

Page 2 of 3

WHEREAS, on or about July 1, 2020, the Parties extended the Agreement for an additional one (1) year term ("Seventh Amendment");

WHEREAS, on or about July 1, 2021, the Parties extended the Agreement for an additional one (1) year term ("Eighth Amendment");

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement for an additional year based upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the Term of the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This Ninth Amendment shall be deemed to have taken effect on the date of expiration of the Eighth Amendment, and shall terminate on June 30, 2023 (the "Term"). The Term of this Ninth Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this Ninth Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Compensation.

For the Term of this Ninth Amendment, Contractor shall be compensated at the annual rate set forth in the Agreement.

SECTION 3. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term, the remainder of the Agreement as amended shall remain in full force and effect and is incorporated herein in its entirety.

[SIGNATURE PAGE TO FOLLOW]

NINTH AMENDMENT TO AGREEMENT NO. 2883

Page 3 of 3

CITY OF MONTEBELLO

**SAN GABRIEL VALLEY WATER
COMPANY**

René Bobadilla, City Manager

Robert W. Nicholson, President

ATTEST:

Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

SAN GABRIEL VALLEY WATER COMPANY

May 25, 2022

City of Montebello
Mr. Rene Bobadilla
City Manager
1600 West Beverly Boulevard
Montebello CA 90540

Subject: City of Montebello, Water System Operating Agreement 2883

Dear Mr. Bobadilla:

San Gabriel Valley Water Company is pleased to request extension of the Montebello Water System Operating Agreement for an additional one (1) year term at the same annual rate (no increase) set forth in Agreement 2883. This would ensure continued uninterrupted service to the City's water customers beginning July 1, 2022 through June 30, 2023.

For your convenience, I have enclosed a draft ninth Amendment to the Agreement for your review and approval. Please call me should you have questions. We look forward to continuing providing professional quality service to the City and its customers.

Very Truly Yours,



Robert J. DiPrimio
Senior Vice President

Enclosure
Cc: James Enriquez

**CITY OF MONTEBELLO
AGREEMENT FILE NO. 2883**

**AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE
CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY**

This Agreement to Operate City Water System ("**Agreement**") is made and entered into this 1st day of October, 2013, by and between the City of Montebello, California a general law city (hereinafter referred to as the "**City**") and San Gabriel Valley Water Company, a California corporation (hereinafter referred to as the "**Operator**"). City and Operator are sometimes referred to herein individually as a "**Party**," and jointly as the "**Parties**".

RECITALS

WHEREAS, the City owns a municipal water system ("**Water System**") that produces, processes, and distributes water to specified geographic portions of the City for the use and benefit of the businesses, citizens, residences, and other utility users located within its Northern and Southern the service areas, as such service areas are more specifically described and identified in **Attachment "A"** hereto;

WHEREAS, the City desires to utilize the services of Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System, as such services are more specifically described and identified in **Attachment "B"** hereto;

WHEREAS, Operator desires to perform such services for City, and represents that it is fully qualified to perform such services by virtue of its experience, training, and expertise, and the experience, training, and expertise of its principals and employees;

NOW, THEREFORE, in consideration of performance by the Parties of the covenants and conditions contained herein this Agreement, the Parties hereto agree as follows:

AGREEMENT

1. DEFINITIONS

In addition to those terms defined elsewhere in this Agreement, the following terms as used herein shall have the meaning set forth in this Section:

"**City**" shall mean and refer to the City of Montebello, California, located in the County of Los Angeles. Except as otherwise required by law, actions required of the City under this Agreement may be performed by the City Administrator, or the City Administrator's authorized designee.

"**City Administrative Cost Component**" shall mean and refer to actual costs incurred by the City in administering this Agreement and those costs directly incurred for permitting fees, assessments, purchased water costs, energy costs, laboratory fees, and chemicals associated with providing water within the Service Areas. Procedures for determining the City Administrative Cost Component are more fully described in

Section 8 of this Agreement.

"Capital Improvements Component" shall mean and refer to that portion of the Water Rates established to generate revenue to fund scheduled and future capital improvements to the Water System. Procedures for determining the Capital Improvements Component are more fully described in Section 8 of this Agreement.

"DPH" shall mean and refer to the Department of Public Health of the State of California.

"Effective Date" shall be the date upon which the last of the Parties executes this Agreement.

"Facilities Operations" means those services which Operator is required to provide under this Agreement, as such services are more fully described in **Attachment "B"** to this Agreement.

"Operations Component" shall mean and refer to that portion of the Water Rates established to compensate Operator for operation, maintenance, and minor repairs of the Water System in compliance with the terms of this Agreement. Minor repairs means any repairs costing less than \$500 per repair. Any non-emergency repair or improvement to Water Facilities costing more than \$500 shall be documented and memorialized in an Implementation Agreement pursuant to the provisions of Section 4.B. Procedures for determining the Operations Component are more fully described in Section 8 of this Agreement.

"Operator" shall mean and refer to San Gabriel Valley Water Company, a California corporation.

"Service Areas" means that geographic portion of the City which receives water service via the Water System; its Northern and Southern Service Areas are more fully described and identified in **Attachment "A"** to this Agreement.

"Transfer Date" shall mean and refer to the date that the transfer of the Facilities Operations Contract from California Water Service Company ("**Cal Water**") for operation of the Water System occurs. The anticipated Transfer Date is October 1, 2013, but the Parties expressly understand and agree that this anticipated date is subject to reasonable extension at the sole and absolute discretion of the City.

"Transition Plan" shall mean and refer to the actions necessary to accommodate the transfer of the Water System operations from Cal Water to Operator; as such actions shall be mutually agreed to in writing by the Parties and incorporated herein as **Attachment "C"** to this Agreement.

"Water Facilities" shall mean and refer to those facilities used to produce, process, and distribute water to properties and members of the general public within the Service Areas, as the Water Facilities are more fully described and identified in **Attachment "D"** to this Agreement.

"Water Rates" shall mean and refer to those rates, charges, and fees imposed by the City on the customers of the Water Facilities.

"Water Rights" shall mean and refer to that portion of the adjudicated groundwater pumping rights owned by the City. Procedures for determining such Water Rights are described more fully in Section 7 of this

Agreement.

"Water System" means the Water Facilities and the Water Rights collectively.

"Water Year" means the period of time from July 1 of a given calendar year through June 30 of the next calendar year.

2. COOPERATION PRIOR TO TRANSFER OF THE WATER SYSTEM

The City and the Operator acknowledge and agree that the provision of uninterrupted water service is of primary importance to residences and businesses located in the Service Areas. The City and the Operator therefore agree to work cooperatively prior to the Transfer Date to assure that water service to the Service Areas will not be interrupted upon transfer of responsibility for operation of the Water System from Cal Water to the Operator. Such cooperative efforts shall include, but are not limited to, the sharing of information regarding the operation of the Water System and the billing of the Water System's customer accounts, and completing such actions as are necessary to accommodate the transfer of the Water System operations from Cal Water to the Operator in accordance with the Transition Plan. In addition, each Party shall be responsible for performing such other actions as are necessary to effectuate the transfer of the Water System operations on the Transfer Date. Except as specifically provided otherwise in this Agreement, each Party shall bear its own costs in performance of the actions required under this Section.

3. WATER FACILITIES OPERATION

A. **Operator's Obligations.** Commencing on the Transfer Date, Operator shall obtain and provide, at its sole cost and expense, all work, labor, material, and supplies required to perform the Facilities Operations as described in **Attachment "B"**; provided that Operator shall be entitled to reimbursement for those costs and expenses as set forth in Sections 8 and 11 of this Agreement. Prior to undertaking any work for which a permit is required by federal, state, or local law (including but not limited to a City encroachment, excavation, or building permit) the Operator shall apply for and obtain such permit. Any such permit that is required to be obtained from City shall be issued by the City without charge to Operator upon submission of a complete and accurate application by Operator.

B. **City's Obligations.** Commencing on the Transfer Date, the City agrees that Operator shall have such access to the Water Facilities as the Operator reasonably determines is necessary to perform the Facilities Operations; subject to Operator obtaining any necessary permit as set forth in Subsection A of this Section 3. In addition, for the Term of this Agreement as defined in Section 27 herein, the City hereby grants to the Operator a license to use the Water Facilities to satisfy and carryout Operator's obligations under this Agreement; subject to Operator's compliance with the terms and conditions for insurance as set forth in **Attachment "E"** to this Agreement.

4. IMPROVEMENT OF PHYSICAL PLANT FOR WATER SERVICE

A. **Improvements Defined.** The Parties understand and agree that the public health, safety, and welfare of the City's residents would benefit from repairs of, improvements to and alterations of the Water Facilities ("**Improvements**") used to provide water to the Service Areas, and that, during the term of this

Agreement, such improvements may, in the sole and absolute discretion of the City, be constructed. The City or the Operator shall not be obligated to construct or install any such Improvement unless and until an Implementation Agreement is first executed pursuant to the provisions of Subsection B of this Section 4.

B. Construction Management and Implementation Agreements. The Operator shall act as the City's construction manager for any Improvement(s), by overseeing and administering any such construction work, unless, in the City's reasonable determination, the Operator is prohibited from so acting by any statute, rule, regulation, or condition of financing applicable to the Improvement. The Parties shall work cooperatively to determine the nature and scope of work required for each Improvement, the schedule of performance for such work, the obligations (if any) arising from the funding source used for the Improvement (including but not limited to any obligation to comply with the Davis-Bacon Act), and any other criteria relevant to the construction of any Improvement. The nature and scope of work required for the construction of any such Improvement shall be documented and memorialized in an "Implementation Agreement," entered into by and between the Parties. All costs incurred in the design and/or construction of any Improvement shall be the sole responsibility of the City, unless otherwise agreed to in an Implementation Agreement executed by both Parties. Any Implementation Agreement shall provide for the Operator's recovery from City of its staff time expended in managing such construction on a "cost plus" basis incurred by the Operator (based upon wage rate plus benefits applicable to the relevant staff member(s)), and the Operator shall implement and utilize a job cost accounting system to accurately account for all such staff time expended in connection with any construction of Improvements pursuant to this Agreement.

5. COMPLIANCE WITH APPLICABLE LAWS

A. Operator Obligations. Except as expressly set forth in Subsection B of this Section 5, the Operator shall, at all times during the term of this Agreement, have in full force and effect all licenses required of it by law to perform the terms of this Agreement, including all necessary water system distribution and treatment certifications required by the DPH. The Operator further agrees that in carrying out any operation, maintenance, or repair of the Water Facilities and the construction of any Improvement, it will comply with all applicable Federal, State, and City statutes, regulations, ordinances, guidelines, and standards, including but not limited to any directive arising from or relating to the City's Domestic Water Supply Permit referred to in Subsection B of this Section 5, and any regulatory directive from DPH to the City relating to the Water Facilities. In particular, the Operator understands and agrees that any "construction, alteration, demolition, installation, or repair work" to any property owned by the City, including but not limited to the Water Facilities, is a "public work" as defined in Labor Code ' 1720. The Operator therefore agrees that it shall pay prevailing wage to workers employed on such public works when required by Labor Code Section 1771.

B. City Obligations. The City shall maintain at the City's sole cost and expense a Domestic Water Supply Permit from the DPH for the operation of the Water Facilities.

6. PERSONNEL AND CONTRACTORS HIRED BY THE OPERATOR

A. The Operator's Work Force. The Operator shall, at the Operator's sole cost and expense, but subject to reimbursement under Sections 8 and 11, below, engage, secure, and/or hire such persons as may, in the opinion of the Operator, be necessary to comply with the terms of this Agreement. In the event any such persons are retained by the Operator, the Operator hereby agrees that such persons shall be fully

qualified and, if required by applicable law or regulation, certified by the State of California to perform services required hereunder. The Operator further agrees that no contractor or subcontractor shall be retained by the Operator to provide any Facility Operations service, or any construction management service pursuant to the provisions of Section 4 of this Agreement, except upon the prior written approval of the City; provided, however, that the City's approval shall not be required for (i) any person hired as an employee of the Operator to perform such services or (ii) any contractor retained by the Operator to address a bona fide emergency situation occurring at a time when City offices are not open, provided the City is informed of such retention at the earliest possible time thereafter and a cost accounting of the emergency repair is provided to the City within thirty (30) days of the date of such retention.

B. Designation of Contact Person. On or prior to the Effective Date of this Agreement, Operator shall, in writing, designate and provide notice to the City of a representative of Operator to serve as a contract person on Operator's behalf in the administration and performance of this Agreement ("Contact Person"). In its sole and absolute discretion, Operator may change the Contact Person; provided Operator provides five (5) business days prior written notice of such change to the City.

7. WATER RIGHTS PROVIDED BY THE CITY TO THE OPERATOR

The City agrees to provide the Operator with the amount of Water Rights which it owns, which are necessary to serve the Service Areas at no cost to the Operator. Information presently available to the Parties shows that historically an average of 345 acre feet of Water Rights were utilized to provide water within the Service Areas in each Water Year. The Parties therefore agree that, on the Transfer Date, the City shall transfer to the Operator that amount of Water Rights equal to 345 acre feet. The City agrees it shall consider an adjustment in the amount of water rights, upon the written request of the Operator, and shall approve such adjustment if supported by satisfactory documentation as to the actual amount of water utilized within the Water Service Areas.

8. RATES, FEES AND CHARGES TO CUSTOMERS

A. Billing and Collection. The Operator shall be responsible for the billing and collection of all rates, charges, and fees imposed upon customers of the Water System. Such Water Rates shall be established by the City Council of the City, and shall be subject to applicable federal, state, and local laws, and comply with the following procedures and requirements:

1) Annual Water Rate Determination. Except for the initial Water Year following the Transfer Date, as requested by the City the Operator shall provide the City with a schedule of the proposed Water Rates for the ensuing Water Year. The Operator shall develop the proposed Water Rate schedule using its best estimates sufficient to produce in the ensuing Water Year the following revenue from customers of the Water Facilities;

(a) The City Administrative Cost Component: an amount sufficient to reimburse the City for its actual costs in administering this Agreement and the Water System, including but not limited to any fees or charges imposed by the DPH in connection with the Domestic Water Supply Permit and the costs of insurance to be provided by the City. Any utility costs associated with operating the Water System including but not limited to purchased water costs, energy costs, laboratory fees, and chemicals associated with providing

water within the Service Areas shall be included in the City Administrative Cost Component, and shall be the responsibility of the City. The City shall provide the Operator with the necessary information to determine the City Administrative Cost Component; and

(b) The Operations Component: an amount sufficient to reimburse the Operator for the actual cost of the Water System's operations. The Operations Component shall be determined by adding: (i) those costs which are anticipated to be directly incurred in the ensuing Water Year by the Operator in the Facilities Operations; and (ii) the estimated cost of any contractor or subcontractor anticipated to perform work on the Water Facilities (provided the prior written consent of the City to such cost is first obtained prior to incurring such cost); and (iii) all costs and expenses indirectly incurred by the Operator in the Facilities Operations which cannot be reasonably allocated to the Facilities Operations under subdivision (i) above, including but not limited to, administrative support, workers compensation insurance, employee salaries and benefits, utilities, and taxes

(c) The Capital Improvements Component: an amount sufficient to fund scheduled capital improvements and reserves.

B. Additional Billing Considerations

1) Reasonable Rates. The Operator shall endeavor to keep the Operations Component of the Water Rates as low as possible, yet sufficient to fund the provision of an acceptable level of service.

2) Schedule of Proposed Rates. If an Annual Rates Determination is requested by the City pursuant to Subsection (A)(1) of Section 8 of this Agreement, the schedule of proposed Water Rates submitted by Operator to the City shall be accompanied by an explanation of the method by which the proposed Water Rates were determined sufficient to show the City how the City Administrative Cost Component, Operations Component, and Capital Improvements Component were determined, including but not limited to the Operator's budget for the up-coming Water Year.

3) Consideration of Proposed Rates. The City Council shall consider the proposed adjustments to the Water Rates. Following such consideration, the City Council may, after good faith consultation with the Operator, and compliance with all applicable federal, state and local laws modify all or any of the Water Rates, provided, however, that the total Water Rate schedule shall remain such as to produce revenue that is at least equal to the sum of the City Administrative Cost Component, Operations Component, and Capital Improvements Component.

9. TRANSMITTAL OF REVENUE TO CITY

Within a reasonable time after Operator's collection of all rates, charges, and fees as required by Subsection (A) of Section 8, Operator shall forward to the City all revenues from such rates, charges, and fees (i.e. Water Rates) collected that are over-and-above that which reimburses Operator for the Operator's Component. Subject to audit by the City, Operator shall have the right to retain revenues of those rates, charges, and fees equal to the Operations Component.

10. PRIORITY OF REVENUE USE

The first priority of all monies collected by or otherwise received by Operator for service rendered and water delivered hereunder shall be to fund the Operations Component. The payment to the City of amounts for the City Administrative Component, the Capital Improvements Component shall be the second priority on any revenues received by the Operator.

11. THE OPERATOR'S COMPENSATION

Except as otherwise required by any Implementation Agreement entered into by the Parties under Paragraph (B) of Section 4 of this Agreement, the Operator's sole compensation hereunder for all work, labor, services, materials, and supplies required in the performance of this Agreement shall consist of the retention of revenues collected from operation of the Water System in amounts equal to the Operator's Component. Except all reasonable costs incurred by Operator in response to emergency repairs and also except as otherwise agreed by the Parties in an Implementation Agreement, the compensation retained by Operator for services rendered under this Agreement shall not exceed the Operation's Component. In addition to the audit rights set forth in Section 15, the City shall have the right to annually audit the costs and expenses claimed by Operator for the Operations Component. Operator shall make available its books, records, and other documents as necessary to complete said audit. If, following any such audit, the Parties cannot reach an agreement as to the proper calculation of the Operations Component, the matter shall be submitted to an independent auditor jointly selected by the Parties, whose determination will be binding.

12. INFORMATION FROM THE CITY TO THE OPERATOR

By the Transfer Date, the City agrees to provide the Operator with all existing files, plans, maps and other relevant information, including but not limited to financial information, in its possession and pertaining to operation of the Water System which the City has been provided from the current Operations Contractor, Cal Water.

13. CITY OVERSIGHT

The City Administrator of the City, or their designee, shall have the right, but not the responsibility, of general oversight of all work performed by the Operator pursuant to this Agreement, and shall be the City's agent with respect to ensuring the Operator's compliance hereunder. In conjunction with such right of supervision, the City Administrator, or their designee, shall have the right to inspect: (i) any portion of the Water System at any time, provided, however, that they shall coordinate such inspection with the Operator so as to avoid any interference with water service; and (ii) any facility of the Operator which is used by the Operator in performance of its obligations under this Agreement, provided, however, that no such inspection shall occur on less than forty eight (48) hours prior written notice, unless in the reasonable determination of the City Administrator an immediate inspection is necessary to address a public health or safety issue.

14. CUSTOMER SERVICE; RECORDS

A. Rules and Regulations Applicable to Water Service. In performing its responsibilities and obligations under this Agreement, Operator shall comply with the rules governing water service set forth in

Attachment "F" hereto and governing, amongst other matters, billing and collection practices ("Rules and Regulations"). The Rules and Regulations may be amended from time to time with the express written approval of the City.

B. General Customer Service Matters. In addition to the Rules and Regulations, in the performance of this Agreement Operation shall comply with the mandates relating to general customer service matters set forth in this subsection (B) of Section 14, except to the extent such mandates conflict with the Rules and Regulations, in which case the Rules and Regulations shall govern.

1) Telephone Access. The Operator shall maintain sufficient telephone line capacity and staffing during normal business hours to ensure that telephone calls from the Water System's customers are answered promptly. After normal business hours, telephone calls may be answered by an answering service or an automated response system, including an answering machine; provided, however, that the Operator shall also maintain an emergency toll-free telephone line on a twenty-four hour basis, including weekends and holidays, and an emergency system in connection therewith which shall be capable of responding to and repairing major malfunctions of the Water Facilities arising other than during normal business hours. The Operator shall maintain a telephone log of all complaints received regarding water service in the Service Areas.

2) Business Office. The Operator shall provide customer services at all three (3) currently existing Operator's offices located in El Monte, Whittier, and City of Industry, as well as all other Operator payment centers. Operator offices shall be open during normal business hours, and adequately staffed with customer service representatives trained to accept customers' payments and to respond to service requests, inquiries and complaints.

3) Records to be Maintained. The Operator shall maintain at its primary place of business all documents, records, reports, and correspondence prepared or received by the Operator in connection with this Agreement, including but not limited to (i) any document relating to any direct or indirect operation or maintenance cost included as part of the Operation Component, (ii) any correspondence relating to the billing or collection of Water Rates, and (iii) any complaint received by the Operator relating to water service in the Water Service Area. Upon the request of the City, the Operator shall provide the City with copies of all such documents, records, reports, and correspondence. The Operator may include the cost of providing such copies in its calculations for the Operations Component.

4) Billing and Collection. The Operator shall be responsible for all billing for service to customers in the Water Service Area and the collection of all such bills. The Operator may perform such billing and collection activities in the same manner as it performs such activities in connection with its other water operations, provided, however, that (i) any penalty for the nonpayment of charges shall not exceed the maximum permitted by California Government Code Section 54348, and (ii) if the Operator brings an action for the collection of due and unpaid bills, it shall bring such action in the name of the City unless otherwise permitted by California Government Code Section 54353. The City understands and agrees that the Operator may discontinue utility service to a customer if the customer fails to pay a bill in the period provided therefore by the Operator.

15. KEEPING ACCOUNTS, REPORTING AND ANNUAL AUDIT

A. **Separate Books Required.** The Operator shall keep separate books of accounts in connection with the Facilities Operations separate from the books of account which Operator maintains in connection with its other customers.

B. **Estimates and Reports.** By March 1 of each year, the Operator shall provide the City with (1) an estimate, based upon the Operator's experience in operating the Water System for the previous half fiscal year (July 1 to December 31), of any deviance from the calculations and determinations used to determine the Water Rate; and (2) a mid-year report of all costs paid and revenues received during the preceding half fiscal year (July 1 to December 31), and a projection of revenue expected to be received and costs anticipated to be paid for the remainder of the fiscal year (January 1 to June 30). Within ninety (90) days of the end of each fiscal year, the Operator shall provide City with an annual financial report summarizing the fiscal year's operations under this Agreement.

C. **Audit of Water System Books.** The Operator's books relating to its operation of the Water System shall be subject to annual audit by the City, provided that Operator shall be provided not less than seven (7) days prior written notice of such audit. All costs of such audit shall be borne by the City.

D. **Audit of Other Books.** The Operator's books relating to its operation of facilities other than the Water System shall be subject to audit by the City, but only to the extent necessary to review information relating to the Operations Component. The documents utilized in any such audit and the results thereof shall be kept confidential to the extent permitted by law. All costs of such audit shall be borne by the City.

E. **Retention of Records.** All books and records relating to the operation of the Water System shall be retained for such periods of time as required by law provided, however, notwithstanding any shorter periods of retention, all such books, records, and supporting detail shall be retained for a period of at least three (3) years after the expiration of the term of this Agreement.

16. RELEASE OF INFORMATION

All information provided by one Party to the other in performance of this Agreement shall be considered confidential to the extent legally possible and shall not be disclosed to any third party other than the California Public Utilities Commission, except that this provision does not apply to information in the public domain or information required to be disclosed by law.

17. TERMINATION

A. **Termination by City.** The City may terminate this Agreement in the event of default by the Operator of any term of this Agreement pursuant to the provisions of this Section 17. Prior to termination, the City shall first provide the Operator with not less than fifteen (15) days' notice and opportunity to cure the default; unless: (1) the City, in its reasonable discretion, determines that the default comprises an immediate danger to the public health, safety or welfare; or (2) if the default would adversely impact the City's ability to pay debt service on any indebtedness payable from revenues of the Water System; or (3) if the default would adversely impact the tax-exempt status of interest payable with respect to any such indebtedness. If notice to cure has been given and the default has not been cured within the time established in such notice, or if the

City determines immediate termination is required, the City may terminate this Agreement by the giving of a written "Notice of Termination" to the Operator. The Operator shall, by the date set forth in said Notice of Termination, vacate its occupancy of the City's Water Facilities and return to the City materials, equipment or supplies provided to it by the City, if any. Revenues received by the City and/or the Operator from Facilities Operations occurring through the date of termination shall be distributed in accordance with the provisions of Section 8, 9, and 10 of this Agreement; provided, however, that termination pursuant to this Section 17 shall be without prejudice to any other remedy to which the City may be entitled by law, in equity, or under this Agreement.

B. Termination by Operator. The Operator shall have the right to terminate this Agreement upon not less than six (6) months written notice to City in the event that the revenues derived from operation of the Water System are insufficient to cover the Operations Component; provided, however, that before Operator may terminate this Agreement pursuant to this Paragraph, it shall have previously notified the City in writing of the insufficiency of revenues and have met-and- conferred with the City to attempt to adjust the Water Rates to yield sufficient revenues to cover the Operators Component (including any previous revenue shortfalls), and the City shall have refused to agree to either the necessary adjustment. In addition, in the event Operator determines, in its reasonable discretion, that performance of this Agreement is not feasible, and within forty-five (45) days after giving written notice to the City a suitable revision to the Agreement cannot be agreed upon, the Operator may request in writing that the Agreement be terminated, effective not less than sixty (60) days after the City's receipt of such written notice. The Operator shall, by the date set forth in any such written notice, vacate its occupancy of the Water Facilities and return to the City equipment or supplies provided to it by the City, if any. Following such termination, revenues received by the City and/or the Operator from Facilities Operations occurring through the date of termination shall be distributed in accordance with the provisions of Section 8, 9, and 10 of this Agreement.

18. NOTICES AND DESIGNATED REPRESENTATIVES:

Any and all notices, demands, invoices and written communications between the parties hereto shall be addressed as set forth below:

City: City of Montebello
Attention: Public Works Director
1600 West Beverly Boulevard
Montebello, California 90540
Attention: City Administrator
(323) 887-1412

Operator: San Gabriel Valley Water Company
Attention: Robert DiPrimio
11142 Garvey Avenue,
El Monte, California 91733
(626) 448-6183

Formal notices, demands and communications between the City and the Operator shall be deemed sufficiently given if personally delivered or sent by registered or certified mail, postage prepaid, return receipt

requested, or by overnight courier such as Federal Express, to the addresses set forth above. Such written notices, demands and communications may be sent in the same manner to such other addresses as either Party may from time to time designate by written notice. Notice shall be deemed given on the second day following such mailing.

19. INSURANCE

The Operator shall take out and obtain at all times during the term of this Agreement insurance in the forms and amounts set forth in **Attachment "E"** and, in addition, shall maintain such additional insurance reasonably identified by the City from time to time. The Operator shall not commence work under this Agreement until it has obtained all insurance required hereunder through a company or companies acceptable to the City, nor shall the Operator allow any City-approved subcontractor to commence work on a subcontract until all insurance required of the subcontractor has been obtained. The City acknowledges and agrees that the premiums for any insurance policies required by this Agreement are a cost which Operator is entitled to include in determining the Operations Component of the Water Rates pursuant to Section 8, above.

20. INDEMNIFICATION

A. Operator's Indemnification. The Operator shall defend, indemnify, and hold harmless the City and its elected and appointed officials, officers, agents and employees from all liability from loss, damage, or injury to persons or property, to the maximum extent permitted by law, caused by the negligent or intentional acts, errors, or omissions of the Operator, and/or by the Operator's contractors or subcontractors or anyone for whom the Operator is legally liable, in the performance of this Agreement. The Operator shall include appropriate risk transfer and indemnification provisions in any agreement into which it enters regarding the operation, maintenance, repair or construction of the Water System or any component thereof.

B. City's Indemnification. The City shall defend, indemnify and hold harmless the Operator and its directors, officers, employees and shareholders from (i) all liability from loss, damage, or injury to persons or property in connection with the Water System, to the maximum extent permitted by law, that arises prior to the Transfer Date; (ii) all liability from loss, damage, or injury to persons or property, to the maximum extent permitted by law, caused by the negligent or intentional acts, errors, or omissions of the City, and/or by the City's contractors or subcontractors (other than the Operator) or anyone for whom the City is legally liable, arising out of or in connection with the Water System or this Agreement; and (iii) all liability from loss, damage, or injury to persons or property, to the maximum extent permitted by law, arising out of or in connection with exposure to and/or consumption of water provided by Operator in its performance of this Agreement ("Toxic Tort Claims"); provided however, that City shall have no obligation under this subsection (B) of Section 20 to defend, indemnify, and hold harmless Operator from any Toxic Tort Claims to the extent arising solely from or in connection with (i) willful or negligent misconduct of Operator or its directors, officers, employees, or shareholders, or (ii) the failure of Operator, its directors, officers, employees, or shareholders to perform their obligations under this Agreement.

21. ASSIGNMENT

No assignment of this Agreement or any part or obligation of performance hereunder shall be made,

either in whole or in part, by the Operator without prior written consent by the City.

22. INDEPENDENT CONTRACTOR

The Parties hereto agree that the Operator and its employees, officers, and agents are independent contractors under this Agreement and shall not be construed for any purpose to be employees of the City. The City shall not be called upon to assume any liability for the direct payment of any salary, wage, or other compensation to any person employed by the Operator performing services hereunder.

23. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with the laws of the State of California.

24. ATTORNEYS' FEES

In the event any legal proceeding is instituted to enforce any term or provision of this Agreement, the prevailing party in said legal proceeding shall be entitled to recover attorneys' fees and costs from the opposing party in an amount determined by the court to be reasonable.

25. ENTIRE AGREEMENT

This Agreement, inclusive of all Attachments and Exhibits referred to herein, supersedes any and all other Agreements, either oral or in writing, between the Parties with respect to the subject matter herein. To the extent the terms of this Agreement conflict with the terms / conditions set forth in any Attachment or Exhibit hereto, the terms of this Agreement shall control. Each Party to this Agreement acknowledges that no representation by any Party which is not embodied herein nor any other agreement, statement, or promise not contained in this Agreement shall be valid and binding. Any modification of this Agreement shall be valid only if it is in writing and signed by all Parties.

27. TERM

This Agreement shall commence upon the Effective Date above, as defined above, and shall remain and continue in full force and effect for a one year term. The Parties may agree in writing to extend the Term of this Agreement upon such terms and conditions as mutually agreed to by the Parties.

28. AUTHORITY

Each person executing this Agreement represents that he/she has full power and authority to do so and that the respective governing body of each party has approved this Agreement and authorized its execution. The parties each represent that they have the power and authority to enter into this Agreement, and that, to the best of their respective knowledge, entering into this Agreement does not violate any agreement to which either is a party.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first set forth above.



CITY OF MONTEBELLO
A general law city

Francesca Tucker-Schulyer
Francesca-Tucker Schulyer, City Administrator

ATTEST:

Daniel Hernandez
Daniel Hernandez, City Clerk

Approved As To Form:

Arnold Alvarez-Glasman
Arnold Alvarez-Glasman, City Attorney

SAN GABRIEL VALLEY WATER COMPNAY,
a California Corporation

By: Pat W. Nicholas

Its: President

ATTACHMENT A
DESCRIPTION OF SERVICE AREAS
{Behind this page.}

- 1) California Water Service (Cal Water)
- 2) City of Montebello Water Department
- 3) San Gabriel Valley Water Company
- 4) Montebello Land and Water Company
- 5) South Montebello Irrigation District



:

ATTACHMENT B

DESCRIPTION OF FACILITY OPERATIONS (I.E. SCOPE OF SERVICES)

1. General Responsibilities

1.1 Operator shall assign an experienced service manager as the single point of contact with the City, in addition to providing contact information of executive, administrative and key operating personnel that are responsible for managing and operating the water system

1.2 Operator shall operate, maintain and monitor the Water System' on a 24-hour per day, seven-days per week basis, using the City's existing SCADA system to be housed in Operator's Central Control Operators Center.

1.3 Operator shall provide an emergency telephone number to the public, the City, and other local agencies for afterhours contact to on-call personnel, to ensure prompt handling of any problem. On-call personnel shall respond within **thirty (30) minutes** of all calls for incidents that cannot be resolved over the phone.

1.4 Operator shall perform daily inspections of all sources of supply, reservoirs, pumping stations and other operating equipment.

1.5 Operator's business office shall be open, at a minimum, during the same hours and on the same business days as those observed by the City, or as mutually agreed upon to reflect local custom and practice.

1.6 Operator shall be responsible for all maintenance and Minor Repairs to the Water System. Operator shall purchase materials, labor, and services necessary to perform its obligations under this Agreement, either directly or through the City's purchasing system upon the City's approval. "Minor Repairs" means any repairs costing less than \$500 per repair, and includes replacement of belts, lubrication, electrical equipment cleaning, water pump packing, water pump rotation, painting, removal of pumps, replacement of chemical pumps, various electrical services, etc.

1.7 Operator shall be responsible for all repairs, regardless of cost, caused by Operator's negligence, its failure to perform maintenance on City-owned equipment, or its failure to perform its operation or maintenance obligations with respect to the Water System as provided under the Agreement.

1.8 Operator shall notify customers of scheduled repair work that may that may cause service outages or traffic distribution.

1.9 Operator shall operate facilities in an energy and chemically efficient manner.

1.10 Operator shall maintain all facilities with a neat and clean appearance, and shall perform routine gardening and custodial duties. All weeds and trash shall be regularly removed from all sites, and all equipment, tools, and any City assets shall be properly stored.

1.11 Operator shall implement, maintain, and continuously update a Computerized Maintenance

Management System (MMS) to track and manage routine maintenance and equipment troubleshooting and repairs.

1.12 Operator shall maintain and continuously update the City's water system Geographic Information System (GIS), and transfer all system hardware & software from Cal Water to Operator's facilities.

1.13 Operator shall provide fully equipped vehicles, with two-way radio communication, to conduct contract activities and respond to emergencies.

1.14 Operator shall provide its own computers and software as necessary to perform water system operations, permit monitoring and compliance, generate reports (including but not limited to required reports to the City and California Department of Public Health (DPH)), and general office functions.

1.15 Operator shall utilize City-provided computers and software systems for the SCADA system and GIS system, unless otherwise approved by the City. Operator shall work with the City and Cal Water to transfer all SCADA System functional elements (including hardware, software, antenna and radio equipment) from Cal Water to the Operator's facilities.

1.16 Upon a request by the City, Operator shall provide and prepare any information necessary to assist the City in the submittal of grant applications, loan requests and/or bond issues pursued by the City. Operator shall provide operational data as necessary for the planning, design and construction of water system improvements.

1.17 Operator shall manage Backflow Prevention and Cross-Connection Programs (jointly the "Programs") and shall send monthly test notices. Operator shall recommend revisions and changes to the Programs to the City, prior to implementation thereof.

1.18 Operator shall provide technical and operational support in relation to any new or existing Water System Improvement plans, including capital improvement plans, specifications, and/or contract review. Operator shall be responsible for providing appropriate personnel to attend design review and pre-construction/construction meetings and negotiations as needed.

1.19 Operator shall purchase and provide all goods, labor, and personnel necessary to perform its obligations under this Agreement. Operator shall submit vouchers with documentation for reimbursement by the City for such goods and services and to justify the Operations Component, and shall maintain records of the same, which shall be available for audit at request of the City. Where Operator is responsible for the payments of goods and services, Operator shall satisfy all debts therefore in a timely manner.

1.20 Operator shall maintain in a good and respectable condition, all Water System operating equipment, buildings, materials, supplies, documents, manuals, and specifications, and shall duly account to the City as a fiduciary thereof for each of the foregoing that are in the possessions and/or control of Operator, until such time as the City assumes responsibilities relating to the respective function for which each utilized by Operator.

1.21 Operator shall report to the City the status and conditions of its all Water System-related equipment and property in the Operator's quarterly report. Operator shall assist the City in the enforcement of warranties, guarantees, and licenses relating to such property and equipment with timely notification to the City of equipment failures.

1.22 Operator shall organize, set up, and implement a central warehouse facility for the purpose of controlling inventory of equipment and goods used in the maintenance and operation of the Water System. All inventories shall be tracked through the MMS as "goods receivable" and "goods expended" in connection with specific work order activities. Operator shall include summaries these activities in a quarterly report to the City.

1.23 The MMS system shall utilize work orders identified to date for maintenance of the facilities. Operator shall conduct an inventory of existing City assets and property, inventory such items with the City, and enter the information into the MMS system within six (6) months of taking over Water System operations. Going forward, the Operator shall continuously track, update, and maintain the inventory of the City's assets and property as part of the MMS.

1.24 Operator shall assist the City in identifying necessary Water System capital improvements and maintenance projects on an annual basis. Operator shall annually provide a detailed analysis of the Water System repair and/or replacement needs, and provide a priority listing and cost estimates to justify any budget request for the reported needs. A summary report of the necessary capital improvements, repairs and replacements shall be provided to the City by March 31st of each Fiscal Year. If such capital improvements are approved, the City will make arrangements for the planning, design and construction of said improvements. Operator shall not be relieved of its responsibility to perform the services required under this Agreement if the recommended capital improvements are not implemented by the City. However, improvements necessary to meet water quality requirements, prevent damage or injury, or comply with federal, state or local laws, including all rules and regulations shall not be optional for the City.

1.25 Operator shall be familiar with and comply with all federal, state, and local laws, rules, and regulations pertaining to and governing the operation of the City's Water System. Operator shall make the City aware, and assist the City in complying with, any such federal, state, and/or local laws, rules, and regulations applicable to operation of the Water System.

1.26 Operator shall keep copies of all correspondence to and from regulatory agencies with regard to the operation and maintenance of the Water System. Such records shall be considered property of the City, and shall specifically include, but are not be limited to, DPH reporting requirements.

1.27 Operator shall ensure sufficient staffing levels of qualified personnel at all times as necessary to perform the required duties as set forth in this Agreement.

1.28 In the event of local or regional power failures, the Operator shall physically inspect all Water System facilities within thirty (30) minutes after said power failure to ensure that all equipment, instrumentation, and the SCADA system are working properly.

1.29 Operator shall perform maintenance of the Water System as follows for all facilities:

1.29.1 All preventative maintenance including lubrications, belt replacements, electrical equipment cleaning, pumping packing, water pump rotation, painting etc.

1.29.2 Track and manage the routine maintenance and equipment troubleshooting and repairs of all Water System facilities, equipment and buildings with the MMS system. This system shall have a priority assigned to all work order items based upon a criticality review conducted by operations staff.

1.29.3 If equipment, vehicles, and instrumentation, or the SCADA system are not functioning properly, Operator shall perform industry standard troubleshooting as outlined in the applicable equipment operations and maintenance manuals. This shall include checking circuit breakers to make sure equipment have power along with other troubleshooting tasks.

1.29.4 If, after completing all troubleshooting tasks, equipment or systems are deemed to be in need of repair or replacement, Operator shall manage the repair or replacement process. Operator shall obtain quotes from vendors and subcontractors for inspection, diagnostic, repair and replacement as needed. The cost of repair or replacement shall be paid for by the City on a cost plus basis from the Operator. Operator shall obtain approval from the City prior to initiating repairs. The City may request Operator obtain additional quotes if repair costs are deemed too high.

1.30 Operator shall prepare annual Consumer Confidence Reports and mail a copy to each customer of the water system.

1.31 In the event the Operator fails to perform any service required under the Agreement or set forth in this Scope of Services in a timely manner, upon notice from the City and a reasonably opportunity to cure, the City may, at its option, independently perform the service or hire others to perform the service. In such cases, the City shall be reimbursed from the Operator's Component the costs of such time, materials, and services expended by City personnel in connection with remediating or addressing Operator's failure.

2 Water Operations Management

2.1 Water Production

2.1.1 Operator shall provide properly certified employees as required by federal, state, and local laws to provide leadership of crews for proper decision making in performing their tasks. Operator shall be responsible for training of personnel to maintain their certification and improve their knowledge.

2.1.2 Operator shall test the water and maintain chlorine residuals throughout the City. Additionally, the water shall be sampled and confirmed as acceptable for consumption per state and federal requirements. Operator to ensure testing is being done.

2.1.3 Operator has no responsibility for the quality of water received from the wells, but is responsible for providing additional treatment to allow safe drinking water being delivered to customers, if such is possible using equipment and chemical treatment systems provided by the City.

2.1.4 Operator shall operate, maintain, and make Minor Repairs to the City's municipal water well, booster

pumps, electrical equipment, and all equipment necessary to produce safe drinking water for the customers of City's Water System. Operator shall ensure that all water produced for drinking shall meet or exceed all federal, state, and local laws regulating the quality of safe drinking water through regular and required laboratory analysis. Operator shall be responsible for reporting in writing to the City and through the annual budget process, any and all major maintenance and capital improvements needed to provide a safe and sufficient supply of water for all current and planned customers.

2.1.5 Operator shall operate, manage and perform required maintenance along with Minor Repairs on the City's water wells, water storage reservoirs, and treatment facilities, and shall immediately notify the City when specialized maintenance, repairs, and work appears to be required, and shall coordinate repairs on the City's behalf.

2.1.6 Operator shall annually certify or calibrate all flow meters and repair and replace meters as necessary.

2.2 Water Transmission and Distribution Systems

2.2.1 Operator shall operate and maintain the City's water transmission and distribution systems including valves and appurtenances. Operator shall diligently respond to all service calls for water leaks, breaks, or emergencies regarding water transmission and distribution systems in no event later than thirty (30) minutes of being notified of such incidents.

2.2.2 Operator shall clean/flush the water system lines on an "as needed" basis or as directed by the City. Operator shall track the water volume used to conduct this service as part of the annual water use accounting.

2.2.3 Operator shall implement a valve survey program of mainline valves and fire hydrants. All valves shall be operated at a minimum frequency of every five (5) years; with the date of operation recorded for future reference. Each valve shall be verified to be left in proper operating position and in working condition. As part of these operations a Geographic Positioning System (GPS) reading shall be taken. The GPS valve location data shall be entered into the City's GIS system. If the valve box is not properly aligned over the valve, the City should be made aware of this, so the valve box can be scheduled for future repair.

2.2.4 Operator shall notify the City and manage emergency and other water line repairs unless otherwise directed by the City.

2.2.5 Operator shall provide technical and operational water information (non-engineering) on an annual basis or as needed for grant, loan, and bond application, preparation efforts of the City.

2.2.6 Operator shall assist City on locating water mains for Underground Service Alert (USA)-markings when asked to assist.

2.2.7 Operator shall provide a fire hydrant inspection and maintenance program that complies with American Water Works Association's Manual of Water Supply Practices, Installation, Field Testing, and Maintenance of Fire Hydrants, Volume M17. If during the course of this program's development and Operator becomes aware of an out-of-service fire hydrant, Operator shall place out-of-service bag and schedule their

repair or replacement, after City notification and approval.

2.2.8 All service line installations and service and water main repairs will be completed by City's contractor.

2.3 SCADA

2.3.1 The City's current SCADA system is based on typical industrial instrumentation, dedicated controllers, and SCADA software located at various facilities with radio line of sight communication to remote facilities. The SCADA system is provided as a tool by the City to assist the Operator in operating the facilities. When the SCADA system is periodically down for service, power outages, faulty instrumentation, and faulty communication, the Operator is still responsible for proper operation of all facilities if the SCADA system fails.

2.3.2 Operator shall provide a team of SCADA personnel to operate and maintain the City's SCADA System.

2.3.3 Operator may implement new programming, hardware, and communication to the existing SCADA system to assist in operation of facilities, with approval from the City. Such changes shall be made at Operator's cost. All additional SCADA devices shall be programmed in the same protocol of the City's existing SCADA system. Complete documentation and the latest program shall be updated and kept on file with the City.

2.3.4 Operator shall provide personnel with experience and knowledge to provide normal maintenance and troubleshooting of the SCADA system, hardware and software.

3 Emergencies

3.1 Emergencies within Operator's capabilities should be resolved in a timely manner.

3.2 In any emergency affecting the safety of persons or property, Operator shall act without written approvals, at Operator's discretion, to prevent threatened damage, injury or loss of life.

3.3 Operator shall respond to emergencies within thirty (30) minutes, and shall act appropriately in response thereto, taking all actions necessary to protect the public and prevent property damage.

4 Additional Laboratory Testing

4.1 Operator shall collect all routine water samples, deliver water samples to a certified laboratory, and submit all required reports to the California Department of Public Health.

4.2 The City may require confirmation analyses of drinking water to be performed by an independent laboratory for quality control at its own expense.

5 Hazardous Waste

Any hazardous waste generated by Operator in any of its activities shall be managed and disposed of by Operator in compliance with applicable federal and state laws.

6 Reporting Requirements

6.1 Operator shall provide the City with reports describing certain information on a periodic basis that will assist the City and Operator in managing the water system. Types, frequency, content, and format of the required reports are listed and described below. Reporting requirements are subject to change as needed for providing information of the water system operations, historical data for future needs, and capital project planning. All reports shall be in summary format with detailed information available upon request by the City. Listed below are examples of reports that are required. The listing is not inclusive and shall be changed as needed with concurrence by the City and Operator.

The reports on the Water Service function shall provide quantitative and financial information monthly as follows:

Water Service

- Number of active and inactive wells.
- Number of gallons of water produced.
- Number of gallons of storage.
- Chemical usage.
- Water Quality testing results.
- Training hours: safety, operations, equipment, and software.
- Provide names of the actual personnel trained and hours attended.
- Line repairs.
- Fire hydrant flushing.
- Customer inquiries.
- Maintenance report: corrective and preventive maintenance
- Number of personnel hours: regular, overtime, compensatory
- Time, on-call responses, and emergencies.
- Current and planned project status.

7 Billing & Collections

The Operator shall be responsible for the billing and collection of all rates, service charges and fees applied to the customers of the Water System, and shall perform bi-monthly meter reading and billing of all customer accounts. Rates, charges and fees charged customers shall be recommended annually by the Operator for consideration by the City Council of the City, pursuant to the following procedure and requirements.

Upon request by the City, Operator shall provide the City with a schedule of proposed Water Rates, Charges and Fees for the ensuing Water Year. The City and the Operator understand and agree that the rates, charges and fees must be set to ensure that the minimum required annual water revenue to fully fund the services by the Operator as outlined in this RFP. The Operator shall develop the rate, charges and fee schedules using its best estimates to produce in the ensuing Fiscal Year (July 1st through June 30th) adequate revenue from customers to operate and maintain the Water System as directed by the City.

ATTACHMENT C
TRANSITION PLAN
[Behind this page.]

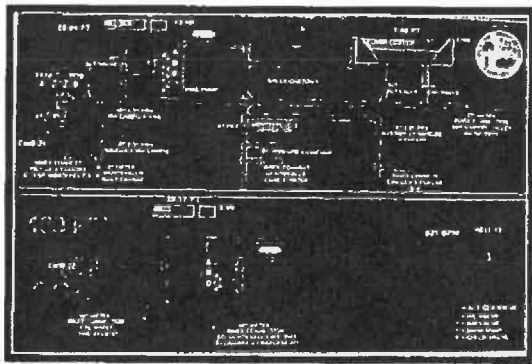
Transition Plan

San Gabriel will carefully implement the transfer and start-up of key business systems required to begin operations of the water system. San Gabriel is confident, if selected as the contract operator, that operations can commence on September 1, 2013 or some later date specified by the City so long as City and San Gabriel reach final agreement on the terms and conditions to operate the water system.

1.1 Supervisory Control and Data Acquisition ("SCADA")

This task involves coordinating with Cal Water to transfer City owned SCADA equipment and software from Cal Water's offices to San Gabriel's Central Control Operations Center located in El Monte, California. San Gabriel will schedule installation and start-up of the system and confirm telemetry and automated control systems are working properly.

Montebello Water System



San Gabriel's Central Control Room



1.2 Geographic Information System

This task involves coordinating with Cal Water to transfer City owned equipment and software from Cal Water's offices to San Gabriel's Engineering Department.

1. Move existing system (hardware & software) to San Gabriel's Engineering Department
2. Upgrade GIS ESRI software to the latest version (This assumes that Cal Water/City are current on ESRI Maintenance program)
3. Maintain GIS databases, software, and hardware
4. Update GIS Data (Convert hard copy maps or CAD drawings to GIS)
5. Update GIS data from "redlined" marked-up drawings
6. Develop and maintain industry-standard metadata

The GIS transition from Cal Water to San Gabriel's environment will require the following steps:

1. Coordinate with Cal Water and Obtain GIS Data, software, and hardware for the City's Water System GIS.
2. Inventory all GIS data layers and perform hardware and software maintenance
3. Obtain any outstanding redlines or corrections which have been identified but not incorporated to the GIS data.
4. Upgrade to ESRI ArcGIS 10.1 (Assumes that Cal Water/City are current on the ESRI GIS software maintenance plan).

5. Update the GIS data by applying data from step 4 & 5 above.
6. Create Atlas Maps of the system for field operations.
7. Obtain as-built scans and other engineering drawings of the system and link them to GIS data.
8. Develop and coordinate a program for maintenance of the GIS data as facilities are replaced or new facilities are built.
9. Configure GIS data to receive field redlining data from Computer Maintenance Management system.

1.3 Computerized Maintenance Management System

The requirements for this task include implementation and use of a computerized maintenance management system ("CMMS") to track the City's water assets and related work. This task will also keep track material used in the maintenance and operation of the water system. The CMMS system will use electronic work orders to track the work in the field. In addition, it will use information from the GIS system to aid in locating facilities and identifying related data. The CMMS system will be used for tracking and reporting on the following activities:

- General Work and Inventory Management
- Valve exercising of key valves
- Flushing (if required)
- Tracking leaks
- Managing Underground Service Alerts

The current CMMS used by Cal Water is Maximo 6.1. The transition plan for the CMMS will be implemented in two phases. Phase 1 will focus on obtaining the asset data from the existing system and to document the assets into San Gabriel's existing tracking systems. Phase 2 will focus on implementing the mobile CMMS system for use by San Gabriel's Operations and Maintenance Department. The transition plan to convert data from Cal Water's CMMS into San Gabriel's CMMS will include the following steps:

Phase 1 Transition Plan

The objective of Phase 1 is to obtain the asset data from the existing MMS system.

1. Meet with Cal Water/City to coordinate the steps below.
2. Obtain a copy of the Maximo Database for City of Montebello
3. If obtaining a copy of the database is not feasible then obtain the following data exports in MS Excel format:
 - a. Export of the Asset and Location data from Maximo (including Maximo location and asset hierarchy)
 - b. Export Work Orders -- Status (Received, Started, Hold, Complete, Transferred)
 - c. Lookup Tables
 - d. Work Requests (if used)
 - e. Job Plans (if used)
 - f. Planned and Actual Resources (if used)
 - g. Safety Plans (if used)
 - h. Time Reporting / Labor Records (if used)
 - i. Equipment / Maintenance History (if used)
 - j. Note and Long Scripts (if used)
4. Compare asset/location data with GIS
5. Update San Gabriel's existing system using the data obtained from Maximo

6. Conduct Interim work using the existing San Gabriel system

Phase 2 Transition Plan

1. Load data into Field Mapplet mobile CMMS solution.
2. Implement USA, Valve Exercising, Hydrant Flushing, Leak Tracking, and Work Order System.
3. Implement inventory control system. Populate inventory data.
4. Use Field Mapplet to collect information for all work processes in Step 2.
5. Generate required reports per requirement 4.6.
 - a. Line Repairs.
 - b. Fire Hydrant Flushing.
 - c. Maintenance Reports including valve exercising.
 - d. Personnel Hours



1.4 Billing and Customer Care System

The requirements for this task include water service billing, collections, and providing recommendations for water rates. The current billing and collection system is managed in PeopleSoft RMS/ERM 8.95 on Microsoft SQL 2008 Server for 1650 customer accounts. San Gabriel will transition the billing and collection process to its in-house system in meeting the requirements of this task. San Gabriel's in-house billing system is capable of providing billing, collection, and other customer relationship. The transition plan to setup the customer billing and collection will include the following steps:

1. Meet with Cal Water to coordinate the steps below.
2. Obtain a copy of customer and billing data from PeopleSoft for Montebello customer accounts in comma separated (or delimited) text file format. Files to include are:
 - a. Customer Accounts
 - b. Services at each Account
 - c. Meter reads at each Account (Including past 5 years)
 - d. Customer Billing and Payments for each Account (Including past 5 years)
 - e. Any special information related to Customers (e.g., Accounts with dialysis patents) and Billing and Payments (credits due, accounts overdue, etc.)
 - f. Rates information
3. Upload data into San Gabriel's billing system.
4. Conduct two periods of parallel billing to verify and validate the new system. Resolve any inconsistencies.
5. Transition to the San Gabriel's billing system.

1.5 Backflow Prevention Program

The requirements for the contractor in this task include management of the cross connection control for backflow devices installed on the City's water system. San Gabriel's in-house billing system is currently used to support the cross connection control program.

This system will be used to support the program for City's backflow devices. It is our understanding that the cross connection data for the City is currently maintained in the Tokay software version 5.2.34.0. The transition plan to setup the cross connection data in San Gabriel's billing and collection system will include the following steps:

1. Meet with Cal Water to coordinate the steps below.

2. Evaluate current program.
 - a. How many devices are managed?
 - b. How many devices have failed in the past year?
 - c. How many customer complaints due to failure of backflow devices have been reported?
 - d. How many delinquent accounts are in the system?
 - e. How is the process of inspecting repairs and requiring backflow devices are implemented
3. Develop new recommendations for the backflow program.
4. Export the following in comma separated (or delimited) text file format from Tokay Software:
 - f. List of Backflow devices from Tokay. Include Customer information for each device.
 - g. Historical testing results (including past 5 years). Latest test notices should be included in this list for each device.
 - h. List of approved testers (if available and maintained).
 - i. List of approved devices (if available and maintained).
 - j. List of Backflow Inspections
5. Import into Sab Gabriel's System
6. Issue and track test notices

ATTACHMENT D

THE WATER FACILITIES

The City's Municipal Water System (MWS) is comprised of two (2) separate service areas known as the Southern System and Northern Systems respectively. The system supplies water to residential, commercial and industrial customers. The City's system serves an estimated population of 4,240 persons through 1,533 metered service connections.

Water Supply

The City's Water System has one (1) groundwater well located its Southern Service Area, with a pumping capacity of 1,000 gallons per minute (gpm). The well has a wellhead chlorination treatment system utilizing liquid sodium hypochlorite. The City has Adjudicated Pumping Rights in the Central Basin of 386.50 Acre Feet/Year (AFY). The Southern Service Area has a Metropolitan Water District of Southern California (MET) service connection (CenB22) with a capacity of seven (7) cubic feet per second (cfs). The average annual water usage in the Southern Service Area is 345 AFY.

The Northern Service Area receives its water supply through the MET imported water system at CenB 24 with a capacity of 3.5 CFS. This water supply is treated by MET and is chloraminated. The annual water use in the Northern Service Area averages 1,300 AFY.

Water Storage & Booster Pump Stations

There are three (3) water storage reservoirs within the City's system: Gage (2.0MG) in the Southern Service Area, and Hillside (2.0MG) and Town Center (4.5MG) in the Northern Service Area. The City has two (2) Booster Pump Stations: Gage, in the Southern Service Area and Hillside in the Northern Service Area.

Transmission & Distribution Main System

The City's transmission and distribution pipelines are primarily comprised of asbestos cement pipe ("ACP"), and include some ductile iron pipe ("DIP"), mortar lined and coated steel pipe ("MLCP") and polyvinyl chloride ("PVC") pipe. The total length of transmission and distribution pipelines is approximately 9.6 miles in the Southern Service Area and approximately 19.4 miles in the Northern Service Area.

Meters & Services

The Water System's Meters and Services allow for the monitoring and recording of water usage by customers of the Water System.

System Monitoring and Controls

The Water System utilizes a Supervisory Control and Data Acquisition (SCADA) System for monitoring and control of the water systems' operations at its wells, reservoirs and pump station facilities.

ATTACHMENT E
INSURANCE REQUIREMENTS (SUBJECT TO CHANGE)

A. General

Prior to the Effective Date of the Agreement, and continuing throughout the Term of the Agreement, Operator shall obtain and maintain insurance in conformance with the requirements set forth herein. The Operator may use existing coverage to satisfy its obligations, provided however, if City reasonably determines that existing coverage does not meet the requirements set forth herein, Operator shall, upon written request by City, amend, supplement, or endorse the existing coverage to bring said coverage into compliance. The Operator acknowledges that the insurance coverage and policy limits set forth herein constitute the minimum amount of coverage required. Any insurance proceeds available to the City in excess of the limits and coverage required in herein and which is applicable to a given loss, will be available to the City.

B. Types and Amounts of Coverage.

The Operator shall obtain and maintain the following types and amounts of insurance:

1) Commercial General Liability Insurance using Insurance Services Office "Commercial General Liability" policy form CG 00 01 or the exact equivalent. Defense costs must be paid in addition to limits. There shall be no cross-liability for claims or suits by one insured against another. Limits are subject to review but in no event less than \$1,000,000 (One Million Dollars) per occurrence.

2) Business Auto Coverage on ISO Business Auto Coverage form CA 00 01 including symbol 1 (Any Auto) or the exact equivalent. Limits are subject to review, but in no event to be less than \$1,000,000 (One Million Dollars) per accident. If the Operator owns no vehicles, this requirement may be satisfied by a non-owned auto endorsement to the general liability policy described above. If the Operator or the Operator's employees will use personal autos in any way in performing this Agreement, the Operator shall provide evidence of personal auto liability coverage for each such person.

3) Workers' Compensation on a state-approved form providing statutory benefits as required by law with employer's liability limits no less than \$1,000,000 (One Million Dollars) per accident or disease.

4) Excess or Umbrella Liability Insurance (Over Primary) if used to meet limit requirements, shall provide coverage at least as broad as specified for the underlying coverage. Any such coverage provided under an umbrella liability policy shall include a drop down provision providing primary coverage above a maximum \$25,000 self-insured retention for liability not covered by primary but covered by the umbrella. Coverage shall be provided on a "pay on behalf" basis, with defense costs payable in addition to policy limits. The policy shall contain a provision precluding coverage for claims or suits by one insured against another. Coverage shall be applicable to the City for injury to the employees of the Operator, and its subcontractors or others involved in performance of the Agreement. The scope of coverage provided is subject to approval of the City following receipt of proof of insurance as required herein. Limits are subject to review but in no event less than \$1,000,000 per occurrence.

C. Approved Insurers.

Insurance obtained by Operator shall be written by insurers that are admitted carriers in the State of California and with an A.M. Bests Company rating of "A" or better, and a minimum financial size VII.

D. General Conditions.

The Operator and the City agree to the following with respect to insurance provided by the Operator:

1. The Operator agrees to have its insurer endorse the third party general liability coverage required herein to include as additional insured the City, its officials, employees and agents, using standard ISO endorsement No. CG 20 10 with an edition prior to 1992. The Operator also agrees to require all contractors and subcontractors to do likewise.
2. No liability insurance coverage provided to comply with this Agreement shall prohibit the Operator, or the Operator's employees or agents, from waiving the right of subrogation prior to a loss. The Operator agrees to waive subrogation rights against the City regardless of the applicability of any insurance proceeds, and to require all contractors and subcontractors to do likewise.
3. All insurance coverage and limits provided by the Operator and available or applicable to this Agreement are intended to apply to the full extent of the policies. Nothing contained in this Agreement or any other agreement relating to the City or its operations limits the application of such insurance coverage.
4. None of the coverage required herein will be in compliance with these requirements if it includes any limiting endorsement of any kind that has not been first submitted to the City and approved of in writing.
5. No liability policy shall contain any provision or definition that would serve to eliminate so-called "third party action over" claims, including any exclusion for bodily injury to an employee of the insured or of any contractor or subcontractor.
6. All coverage types and limits required are subject to approval, modification and additional requirements by the City, as the need arises. The Operator shall not make any reductions in scope of coverage (e.g. elimination of contractual liability or reduction of discovery period) that may affect the City's protection without the City's prior written consent.
7. Proof of compliance with these insurance requirements, consisting of certificates of insurance evidencing all of the coverage required and an additional insured endorsement to the Operator's general liability policy, shall be delivered to the City Clerk at or prior to the execution of this Agreement. In the event such proof of any insurance is not delivered as required, or in the event such insurance is canceled at any time and no replacement

coverage is provided, the City has the right, but not the duty, to obtain any insurance it deems necessary to protect its interests under this or any other agreement and to pay the premium. Any premium so paid by the City shall be charged to and promptly paid by the Operator.

8. Certificate(s) are to reflect that the insurer will provide 30 days' notice to the City of any cancellation of coverage. The Operator agrees to require its insurer to modify such certificates to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, or that any party will "endeavor" (as opposed to being required) to comply with the requirements of the certificate.

9. It is acknowledged by the Parties to this Agreement that all insurance coverage required to be provided by the Operator or any subcontractor is intended to apply first and on a primary, non-contributing basis in relation to any other insurance or self-insurance available to the City.

10. The Operator agrees to ensure that subcontractors, and any other party involved with performance of this Agreement who is brought onto or involved in such performance by the Operator, shall provide the same minimum insurance coverage required of the Operator. The Operator agrees to monitor and review all such coverage and assumes all responsibility for ensuring that such coverage is provided in conformity with the requirements of this section. The Operator agrees that upon request, all agreements with subcontractors and others engaged in performance of the Agreement will be submitted to the City for review.

11. The Operator agrees not to self-insure or to use any self-insured retentions or deductibles on any portion of the insurance required herein and further agrees that it will not allow any contractor, subcontractor, or other entity or person in any way involved in the performance of this Agreement to self-insure its obligations to the City. If the Operator's existing coverage includes a deductible or self-insured retention, the deductible or self-insured retention must be declared to the City. At that time the City shall review options with the Operator, which may include reduction or elimination of the deductible or self-insured retention, substitution of other coverage, or other solutions.

12. The City reserves the right at any time during the term of this Agreement to change the amounts and types of insurance required by giving the Operator ninety (90) days' advance notice of such change.

13. For purposes of applying insurance coverage only, this Agreement will be deemed to have been executed immediately upon any party hereto taking any steps that can be deemed to be in furtherance of or towards performance of this Agreement.

14. The Operator acknowledges and agrees that any actual or alleged failure on the part of the City to inform the Operator of non-compliance with any insurance requirement in no way imposes any additional obligations on the City nor does it waive any rights hereunder in this or any other regard.

15. The Operator will renew the required coverage annually as long as the City, or its employees or agents face an exposure from operations of any type pursuant to this Agreement. This obligation applies whether or not this Agreement is canceled or terminated for any reason. Termination of this obligation is not effective until the City executes a written statement to that effect.

16. The Operator shall provide proof that policies of insurance herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Proof that such coverage has been ordered shall be submitted to the City Clerk prior to expiration. A certificate of insurance and/or additional insured endorsement as required in these specification applicable to the renewing or new coverage must be provided to the City within five (5) days of the expiration of the coverage.

17. The provisions of any Workers' Compensation Act or similar act will not limit the obligations of the Operator under this Agreement. The Operator expressly agrees not to use any statutory immunity defenses under such laws with respect to the City, its employees, officials and agents.

18. Requirements of specific coverage features or limits contained in this Attachment E. are not intended as limitations on coverage, limits or other requirements nor as a waiver of any coverage normally provided by any given policy. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue, and is not intended by any Party or insured to be limiting or all-inclusive.

19. These insurance requirements are intended to be separate and distinct from any other provision in this Agreement and are intended by the Parties hereto to be interpreted as such.

20. The Operator agrees to be responsible for ensuring that no contract used by any party involved in any way with performance of the Agreement reserves that right to charge the City or the Operator for the cost of additional insurance coverage required by this Agreement. Any such provisions are to be deleted with reference to the City. It is not the intent of the City to reimburse any third party for the cost of complying with these requirements. There shall be no recourse against the City for payment of premiums or other amounts with respect thereto.

21. The Operator agrees to provide immediate notice to the City of any loss against the Operator arising out of the work performed under this Agreement. The City assumes no obligation or liability by such notice, but has the right, but not the duty, to monitor the handling of any such claim or claims if they are likely to involve the City.

FIRST AMENDMENT TO AGREEMENT 2883

FIRST AMENDMENT TO AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY

This First Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company ("**First Amendment**") is entered into this 13th day of August, 2014 by and between San Gabriel Valley Water Company ("**Contractor**") and City of Montebello ("**City**"), with reference to the following facts:

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a "**Party**" and jointly as the "**Parties**") entered into that certain Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company, dated October 1, 2013 (the "**Agreement**"), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement based upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the Term of the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This First Amendment shall take effect on the date in which this First Amendment is fully executed by the Parties ("Effective Date"), and shall terminate on September 30, 2015 (the "Term"). The Term of this First Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this First Amendment prior to expiration of the Term or any subsequent Renewal Term as provided in Section 17 of the Agreement.

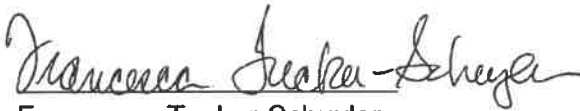
SECTION 2. Remainder of Agreement Effective

Except as expressly set forth herein with respect to the Term, the remainder of the Agreement shall remain in full force and effect, being incorporated fully herein by this reference.

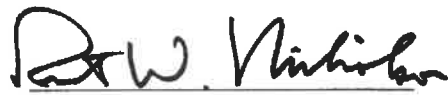
IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment as of the day and year first set forth above.

CITY OF MONTEBELLO

SAN GABRIEL VALLEY WATER
COMPANY



Francesca Tucker-Schuyler
City Administrator

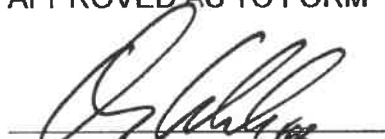


ATTEST


Daniel Hernandez, City Clerk



APPROVED AS TO FORM


Arnold M. Alvarez-Glasman,
City Attorney

ATTACHMENT F
RULES AND REGULATIONS

[Behind this page.]

AGREEMENT 2883

SECOND AMENDMENT TO AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY

This Second Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company ("Second Amendment") is entered into this 23th day of September, 2015, by and between San Gabriel Valley Water Company ("Contractor") and City of Montebello ("City"), with reference to the following facts:

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a "Party" and jointly as the "Parties") entered into that certain Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company, dated October 1, 2013 (the "Agreement"), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term ("First Amendment");

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement for an additional year based upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the Term of the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This Second Amendment shall be deemed to have taken effect on the date of expiration of the First Amendment, and shall terminate on September 30, 2016 (the "Term"). The Term of this Second Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this

Second Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Compensation.

For the Term of this Second Amendment, Contractor shall be compensated at the annual rate set forth in the Agreement.

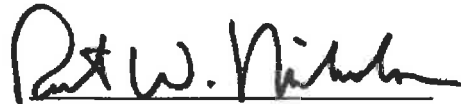
SECTION 3. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term, the remainder of the Agreement shall remain in full force and effect and is incorporated herein in its entirety.

CITY OF MONTEBELLO

SAN GABRIEL VALLEY WATER


Francesca Tucker-Schuyler
City Manager


Paul W. Nicholas

ATTEST


Daniel Hernandez, City Clerk

APPROVED AS TO FORM


Arnold M. Alvarez-Glasman
City Attorney



AGREEMENT 2883

THIRD AMENDMENT TO AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY

This Third Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company ("Third Amendment") is entered into this 14th day of September, 2016, by and between San Gabriel Valley Water Company ("Contractor") and City of Montebello ("City"), with reference to the following facts:

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a "Party" and jointly as the "Parties") entered into that certain Agreement to Operate City Water System, dated October 1, 2013 (the "Agreement"), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the City of Montebello's Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term via the First Amendment;

WHEREAS, on or about September 23, 2015, the Parties extended the Agreement for an additional one (1) year term via the Second Amendment";

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement for an additional nine (9) months based upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the Term of the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt and adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This Third Amendment shall be deemed to have taken effect on the date of expiration of the Second Amendment, and shall terminate on June 30, 2017 (the "Term"). The Term of this Third Amendment may be extended for successive terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the

Parties in writing. Nothing herein prevents either Party from terminating this Second Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Compensation.

For the Term of this Second Amendment, Contractor shall be compensated at the annual rate set forth in the Agreement.

SECTION 3. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term, the remainder of the Agreement shall remain in full force and effect and is incorporated herein in its entirety.

CITY OF MONTEBELLO

SAN GABRIEL VALLEY WATER COMPANY



Francesca Tucker-Schuyler
City Manager

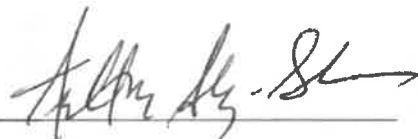


ATTEST



Irma Barajas, City Clerk

APPROVED AS TO FORM



Arnold M. Alvarez-Glasman
City Attorney

AGREEMENT 2883

FOURTH AMENDMENT TO AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY

This Fourth Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company ("**Fourth Amendment**") is entered into this 1st day of July, 2017, by and between San Gabriel Valley Water Company ("**Contractor**") and City of Montebello ("**City**"), with reference to the following facts:

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a "**Party**" and jointly as the "**Parties**") entered into that certain Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company, dated October 1, 2013 (the "**Agreement**"), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term ("**First Amendment**");

WHEREAS, on or about September 23, 2015, the Parties extended the Agreement for an additional one (1) year term ("**Second Amendment**");

WHEREAS, on or about September 16, 2016, the Parties extended the Agreement for an additional one (1) year term ("**Third Amendment**");

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement for an additional year based upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the Term of the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This Fourth Amendment shall be deemed to have taken effect on the date of expiration of the Third Amendment, and shall terminate on June 30, 2018 (the "Term"). The Term of this Fourth Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this Fourth Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Compensation.

For the Term of this Third Amendment, Contractor shall be compensated at the annual rate set forth in the Agreement.

SECTION 3. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term, the remainder of the Agreement shall remain in full force and effect and is incorporated herein in its entirety.

CITY OF MONTEBELLO

SAN GABRIEL VALLEY WATER COMPANY



Danilo Batson
Assistant City Manager

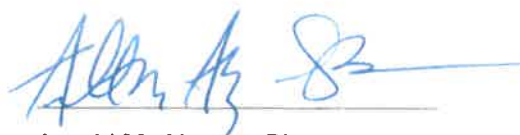


ATTEST



Irma Barajas, City Clerk

APPROVED AS TO FORM



Arnold M. Alvarez-Glasman
City Attorney



AGREEMENT 2883

FIFTH AMENDMENT TO AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY

This Fifth Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company ("**Fifth Amendment**") is entered into this 1st day of July, 2018, by and between San Gabriel Valley Water Company ("**Contractor**") and City of Montebello ("**City**"), with reference to the following facts:

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a "**Party**" and jointly as the "**Parties**") entered into that certain Agreement to Operate City Water System, dated October 1, 2013 (the "**Agreement**"), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term ("**First Amendment**");

WHEREAS, on or about September 23, 2015, the Parties extended the Agreement for an additional one (1) year term ("**Second Amendment**");

WHEREAS, on or about September 16, 2016, the Parties extended the Agreement for an additional nine (9) month term ("**Third Amendment**");

WHEREAS, on or about July 1, 2017, the Parties extended the Agreement for an additional one (1) year term ("**Fourth Amendment**");

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement for an additional year based upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the "Term" of the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This Fifth Amendment shall be deemed to have taken effect on the date of expiration of the Fourth Amendment, and shall terminate on June 30, 2019 (the "Term"). The Term of this Fifth Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this Fifth Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Compensation.

For the Term of this Fifth Amendment, Contractor shall be compensated at the annual rate set forth in the Agreement.

SECTION 3. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term, the remainder of the Agreement shall remain in full force and effect and is incorporated herein in its entirety.

CITY OF MONTEBELLO



Andrew G. Pasmant
Acting City Manager

SAN GABRIEL VALLEY WATER



Robert W. Nicholson
President

ATTEST



Irma Barajas, City Clerk

APPROVED AS TO FORM



Arnold M. Alvarez-Glasman
City Attorney

AGREEMENT 2883

SIXTH AMENDMENT TO AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY

This Sixth Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company ("**Sixth Amendment**") is entered into this 1st day of July, 2019, by and between San Gabriel Valley Water Company ("**Contractor**") and City of Montebello ("**City**"), with reference to the following facts:

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a "**Party**" and jointly as the "**Parties**") entered into that certain Agreement to Operate City Water System, dated October 1, 2013 (the "**Agreement**"), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term ("**First Amendment**");

WHEREAS, on or about September 23, 2015, the Parties extended the Agreement for an additional one (1) year term ("**Second Amendment**");

WHEREAS, on or about September 16, 2016, the Parties extended the Agreement for an additional nine (9) month term ("**Third Amendment**");

WHEREAS, on or about July 1, 2017, the Parties extended the Agreement for an additional one (1) year term ("**Fourth Amendment**");

WHEREAS, on or about July 1, 2018, the Parties extended the Agreement for an additional one (1) year term ("**Fifth Amendment**");

WHEREAS, the Parties also desire to amend the Agreement by adding the following provision or clause to the Agreement under Section 17 – Termination;

C. Termination For Convenience. The City shall have the option, at its sole discretion and without cause, to terminate this Agreement in whole, or in part, by giving thirty (30) business days' written notice to Operator. Upon the termination of this Agreement as provided herein, the City shall provide to Operator the part of Compensation which would otherwise be payable to Operator for services Operator had completed as of the date of termination, less the amount of all previous payment with respect to the Compensation. Further, upon such a termination for convenience by City, the Parties agree that Operator shall be reimbursed for any "non-refundable" costs that Operator has incurred for its services under this

Agreement, provided that: (1) such "non-refundable" costs were incurred by the Operator prior to the date of termination, and (2) that Operator provides the City with adequate proof that Operator incurred the costs, and is unable to seek a refund for such costs. Such "non-refundable" costs may include, but are not limited to, travel reservations incurred by Operator for its performance of services under this Agreement. Operator agrees to cease all work under this Agreement on or before the effective date of any notice of termination.

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement for an additional year based and amend it upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the "Term" and amend the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This Sixth Amendment shall be deemed to have taken effect on the date of expiration of the Fifth Amendment, and shall terminate on June 30, 2020 (the "Term"). The Term of this Sixth Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this Sixth Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Compensation.

For the Term of this Sixth Amendment, Contractor shall be compensated at the annual rate set forth in the Agreement.

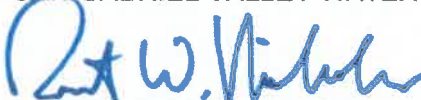
SECTION 3. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term, the remainder of the Agreement shall remain in full force and effect and is incorporated herein in its entirety.

CITY OF MONTEBELLO


Paul Talbot
Interim City Manager

SAN GABRIEL VALLEY WATER


Robert W. Nicholson
President

ATTEST



Irma Barajas, City Clerk

APPROVED AS TO FORM



Arnold M. Alvarez-Glasman
City Attorney

AGREEMENT 2883

SEVENTH AMENDMENT TO AGREEMENT TO OPERATE CITY WATER SYSTEM BY AND BETWEEN THE CITY OF MONTEBELLO AND SAN GABRIEL VALLEY WATER COMPANY

This Seventh Amendment to Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company ("**Seventh Amendment**") is entered into as of the 1st day of July, 2020, by and between San Gabriel Valley Water Company ("**Contractor**") and City of Montebello ("**City**"), with reference to the following facts:

WHEREAS, Operator and City (sometimes hereinafter individually referred to as a "**Party**" and jointly as the "**Parties**") entered into that certain Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company, dated October 1, 2013 (the "**Agreement**"), pursuant to which City retained Operator to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term ("**First Amendment**");

WHEREAS, on or about September 23, 2015, the Parties extended the Agreement for an additional one (1) year term ("**Second Amendment**");

WHEREAS, on or about September 16, 2016, the Parties extended the Agreement for an additional nine (9) month term ("**Third Amendment**");

WHEREAS, on or about July 1, 2017, the Parties extended the Agreement for an additional one (1) year term ("**Fourth Amendment**");

WHEREAS, on or about July 1, 2018, the Parties extended the Agreement for an additional one (1) year term ("**Fifth Amendment**");

WHEREAS, on or about July 1, 2019, the Parties extended the Agreement for an additional one (1) year term ("**Sixth Amendment**");

WHEREAS, the parties also desire to amend the Agreement by adding the following provision or clause to the Agreement under Section 17 – Termination;

C. Termination for Convenience. Termination For Convenience. The City shall have the option, at its sole discretion and without cause, to terminate this Agreement in whole, or in part, by giving thirty (30) business days' written notice to Operator. Upon the termination of this Agreement as provided herein, the City shall provide to Operator the part of Compensation which would otherwise be payable to Operator for services Operator had completed as of the date of termination, less the amount of all previous payment with respect to the Compensation. Further, upon such a termination for convenience by City, the Parties agree that Operator shall be reimbursed for any "non-refundable" costs that Operator has incurred for its services under this Agreement, provided that: (1) such "non-refundable" costs were incurred by the Operator prior to the date of termination, and (2) that Operator provides the City with adequate proof that Operator incurred the costs, and is unable to be seek a refund for such costs. Such "non-refundable" costs may include, but are not limited to, travel reservations incurred by Operator for its performance of services under this Agreement. Operator agrees to cease all work under this Agreement on or before the effective date of any notice of termination.

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, desire to extend the term of the Agreement for an additional year based upon conditions mutually agreeable to them; and

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the Term of the Agreement upon such terms and conditions as mutually agreed to by the Parties.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend to the Agreement as follows:

SECTION 1. Term.

This Seventh Amendment shall be deemed to have taken effect on the date of expiration of the Sixth Amendment, and shall terminate on June 30, 2021 (the "Term"). The Term of this Seventh Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this Seventh Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Compensation.

For the Term of this Seventh Amendment, Contractor shall be compensated at the annual rate set forth in the Agreement.

SECTION 3. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term, the remainder of the Agreement shall remain in full force and effect and is incorporated herein in its entirety.

CITY OF MONTEBELLO



Rene Bobadilla
City Manager

SAN GABRIEL VALLEY WATER COMPANY



Robert W. Nicholson
President

ATTEST



Irma Barajas, City Clerk



APPROVED AS TO FORM



Arnold M. Alvarez-Glasman
City Attorney

CITY OF MONTEBELLO
EIGHTH AMENDMENT
TO AGREEMENT NO. 2883
WITH SAN GABRIEL VALLEY WATER COMPANY

This Eighth Amendment to that certain Agreement to Operate the City's Water System Amendment No. 2883 ("**Eighth Amendment**"), is made and entered into this 9th day of June 2021, ("Effective Date") by and between the City of Montebello, a municipal corporation, (hereinafter referred to as "City") and the San Gabriel Valley Water Company, (hereinafter referred to as "Contractor"). City and Contractor are sometimes hereinafter individually referred to as a "Party" and jointly as the "Parties".

RECITALS

WHEREAS, Contractor and City (sometimes hereinafter individually referred to as a "Party" and jointly as the "Parties") entered into that certain Agreement to Operate City Water System by and between the City of Montebello and San Gabriel Valley Water Company, dated October 1, 2013 (the "Agreement"), pursuant to which City retained Contractor to provide for and oversee the administration, management, maintenance, improvement, and operation of the Water System as further described in the Agreement;

WHEREAS, on or about August 13, 2014, the Parties extended the Agreement for an additional one (1) year term ("First Amendment");

WHEREAS, on or about September 23, 2015, the Parties extended the Agreement for an additional one (1) year term ("Second Amendment");

WHEREAS, on or about September 16, 2016, the Parties extended the Agreement for an additional nine (9) month term ("Third Amendment");

WHEREAS, on or about July 1, 2017, the Parties extended the Agreement for an additional one (1) year term ("Fourth Amendment");

WHEREAS, on or about July 1, 2018, the Parties extended the Agreement for an additional one (1) year term ("Fifth Amendment");

WHEREAS, on or about July 1, 2019, the Parties extended the Agreement for an additional one (1) year term ("Sixth Amendment");

WHEREAS, on or about July 1, 2020, the Parties extended the Agreement for an additional one (1) year term ("Seventh Amendment");

WHEREAS, the Parties, being mutually satisfied with the other Party's performance of the Agreement, now desire to amend the Agreement with this **Eighth**

EIGHTH AMENDMENT TO AGREEMENT NO. 2883

Page 2 of 4

Amendment to extend the term of the Agreement for an additional year based upon conditions mutually agreeable to them;

WHEREAS, the parties also desire to amend the Agreement by adding a provision allowing for termination for convenience;

WHEREAS, Section 27 of the Agreement provides that the Parties may agree in writing to extend the Term of the Agreement upon such terms and conditions as mutually agreed to by the Parties; and

WHEREAS, for the reasons set forth herein, the City and Contractor desire to enter into this Eight Amendment, as set forth below.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the receipt adequacy of which is expressly acknowledged by the Parties, the Parties agree to amend the Agreement as follows:

AMENDMENTS

SECTION 1. Term.

This **Eighth Amendment** shall be deemed to have taken effect on the date of expiration of the Seventh Amendment, and which shall terminate on June 30, 2022 (the "Term"). The Term of this Eighth Amendment may be extended for successive one (1) year terms (each a "Renewal Term") upon such terms and conditions mutually agreed to by the Parties in writing. Nothing herein prevents either Party from terminating this Eighth Amendment prior to expiration of the Term hereof or any subsequent Renewal Term as provided in Section 17 of the Agreement.

SECTION 2. Termination for Convenience

The parties desire to amend the Agreement by adding the following provision to Section 17 – "Termination":

"C. Termination for Convenience. Termination For Convenience. The City shall have the option, at its sole discretion and without cause, to terminate this Agreement in whole, or in part, by giving thirty (30) business days' written notice to Contractor. Upon the termination of this Agreement as provided herein, the City shall provide to Contractor the part of Compensation which would otherwise be payable to Contractor for services Contractor had completed as of the date of termination, less the amount of all previous payment with respect to the Compensation. Further, upon such a termination for convenience by City, the Parties agree that Contractor shall be reimbursed for any "non-refundable" costs that Contractor has incurred for

EIGHTH AMENDMENT TO AGREEMENT NO. 2883

Page 3 of 4

its services under this Agreement, provided that: (1) such "non-refundable" costs were incurred by the Contractor prior to the date of termination, and (2) that Contractor provides the City with adequate proof that Contractor incurred the costs, and is unable to be seek a refund for such costs. Such "non-refundable" costs may include, but are not limited to, travel reservations incurred by Contractor for its performance of services under this Agreement. Contractor agrees to cease all work under this Agreement on or before the effective date of any notice of termination."

SECTION 3. Compensation.

For the Term of this **Eighth Amendment**, Contractor shall be compensated at the annual rate set forth in the original Agreement.

SECTION 4. Remainder of Agreement Effective.

Except as expressly amended herein with respect to the Term and Termination, the remainder of the Agreement shall remain in full force and effect and is incorporated herein in its entirety.

IN WITNESS WHEREOF, the Parties have executed this **Eighth Amendment** to the Agreement as of the Effective Date.

"CITY"

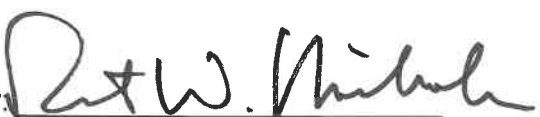
CITY OF MONTEBELLO

By: 

René Bobadilla, City Manager

"CONTRACTOR"

**SAN GABRIEL VALLEY WATER
COMPANY**

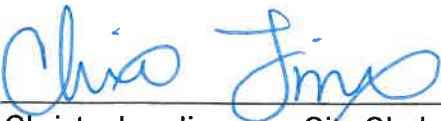
By: 

Robert W. Nicholson, President

EIGHTH AMENDMENT TO AGREEMENT NO. 2883

Page 4 of 4

ATTEST:

By: 
Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

By: 
Arnold M. Alvarez-Glasman, City Attorney



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: James Enriquez, Director of Public Works / City Engineer

SUBJECT: **Authorize Notice Inviting Bids – Montebello Municipal Golf Course Renovation Project (CP No. 894)**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve the Plans, Specifications, and Estimate (PS&E) for the Montebello Municipal Golf Course Renovation Project – Phase 1 (CP No. 897-1) and authorize the City Clerk to publish the Notice Inviting Bids (Attachment A); and
- 2) Approve the Plans, Specifications, and Estimate (PS&E) for the Montebello Municipal Golf Course Renovation Project – Phase 2 (CP No. 897-2) and authorize the City Clerk to publish the Notice Inviting Bids (Attachment B); and
- 3) Approve the Notice of Exemption (Attachment C) for the subject project and authorize the City Clerk to file the Notice of Exemption with Los Angeles Registrar-Recorder; and
- 4) Approve Amendment No. 2 to Agreement No. 3937 with SportFive Golf, LLC (Attachment D) for additional architectural and engineering design services in the amount not-to-exceed \$149,980; and
- 5) Award Task Order No. 3 via an Engagement Letter (Attachment E) under Master Retainer Agreement No. 3919 with AIM Consulting Services for additional Program Management Services for a not-to-exceed-fee of \$188,841; and
- 6) Amend the Fiscal Year 2022-23 budget by increasing appropriations by \$149,980 (SportFive Golf LLC) in Account No. 610-99-6040.80 (Golf Course, Engineering

Services), and \$188,841 (AIM Consulting Servings) in Account No. 610-99-6040.95 (Golf Course, Other Professional Services); and

7) Take such additional, related, action that may be desirable.

FISCAL IMPACT

The total estimated expenses for Architectural and Engineering and Program Management Services covering up to the start of construction is \$2,148,621. City Council had previously authorized a total of \$1,809,800 for these services. The original professional services agreements with SportFive Golf LLC and AIM Consulting were approved by City Council on November 10, 2021 in the amounts of \$1,238,290 and \$382,720, respectively. On May 11, 2022, Amendment No. 1 with SportFive Golf LLC was approved by the City Council, increasing the professional services agreement amount by \$188,790. The recommended action in this agenda report would approve Amendment No. 2 with SportFive Golf, LLC (\$149,980) and Task Order No. 3 with AIM Consulting (\$188,841).

The total budget and agreement authorization for additional services -- original agreement amounts plus amendments/task orders -- recommended at this time is \$2,148,621: \$1,577,060 for SportFive Golf, LLC and \$571,561 for AIM Consulting Services. The City Council is being asked to amend the Fiscal Year 2022-23 Golf Fund budget, by increasing appropriations by \$149,980 in Account No. 610-99-6040.80 (SportFive Golf, LLC) and \$188,841 in Account No. 610-99-6040.95 (AIM Consulting Services).

The architecture, engineering and project management, as well as construction costs associated with transforming the golf course will be paid utilizing bond proceeds from a future bond issuance. Currently, staff is preparing to request City Council authorization for issuance of bonds in August 2022, with the sale of bonds to follow. Prior to the issuance of any bonds, a firm construction estimate is needed in order to properly size the bonds (i.e., finance the proper amount to cover associated expenses of the project). The architectural and engineering and program management services completed to date were utilized to prepare the estimate and prepare the construction documents for bidding as well as provide project management services.

Once the financing is secured, costs associated with these services will be reimbursed by the bond proceeds. Therefore, the Golf Fund will be reimbursed accordingly. In addition, staff will create a new capital improvement fund to track all golf course improvement expenses, and bond issue revenue reimbursement.

The recommendation to award any construction contracts will follow bond issuance, in order to have proper security of funds for the next phases of golf course improvement. Subsequent action on awarding contracts will be brought for City Council consideration.

BACKGROUND

The City Council approved a *Sublessee Development and Participation Agreement* with Topgolf on March 24, 2021 for the Driving Range Relocation Project (“DRR Project”). The DRR Project is adjacent to the Montebello Municipal Golf Course Renovation Project (“GCR Project”) and is located along the Via Campo frontage of the golf course campus (See Attachment F).

The GCR Project proposes to renovate a portion of the existing Montebello Municipal Golf Course property located immediately south of the DRR Project and northwest of the Quiet Cannon event center. The GCR project area is also shown in Attachment F and is approximately 72.5 acres of the golf course campus. The proposed site plan for the project is shown in Attachment G and will replace the existing 18-hole golf course with a new and modern first-class championship golf course complex that will complement the adjacent Topgolf facility and existing hotels and Quiet Cannon event center. The project will include a new 9-hole championship golf course with a new club house and putting green complex and a new 6-hole Par 3 golf course with lights.

The construction of the Golf Course Renovation Project will be phased as follows:

- Phase 1 – Golf course rough site work construction (Civil Contractor) including rough grading, underground and utilities construction, pavement and concrete flatwork;
- Phase 2 – Golf course construction (Golf Course Contractor) including finished grading, construction of golf course features (i.e. tee boxes, fairways, greens and sand traps), turf and landscaping; and
- Phase 3 – Clubhouse construction.

Phase 1 Notice Inviting Bids – Civil Contractor

The Engineer’s Estimate for construction for Phase 1 is \$6,850,000.

The anticipated construction schedule for Phase 1 is as follows:

- | | |
|-----------------------------------|--------------------|
| • Advertise for Construction Bids | August 2, 2022 |
| • Bid Opening | August 30, 2022 |
| • Award of Contract | September 14, 2022 |
| • Start Construction | October 2022 |
| • Complete Construction | September 2023 |

The Notice Inviting Bids will be published in the local newspaper and the Green Sheet. The notice, plans and specifications will also be posted on Planet Bids through the City of Montebello’s Website, per the City’s municipal code, Chapter 3.20 et al.

Phase 2 Notice Inviting Bids – Golf Course Contractor

The Engineer's Estimate for construction for Phase 2 is \$9,500,000.

The anticipated construction schedule for Phase 2 is as follows:

- Advertise Notice Requesting Contractor Prequalification Packages August 8, 2022
- Prequalified Contractor Approval September 19, 2022
- Request for Construction Bids September 27, 2022
- Bid Opening October 25, 2022
- Award of Contract November 9, 2022
- Start Construction January 2022
- Complete Construction September 2023

Contractors for this phase will be pre-qualified in accordance with Section 20101 of the California Public Contract Code and the California Labor Commissioner's Model Questionnaire. The Notice Requesting Prequalification Packages will be published in the local newspaper, the Green Sheet, and will be posted on Planet Bids through the City of Montebello's Website. Once the prequalification process is completed, only selected contractors will receive a Notice Inviting Bids, plans and specifications. This will ensure that bids are only received from contractors meeting minimum qualifications, including recent experience building golf courses.

Phase 3 Notice Inviting Bids – Clubhouse Contractor

Authorization to publish the Notice Inviting Bids for Phase 3 is not part of this staff report. The design of Phase 3 is 65% completed and authorization will be included on a separate staff report at a later date.

SportFive Golf, LLC (Additional A&E Design Services)

On November 10, 2021, the City Council awarded Professional Services Agreement No. 3937 to SportFive Golf, LLC in the amount of \$1,238,290 for the design of the Montebello Municipal Golf Course Renovation Project. The agreement was in response to Request for Proposals (RFP) No. 22-1.

On May 11, 2022, the City Council approved Amendment No. 1 to the agreement in the amount of \$188,790 for various additional services not contemplated in the original scope of work. The design has been completed and additional design services were required to modify the site layout in order to reduce the estimated construction cost of the overall project. A professional construction estimating firm was engaged to prepare an estimate for construction based on the 65% completed project plans. The estimator concluded that the original design would exceed the total project budget available based on current construction market conditions.

As a result, the design team was tasked to revise the design to reduce the overall cost of the project and better align with the total bond financing anticipated to be available for construction. The design team developed a site plan reconfiguration (Attachment G) that resulted in a substantial reduction in earthwork quantities and opportunities to re-use the existing lakes and other features on the property while resulting in a completely renovated golf complex that will offer an improved playing experience.

This redesign required changes to most of the project drawings resulting in an aggregate additional design fee of \$149,980, but is anticipated to bring the overall project construction cost to within available funding. Therefore, a second amendment to the SportFive Golf, LLC agreement is required.

AIM Consulting Services (Additional Program Management Services)

On November 10, 2021, the City Council awarded Task Order No. 1 to AIM Consulting Services for program management services for this project in an amount not-to-exceed \$382,720. The services are billed hourly which are verified on monthly invoices. The proposed additional fee will provide budget for project management for the remaining 4 months of design. The design phase was extended due to the splitting of the project into 3 phases of construction and Phase 3 (Clubhouse construction) is anticipated to bid for construction in November 2022. Additionally, professional construction estimating services and plan review services were added to the services provided by AIM Consulting Services. The total additional cost for these services is \$188,841, hence the need to amend the agreement amount and the FY 2022-23 budget.

ENVIRONMENTAL

Pursuant to the California Environmental Quality Act (CEQA) Guidelines Section 15301, the recommended improvements are categorically exempt under Class 1(c) for existing facilities. Under CEQA, a project is exempt if the scope of work is limited to the repair, maintenance, and minor alterations of an existing facility and involves negligible or no expansion of the existing or former use. The project does not change the existing use as a golf course and, furthermore, that use is actually reduced since the project will replace an 18-hole golf course with a 9-hole golf course and a smaller 6-hole par 3 golf course.

SUMMARY

Upon approval by the City Council of the recommended actions, staff will execute the agreement amendments with SportFive Golf, LLC and AIM Consulting Services, as well as coordinate the bidding of the construction contracts.

Staff is also requesting the amendment of the FY 2022-23 budget, increasing appropriations by \$149,980 in Account No. 610-99-6040.80 (Golf Course, Engineering Services) for Amendment #2 to the SportFive Golf, LLC agreement and \$188,841 in

Authorize Notice Inviting Bids – Montebello Municipal Golf Course Renovation Project (CP No. 894)

Page 6 of 6

Account No. 610-99-6040.95 (Golf Course, Other Professional Services) for Task Order #3 to the AIM Consulting Services agreement. Upon issuance of bonds to finance construction of the entire golf course project, these expenses will be reimbursed. In addition, construction related costs will be tracked in a separate capital improvement project fund, along with bond reimbursement revenue.

ATTACHMENTS:

- A. Attachment A – Notice Inviting Bids [Phase 1 (CP No. 897-1)]
- B. Attachment B – Notice Inviting Bids [Phase 2 (CP No. 897-2)]
- C. Attachment C – Notice of Exemption
- D. Attachment D – Amendment No. 2 to Agreement No. 3937
- E. Attachment E - Engagement Letter under Master Retainer Agreement No. 3919
- F. Attachment F – Project Area Map
- G. Attachment G – Proposed Site Plan

NOTICE INVITING SEALED BIDS

FOR

Golf Course Renovation – Civil Construction

FY 2022/2023

C.P. No. 894-1

IN THE CITY OF MONTEBELLO

DATE OF BID OPENING: PUBLIC NOTICE IS HEREBY GIVEN that the City of Montebello as AGENCY, invites sealed bids for the above stated project and will receive such bids electronically **ONLY** thru PlanetBids, <https://www.cityofmontebello.com/rfp-bids/bid-opportunities.html>, by 11:00 am on Tuesday, August __, 2022. The ELECTRONIC Bid(s) will be evaluated and posted on PlanetBids, where they can be viewed publicly shortly after the bid closes.

SCOPE OF WORK: The work to be performed or executed under these specifications consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the contract documents to construct the above stated project. The general items of work include the rough grading of the site, constructing all utilities (sewer, storm drain, etc), constructing a new access road with sidewalk and curb & gutter, and other miscellaneous appurtenant work and indicated in the contract documents.

It is the intent of this contract to have the contractor perform the “Project”, and other appurtenances in accordance with the 2021 Standard Plans for Public Works Construction (SPPWC), and 2021 Standard Specifications for Public Works Construction “Greenbook.”

CONTRACT DOCUMENTS:

Copies of the contract documents and specifications are available on the City’s website at <https://www.cityofmontebello.com/rfp-bids/bid-opportunities.html>.

In order to be on the Planholder List for this project, each bidder must submit a Bidders Information Sheet thru PlanetBids. Bids will not be accepted unless the bidder is on the Planholder List. All questions from planholders, are to be posted on the website.

Questions: All questions relative to this project prior to the opening of bids shall be submitted electronically and received **no later than 12:00 p.m. on Tuesday, August __, 2022.**

PREVAILING WAGE:

Pursuant to Section 1770, et seq., of the California Labor Code, the Contractor shall pay the general prevailing rate of per diem wages as determined by the Director of the Department of Industrial Relations of the State of California for the locality where the work is to be performed. A copy of said wage rates is available on-line at: B-2 www.dir.ca.gov/dlsr/DPreWageDetermination.htm. The Contractor and any subcontractors shall pay not less than said specified rates and shall post a

copy of said wage rates at the project site. This project is funded in whole or in part with Community Development Block Grant (CDBG) funds provided by the U.S. Department of Housing and Urban Development (HUD). Federal Labor Standards Provisions, including prevailing wage requirements of the Davis-Bacon and Related Acts will be enforced. In the event of a conflict between Federal and State wages rates, the higher of the two will prevail.

LABOR COMPLIANCE:

To comply with SB 854, beginning January 1, 2015 the following applies:

1. No contractor or subcontractor may be listed on a bid proposal for public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
2. No contractor or subcontractor may be awarded a contract for public works on a public works project awarded on or after April 1, 2015, unless registered with the DIR.
3. The project is subject to compliance monitoring and enforcement by the DIR.
4. Require the prime contractor to post job site notices prescribed by regulation (regulation not created yet) or the City must post the notices itself.

The Contractor shall fill in the Department of Industrial Relations (DIR) Contractor Registration Number Form provided in the Contract Specifications submit it with the sealed Bid.

The AGENCY hereby affirmatively ensures that minority business enterprises will be afforded full opportunity to submit bids in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, sex, marital status or religion in any consideration leading to the award of contract.

In entering into a public works contract, or subcontract, to supply goods, services, or materials pursuant to a public works contract, the Contractor, or the Subcontractors, offers and agrees to assign to the awarding body all rights, title and interest in, and to, all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public work contract or the subcontract. This assignment shall be made and become effective as the time the awarding body tenders final payment to the Contractor, without further acknowledgement by the parties.

Bids must be prepared on the approved Proposal forms in conformance with the "Instructions to Bidders" and submitted in a sealed envelope plainly marked on the outside. The bid must be accompanied by certified or cashier's check, or bidder's bond, made payable to the AGENCY for an amount no less than ten percent of the amount bid.

Bidders must hold a valid California Class A Contractor's License.

No bid will be accepted from a Contractor who has not been licensed in accordance with provisions of the Business and Professions Code. The successful Contractor and his subcontractors will be required to possess business licenses from the City.

The AGENCY will deduct **five percent (5%)** retention from all progress payments as specified in Section 9-3.2 of these Specifications. The Contractor may substitute an escrow holder surety of equal value to the retention and the Contractor shall be beneficial owner of the surety and shall receive any interest thereon.

The AGENCY reserves the right to reject any or all bids, to waive any irregularity and to take all bids, under advisement for a period of sixty (60) days.

The contract period for this project is **Two Hundred Forty (240) working days** from the effective date of the Notice-to-Proceed to be issued by the City.

Publish Date: August __, 2022

BY ORDER OF: The City of Montebello, California

Alicia Fernandez, Deputy City Clerk

NOTICE INVITING SEALED BIDS

FOR

Golf Course Renovation – Golf Course Construction

FY 2022/2023

C.P. No. 894-2

IN THE CITY OF MONTEBELLO

DATE OF BID OPENING: NOTICE IS HEREBY GIVEN that the City of Montebello as AGENCY, invites sealed bids for the above stated project and will receive such bids **electronically ONLY** thru PlanetBids, <https://www.cityofmontebello.com/rfp-bids/bid-opportunities.html>, by 11:00 am on Tuesday, August __, 2022. The ELECTRONIC Bid(s) will be evaluated and posted on PlanetBids, where they can be viewed publicly shortly after the bid closes.

CONTRACTOR PREQUALIFICATION MANDATORY: This Notice Inviting Sealed Bids is distributed only to Contractors selected in response to the City’s Request for Contractor Prequalification for this project. All other bids will be unopened and will be deemed non-responsive.

SCOPE OF WORK: The work to be performed or executed under these specifications consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the contract documents to construct the above stated project. The general items of work include the precise grading, reshaping and contouring, drainage, irrigation, greens construction, bunker construction, tee construction, lake construction, cart path construction, grassing, landscape, lighting, and other miscellaneous appurtenant work indication in the contract documents.

It is the intent of this contract to have the contractor perform the “Project”, and other appurtenances in accordance with the United States Golf Association Specifications (USGA) for green construction, the 2021 Standard Plans for Public Works Construction (SPPWC), and 2021 Standard Specifications for Public Works Construction “Greenbook.”

CONTRACT DOCUMENTS:

Copies of the contract documents and specifications are available on the City’s website at <https://www.cityofmontebello.com/rfp-bids/bid-opportunities.html>.

In order to be on the Planholder List for this project, each bidder must submit a Bidders Information Sheet thru PlanetBids. Bids will not be accepted unless the bidder is on the Planholder List. All questions from planholders, are to be posted on the website.

Questions: All questions relative to this project prior to the opening of bids shall be submitted electronically and received **no later than 12:00 p.m. on Tuesday, August __, 2022.**

PREVAILING WAGE:

Pursuant to Section 1770, et seq., of the California Labor Code, the Contractor shall pay the general prevailing rate of per diem wages as determined by the Director of the Department of Industrial Relations of the State of California for the locality where the work is to be performed. A copy of said wage rates is available on-line at: B-2 www.dir.ca.gov/dlsr/DPreWageDetermination.htm. The Contractor and any subcontractors shall pay not less than said specified rates and shall post a copy of said wage rates at the project site. This project is funded in whole or in part with Community Development Block Grant (CDBG) funds provided by the U.S. Department of Housing and Urban Development (HUD). Federal Labor Standards Provisions, including prevailing wage requirements of the Davis-Bacon and Related Acts will be enforced. In the event of a conflict between Federal and State wages rates, the higher of the two will prevail.

LABOR COMPLIANCE:

To comply with SB 854, beginning January 1, 2015 the following applies:

1. No contractor or subcontractor may be listed on a bid proposal for public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations (DIR) pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
2. No contractor or subcontractor may be awarded a contract for public works on a public works project awarded on or after April 1, 2015, unless registered with the DIR.
3. The project is subject to compliance monitoring and enforcement by the DIR.
4. Require the prime contractor to post job site notices prescribed by regulation (regulation not created yet) or the City must post the notices itself.

The Contractor shall fill in the Department of Industrial Relations (DIR) Contractor Registration Number Form provided in the Contract Specifications submit it with the sealed Bid.

The AGENCY hereby affirmatively ensures that minority business enterprises will be afforded full opportunity to submit bids in response to this notice and will not be discriminated against on the basis of race, color, national origin, ancestry, sex, marital status or religion in any consideration leading to the award of contract.

In entering into a public works contract, or subcontract, to supply goods, services, or materials pursuant to a public works contract, the Contractor, or the Subcontractors, offers and agrees to assign to the awarding body all rights, title and interest in, and to, all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Section 15) or under the Cartwright Act (Chapter 2 [commencing with Section 16700] of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to the public work contract or the subcontract. This assignment shall be made and become effective as the time the awarding body tenders final payment to the Contractor, without further acknowledgement by the parties.

Bids must be prepared on the approved Proposal forms in conformance with the “Instructions to Bidders” and submitted in a sealed envelope plainly marked on the outside. The bid must be accompanied by certified or cashier’s check, or bidder’s bond, made payable to the AGENCY for an amount no less than ten percent of the amount bid.

Bidders must hold a valid California Class A or C-27 Contractor’s License.

No bid will be accepted from a Contractor who has not been licensed in accordance with provisions of the Business and Professions Code. The successful Contractor and his subcontractors will be required to possess business licenses from the City.

The AGENCY will deduct **five percent (5%)** retention from all progress payments as specified in Section 9-3.2 of these Specifications. The Contractor may substitute an escrow holder surety of equal value to the retention and the Contractor shall be beneficial owner of the surety and shall receive any interest thereon.

The AGENCY reserves the right to reject any or all bids, to waive any irregularity and to take all bids, under advisement for a period of sixty (60) days.

The contract period for this project is **Two Hundred (200) working days** from the effective date of the Notice-to-Proceed to be issued by the City.

Publish Date: August __, 2022

BY ORDER OF: The City of Montebello, California

Alicia Fernandez, Deputy City Clerk

Notice of Exemption**Appendix E**

To: Office of Planning and Research
P.O. Box 3044, Room 113
Sacramento, CA 95812-3044

County Clerk

County of: Los Angeles

12400 Imperial Highway

Norwalk, CA 90650

From: (Public Agency): City of Montebello

1600 W Beverly Blvd

Montebello, CA 90640

(Address)

Project Title: CP 894 Golf Course Renovation

Project Applicant: City of Montebello

Project Location - Specific:

Montebello Golf Course

Project Location - City: Montebello Project Location - County: Los Angeles

Description of Nature, Purpose and Beneficiaries of Project:

Renovation to existing Golf course, including grading, reshaping the greens, installing a new irrigation system and turf, an access road, sewer line, water service and storm drain replacements.

Name of Public Agency Approving Project: City of Montebello

Name of Person or Agency Carrying Out Project: James Enriquez, P.E.

Exempt Status: **(check one):**

☐ Ministerial (Sec. 21080(b)(1); 15268);

☐ Declared Emergency (Sec. 21080(b)(3); 15269(a));

☐ Emergency Project (Sec. 21080(b)(4); 15269(b)(c));

☒ Categorical Exemption. State type and section number: Class 1 - Section 15301 (c)

☐ Statutory Exemptions. State code number: _____

Reasons why project is exempt:

The project will renovate an existing 18-hole golf course resulting in a 9-hole championship golf course and a 6-hole par 3 golf course. The remnant are a of the golf course will be converted to passive use open space.

Lead Agency

Contact Person: James Enriquez, P.E. Area Code/Telephone/Extension: (323) 887-1460

If filed by applicant:

1. Attach certified document of exemption finding.

2. Has a Notice of Exemption been filed by the public agency approving the project? Yes No

Signature: _____ Date: _____ Title: Director of Public Works

Signed by Lead Agency Signed by Applicant

Authority cited: Sections 21083 and 21110, Public Resources Code.
Reference: Sections 21108, 21152, and 21152.1, Public Resources Code.

Date Received for filing at OPR: _____

**AMENDMENT NO. 2
TO PROFESSIONAL SERVICES AGREEMENT NO. 3937
BETWEEN THE CITY OF MONTEBELLO
AND SPORTFIVE GOLF, LLC**

This Amendment ("Amendment No. 2") to that certain Services Agreement No. 3937 for architectural & engineering services for the Montebello Municipal Golf Course Renovation Project dated November 16, 2021, ("Agreement"), is made as of July 27, 2022 ("Effective Date"), by and between the City of Montebello ("City"), and SPORTFIVE Golf, LLC ("CONTRACTOR"). City and CONTRACTOR are sometimes hereinafter individually referred to as a "Party" and jointly as the "Parties".

RECITALS

WHEREAS, City and the CONTRACTOR are parties to the Agreement, dated November 16, 2021, under which CONTRACTOR was awarded a professional services agreement by the City for architectural & engineering services; and

WHEREAS, City and the CONTRACTOR are parties to Amendment No. 1 to the Agreement, dated May 11, 2021, for additional architectural & engineering services; and

WHEREAS, City and CONTRACTOR now desire to amend the Agreement to expand the scope of work and increase the related compensation under the Agreement; and

NOW, THEREFORE, the parties to this Amendment No. 2 agree to amend the Agreement as follows:

SECTION 1. AMENDMENT TO SERVICES/COMPENSATION. The scope of work to the Agreement is expanded to include the following services attached hereto as the following exhibits and incorporated herein by this reference:

Exhibit "A-1": Proposal Dated June 20, 2022 – Additional architectural and engineering design services related to value engineering modifications to the design at the request of the City.

Exhibit "A-2": Proposal Dated June 20, 2022 – Increased reimbursable costs related to value engineering modifications to the design at the request of the City.

Compensation for the expanded scope of work contemplated in this Amendment No. 2 shall be as follows:

“City agrees to compensate CONTRACTOR for the expanded scope of work contemplated under Amendment No. 2 (Exhibits “A-1” through “A-2”), and CONTRACTOR agrees to accept in full satisfaction for such services an amount not-to-exceed the sum of **One Hundred Forty-Nine Thousand Nine Hundred Eighty dollars (\$149,980)**; unless a different amount is specifically approved in advance in writing by City.”

SECTION 2. EFFECT. Except as expressly modified by this Amendment No. 2, all provisions of the Agreement, shall remain in full force and effect.

SECTION 3. ENTIRE AGREEMENT. The provisions of this Amendment No. 2 shall constitute the entire agreement of the parties with respect to the subject matter included in this Amendment No. 2 and shall supersede any other agreement, understanding, or arrangement, whether written or oral, between the parties with respect to the subject matter of this Amendment No. 2.

SECTION 4. AUTHORITY. The person or persons executing this Amendment No. 2 on behalf of each of the Parties warrants and represents that he or she has the authority to execute this Amendment No. 2 on behalf of that party and has the authority to bind that party to the performance of its obligations hereunder.

IN WITNESS WHEREOF, the parties have signed this Amendment No. 2 as of the Effective Date stated in the introductory clause.

[SIGNATURES ON THE NEXT PAGE]

AMENDMENT NO. 2 TO AGREEMENT NO. 3937

Page 3 of 3

CITY OF MONTEBELLO a California
municipal corporation
("City")

By: _____
René Bobadilla, City Manager

CONTRACTOR
("CONTRACTOR")

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

ATTEST:

Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman,
City Attorney

EXHIBITS:

- Exhibit A-1
- Exhibit A-2

SPORTFIVE

June 20, 2022

City of Montebello
Mr. James Enriquez, P.E.
Director / City Engineering
1600 W. Beverly Blvd.
Montebello, CA 90640

RE: Amendment #8 – Revised Plans with Reduced Scope / Value Engineering and Miscellaneous Engineering Items and Added Scope

Dear Mr. Enriquez,

Attached is Additional Work Proposal for preparing revised plans in order to meet City's overall budget/cost for the Montebello Golf Course Project. The services and fee includes:

- (A) Revised Civil plans, Golf Course Design plans, Golf Irrigation plans, Landscape plans, Electrical plans, Lake plans and Golf Course Clubhouse plans, to incorporate a new design based on new scope and value engineering items.
- (B) Additional Civil Engineer services for recently added scope including:
 - (1) Entry Road plans changed from private to public road.
 - (2) Prepare legal and plat exhibit for Cal Water easement.
 - (3) Prepare legal and plat exhibit for a public sewer easement extension.

This is for additional design and coordination services outside of the existing SportFive Agreement with the City of Montebello.

The fees listed below (attached proposals) are from our design team:

DRC Engineering	\$65,000
Douglas Fredrikson Architects	\$35,000
SportFive/Rick Smith Design	\$24,000 *
BTG Golf (Irrigation Design)	\$4,500
Curley Cummings (Landscape)	\$4,110
PACE (Lake Design)	\$2,800

Total additional fee is \$135,410. Detailed information and a summary of projected hours and hourly rates is included. In addition to the \$135,410 fee, SportFive will add an additional five (5%) percent for coordination and management (*not including the SportFive/Rick Smith \$24,000).

**Total Fee for Amendment #8, Revised Plans with Reduced Scope / Value Engineering and
Miscellaneous Engineering Items and Added Scope - \$140,980**

If you have any questions, or require further information, please feel free to contact me any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Angus", followed by a period.

Michael Angus / SportFive



Engineering, Inc.

Civil Engineering/Land Surveying/Land Planning

160 South Old Springs Road, Ste. 210

Anaheim Hills, California 92808

Phone: 714-685-6860

Fax: 714-685-6801

June 17, 2022

Job No. 21-167

Mike Angus

Sport Five

488 Madison Avenue, 16th Floor

New York, NY 10022

480-483-9500

RE: Additional Work Authorization for Montebello Golf Course

Dear Mike,

Please find enclosed Additional Work Authorization (AWA) #2 for Montebello Golf Course 901 Via San Clemente, Montebello, CA 90640. This work authorization is intended to cover additional work requested and necessary work that was not included as part of our proposal for the Montebello Golf Course project. We appreciate the opportunity to be involved with this project and look forward to its successful completion.

Please contact me should you have any questions.

Sincerely,

Jeptha Brander, PE
Project Manager

Attachment

Scope of Services and Fees:

June 17, 2022

Job No. 21-167

Page 1 of 5

Project: Montebello Golf Course**1.0 INTRODUCTION & SCOPE OF SERVICES**

This Additional Work Authorization (AWA) is for additional engineering, survey, and dry utility coordination services related to the Montebello Golf Course. The following Scope of Services outlines the identified additional tasks required for the successful completion of the project.

Entry Road

City staff has noted the previous planned private entry road will be transitioned to a public street. DRC will update street plans as a public street plan package. Additionally, street improvement plans will be revised to reflect changes to golf clubhouse and drive entry locations.

Cal-Water Easement

During design coordination meeting with Cal-Water staff, staff noted that a separate dedicated easement (beyond common access road utility easement) would be required by Cal-Water for the proposed public water main. DRC will prepare legal and plat exhibit for use by City of Montebello to prepare necessary easement agreement with Cal-Water.

Public Sewer Easement Extension

During design development it was determined the proposed public sewer connections would not be able to connect to existing municipal sewer through existing public roads (Via Campo/Via San Clemente.) The proposed sewer line will cross Via San Clemente and continue east (across city owned parcels) for connection to existing municipal sewer located in Garfield Ave. DRC will prepare necessary additional legal and plat exhibit for the sewer.

Dry Utility Design

DRC will revise previous dry utility design to reflect relocated Golf Clubhouse location. During design development it was determined a lake pump system would be installed requiring a separate electrical service. DRC will include additional service in electrical design.

Clubhouse Plans

DRC will update clubhouse dimension control, grading plan, storm drain and utility plans to reflect revised clubhouse location. DRC will also review, revise and update Low Impact Development report. Any necessary changes to common drainage basin (currently located on Topgolf lease parcel by separate plans) will be incorporated into basin plan set. DRC will perform earthwork calculations for the new location to coordinate with the golf course designer for necessary generation of cut/fill materials.

Public Utility Plans

DRC will make updates to backbone storm drain, water, and sewer plans for revised clubhouse location.

2.0 SCOPE of SERVICES EXCEPTIONS

No additional services will be performed on the project without prior written authorization from the client. For clarification, this scope of work **does not include** the following tasks:

- Any task or services not specifically included under the Scope of Services Section above.
- Utility shutdowns (to be done by property owner)
- Utility disconnects (to be coordinated by contractor)
- Any work inside of existing buildings.
- Geophysical Utility Survey
- Potholing
- Phased construction plans, all work assumed to occur in singular period
- Bicknell Park WQMP (understood to be maintenance)
- Construction Permits
- Sewer or Water studies
- Drainage/hydrology studies beyond project property limits
- Site lighting plans and photometrics
- Fire hydrant flow test data (by water agency)
- Off-site improvement plans for street, storm drain, sewer, water, traffic signal, signing and striping, and street lighting, except as noted in the Scope of Services Section 1.0
- Any Traffic Control or Encroachment Permit Plans and Processing
- Construction staking services (available from DRC upon request)
- As-Built Plans
- Dry Utility Scope exceptions
 - Relocation/Removal/Conversion of existing on- and off-site electric, gas, telephone and CATV facilities
 - Utility conflict design review.
 - Cost Estimates
 - Applicant utility design services.
 - Temporary power and telephone service coordination.
 - Coordination relating to the acquisition of permits and/or addresses.
 - Private/public lighting design and coordination.
 - Irrigation/traffic signal/meter pedestal design and coordination.
 - Additional electric, telephone, CATV and gas work order design/phasing.

Scope of Services and Fees:

June 17, 2022

Job No. 21-167

Page 3 of 5

3.0 FEE SCHEDULE

The scope of services outlined in Section 1.0 will be completed for a fixed fee as indicated below. It is agreed and mutually understood that the tasks are interrelated and that the fee is divided into tasks solely to facilitate the preparation and approval of progress billings in accordance with terms of the agreement. The task fees shown below, plus any fees for reimbursable expenses and authorized additional services, represent the total contract amount.

Construction Documents

Task	Fixed Fee
Entry Road	\$15,000
Cal-Water Easement	\$3,000
Public Sewer Easement Extensions	\$3,000
Dry Utility Design	\$7,500
Clubhouse Plans	\$25,000
Public Utility Plans	\$11,500
Subtotal	\$65,000
Total	\$65,000
Reimbursable Allowance	\$3,500

Scope of Services and Fees:

Job No. 21-167

Page 4 of 5

June 17, 2022

4.0 ESTIMATED TASK BREAKDOWN & HOURLY SCHEDULE OF BILLING RATES

The below is an estimated break down of effort required, please note line items reflect rounding and line items may not sum evenly. Any discrepancies in totals should be assumed to be proportioned out.

TASK	Manager Hrs	Fee	Engineer Hrs	Fee	Designer Hrs	Fee	Total
Entry Road	9	\$1620	67	\$11390	12	\$1920	\$15,000
Cal-Water Easement	2.5	\$450	15	\$2550	0	\$0	\$3,000
SWR Easement	2.5	\$450	15	\$2550	0	\$0	\$3,000
Dry Utility	5	\$900	34	\$5780	5	\$800	\$7,500
Clubhouse Plans	14	\$2520	111	\$18870	23	\$3680	\$25,000
Public Utility Plans	7	\$1260	51	\$8670	10	\$1600	\$11,500

Principal	\$190.00/Hour
Project Manager	\$180.00/Hour
Project Engineer / Surveyor	\$170.00/Hour
Design Engineer	\$160.00/Hour
CADD Drafter	\$145.00/Hour
Engineering Aide / Administration	\$125.00/Hour
2-Man Survey Crew	\$250.00/Hour

5.0 CONTRACT PROVISIONS

1: It is DRC Engineering Inc.'s (DRC) policy to meet all schedule requirements while maintaining a competent and professional level of service. In return, it is expected that all invoices will be paid in a timely manner. It is agreed and understood that all invoices will be considered delinquent sixty (60) days after invoice date.

2: Client shall pay the cost, plus 10%, for any applicable application and governmental fees, title company charges, well monuments, outside vendor reproduction costs, in-house reproduction cost, and delivery or messenger services incurred on Client's behalf. If requested, we will provide a computer printout, which details these costs. We do not typically provide any additional back up for these generally nominal expenses as part of our fee.

3: Miscellaneous fees shall be billed monthly as they are incurred. Invoices shall be considered due and payable upon presentation.

4: In the event this Agreement is breached, terminated, or canceled, or if Additional Services are required, then Client shall pay DRC per the foregoing hourly rates for work completed.

5: The above Schedule of Hourly Billing Rates is for straight time only. In the case of overtime, the rate charged will be 1-1/2 times the hourly rates shown.

6: The fee stated herein does not include any sales or use tax. In the event that a sales and/or use tax is imposed by local, state, or federal authority, upon the services rendered hereunder, such sales and/or use tax shall be in addition to said fee herein, and shall be the full responsibility of the Client.

7: This proposal may be considered as effective for six (6) months from the date of this letter. If the project is not completed within one (1) year after the scheduled start date (due to no fault of DRC), additional reimbursement may be required. If required, such additional reimbursement would be subject to negotiation and mutual agreement between both parties.

8: The Client agrees to limit DRC's liability to the Client and to all contractors and subcontractors on the project, to damages based on proven professional negligent acts, errors or omissions on the part of DRC only.

Scope of Services and Fees:

Job No. 21-167

Page 5 of 5

June 17, 2022

We are prepared to begin work on this project upon receipt of authorization.

Accepted by: _____

Title: _____

Sportfive

Date: _____

End of Proposal



June 14, 2022

Mr. Michael Angus
Sport Five Golf, LLC
7077 E. Marilyn Road, Suite 140
Scottsdale, Arizona 85254

Re: Montebello GC-Additional Services
DFA Project No. 19124

Dear Mike:

In accordance with our Agreement dated January 4, 2022 this will acknowledge and confirm your authorization for us to perform the additional services described herein.

The services furnished under this portion of our work will include, per your request, the following:

Project requires additional Design and Engineering for the following elements:

- Value Engineering on Clubhouse Materials and Systems
- Relocation of Clubhouse Siting and Parking per Revised Golf Course Layout/Coordination with Civil
- Revised Documents and Specifications for Clubhouse Revisions
- Revised Interior Finishes for Value Engineering
- Revisions to Electrical for Value Engineering

The cost for these services will be \$35,000.00. We estimate it will take two (2) months of time to finalize all aspects of the work. Upon completion we will consult with you to ensure overall program conformance. Upon your approval, we will issue all information to you for your use.

We will invoice you for all services mentioned and described above under a new project suffix number 19124.2. We will further segregate and clearly identify the separate and distinct costs we incur, including all out-of-pocket expenses and reimbursables.

Services other than those mentioned and described herein will be performed only with your authorization. Upon receipt of your approval, we will commence with these services.

Sincerely,
DOUGLAS FREDRIKSON ARCHITECTS, INC.

Douglas W. Fredrikson, AIA, NCARB
President

Agreed and Accepted:

Sport Five Golf, LLC

By: _____

Title: _____

Date: _____



June 20, 2022

City of Montebello
Mr. James Enriquez, P.E.
Director / City Engineering
1600 W. Beverly Blvd.
Montebello, CA 90640

RE: SportFive Proposal for Revising Golf Course Design Plans based on Reduced Scope / Value Engineering

Dear Mr. Enriquez,

Attached is Additional Work Proposal for SportFive and Rick Smith Design to redesign the proposed golf course and prepare revised plans in order to meet City's overall budget/cost for the Montebello Golf Course Project. The services and fee includes revising all Golf Course Design plans.

Estimated task breakdown and hourly billing of rates summary:

Redesign Golf Course and Revise Golf Course Design Plans

Principal "A"	20 hours	\$500.00	\$10,000.00
Principal "B"	40 hours	\$250.00	\$10,000.00
CAD Operator	26 hours	\$150.00	\$3,900.00
Admin	1 hours	\$100.00	\$100.00

TOTAL \$24,000.00

If you have any questions, or require further information, please feel free to contact me any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Angus".

Michael Angus / SportFive



June 13, 2022

SportFive
7077 East Marilyn Rd
Scottsdale, AZ85254

Attn.: Mr. Michael Angus

BTG Golf LLC to perform irrigation design and consulting services for the redesign of the Montebello Municipal Golf Course project as outlined below.

DESIGN SERVICES

Revised Design for New Routing on Holes 1 through 5

We will analyze the final topographic information from your base plan to determine if there is any hydraulic impact to the redesign that will affect pipe sizing or pump station performance.

The revised design will address the changes to holes 1 through 5 only. Note that this may impact the layout for holes 6 through 9, however we will attempt to maintain the current layout for the unchanged holes or at least minimize the impact to those holes.

The revisions will include main line routing, sprinkler layout, lateral piping, and controller locations as well as communications cable routing and new power wire routing and size calculations.

Deliverables will include an updated Mechanical Plan as well as updated Communications and Electrical Plans. There will be no changes made to the Construction Detail pages. We will not provide revised specifications, but we will provide a new bid form that includes updated material quantities.

Our fee for this work will be \$4,500.

Thank you for the opportunity to offer this proposal.

Respectfully submitted,

Bryant Taylor Gordon Golf
Irrigation Design and Consulting

David Taylor

David Taylor
Principal

Accepted by:

Signature: _____

Name: _____

Title: _____

Date: _____



CUMMINGS CURLEY AND ASSOCIATES INC.
LANDSCAPE ARCHITECTS • LAND PLANNERS

JUNE 20, 2022

MAVERICK HOSPITALITY INC AND TREND SPORTS LLC
C/O MICHAEL J. ANGUS
GOLF COURSE DESIGN & DEVELOPMENT
7077 EAST MARILYN ROAD, SUITE 140
SCOTTSDALE, ARIZONA 85254

RE: AMENDMENT 2 TO CUMMINGS CURLEY AND ASSOCIATES PROPOSAL NO. 10188
CITY OF MONTEBELLO P.O. No. 126

DEAR MICHAEL:

AS YOU REQUESTED, WE PROVIDE THIS ADDITIONAL FEE PROPOSAL FOR THE MONTEBELLO CAMPUS 2020 PROJECT.

THIS ADDITIONAL FEE IS BASED ON PROVIDING VALUE ENGINEERING REVISIONS TO THE LANDSCAPE SET AS PER OUR DISCUSSION ON JUNE 17, 2022 TO INCLUDE BUT NOT LIMITED TO, REMOVAL OF ALL GOLF LANDSCAPE INCLUDING TREES, ELIMINATION OF THE TEMPORARY EVEN LAWN AREA, ALL PERIMETER FENCING TO BECOMING AN ADD ALT, MODIFICATIONS TO THE CLUB HOUSE AND THE MODIFICATION OR ELIMINATION OF ALL IRRIGATION AFFECTED BY THE VE WORK.

OUR ADDITIONAL FEE FOR THE REVISED SCOPE OF WORK SHALL BE FOUR THOUSAND ONE HUNDRED AND TEN DOLLARS (\$4,110.00).

CONSTRUCTION PLANS:

PRINCIPAL 15 HRS. @ \$165.00	\$2,475.00
CAD OPERATOR 16.44 HRS @ \$95.00	\$1,562.50
CLERICAL 1.03 HRS. @ \$70.00	\$72.50
TOTAL FEE:	\$4,110.00

IF THE DESCRIPTION OF WORK PRESENTED HEREIN IS AGREEABLE, PLEASE CUMMINGS CURLEY AND ASSOCIATES WITH A FORMAL AGREEMENT FOR SIGNATURE.

OFFERED BY,

CUMMINGS CURLEY AND ASSOCIATES, INC.


ROBERT L. CURLEY
PRESIDENT
LANDSCAPE ARCHITECT



AUTHORIZATION FOR CHANGE ORDER

TO:	Sportfive	ATTN:	Michael Angus
	7077 E. Marilyn Road	DATE:	June 16, 2022
	Suite 140	PROJECT:	City of Montebello GC Lakes #B960
	Scottsdale, AZ 85254	C.O. AUTHORIZATION #:	02

The following design changes were not included in the original contract and our original design budget was exceeded. We are requesting authorization for additional budget.

Task 05 – Add an Existing Lake and Delete Hole 2 Lake **\$2,800**

1. Delete the new lake at Hole 2 from lake plans.
2. Add new aeration and new fountains to an existing lake that was not part of the original scope of work.
3. New equipment for aeration and fountain will be in the existing equipment location, with a new electrical power supply to be provided by others.
4. Design changes will be completed in 2 to 3 days after receiving the authorization.

The Additional Amount of Compensation:

This Request - Change Order # 02: \$2,800

Estimated By:  06-16-2022
Zirang Song, PE - PACE Date

AGREED TO AND ACCEPTED BY:

By _____ Date _____
Sportfive



June 20, 2022

City of Montebello
Mr. James Enriquez, P.E.
Director / City Engineering
1600 W. Beverly Blvd.
Montebello, CA 90640

RE: Amendment #9 – Reimbursable Expenses for Amendment #8 - Revised Plans with Reduced Scope / Value Engineering and Miscellaneous Engineering Items and Added Scope

Dear Mr. Enriquez,

Attached is Additional Work Proposal for estimated reimbursable expenses (travel, plan printing, etc) in association with Amendment #8 to preparing revised plans in order to meet City's overall budget/cost for the Montebello Golf Course Project.

This is for additional design and coordination services outside of the existing SportFive Agreement with the City of Montebello.

Total additional fee is \$9,000. SportFive agrees to waive the additional five (5%) percent for coordination and management.

Total Fee for Amendment #9, Reimbursable Expenses for Amendment #8 - Revised Plans with Reduced Scope / Value Engineering and Miscellaneous Engineering Items and Added Scope - \$9,000

If you have any questions, or require further information, please feel free to contact me any time.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Angus", followed by a period.

Michael Angus / SportFive

July 27, 2022

Gabriel Perez
Principal-in-Charge
AIM Consulting Services
12121 Valley Boulevard, Ste 206
El Monte, CA 91732

ENGAGEMENT LETTER FOR CONSULTANT SERVICES

**SUBJECT: MONTEBELLO MUNICIPAL GOLF COURSE RENOVATION AND RELATED
PROJECT – ADDITIONAL PROGRAM MANAGEMENT SERVICES
AGREEMENT NO. 3919
TASK NO. 3**

The purpose of this Engagement Letter is for the City of Montebello (the “City”) to engage AIM Consulting Services (the “Consultant”) to provide program management services pursuant to terms and conditions of the Master Retainer Agreement (Agreement No. 3919) approved by the City Council on October 13, 2021 and entered into by and between the City of Montebello and Consultant, in the manner set forth in Exhibit A, “Scope of Services” of the Master Retainer Agreement.

The Scope of Work to be completed pursuant to this Engagement Letter and the cost breakdown are set forth in Exhibit A, attached hereto. The cost for performing the services under this Engagement Letter shall not exceed one hundred eighty-eight thousand eight hundred and forty one dollars (\$188,841), without prior written approval. The charges and hourly rates shall not exceed those stated and in effect when the Master Retainer Agreement was approved on October 13, 2021 and as stated in the fee schedule attached hereto as Exhibit B.

Consultant acknowledges and agrees that the personnel assigned to this Project, as set forth in Exhibit A shall not be substituted unless prior written authorization is given by the Director of Public Works / City Engineer. Pursuant to Government Code 87300 *et seq.*, Consultant has provided (for submittal to the City Clerk) a California Fair Political Practices Commission Statement of Economic Interest- Form 700 for each of each of its staff assigned to the Project.

By signing and returning this Engagement Letter, the authorized agent of the Consultant agrees to the provisions stated herein. The engagement of the Consultant for the services stated herein shall occur upon the execution of this letter by the Consultant and the Public Works Director pending issuance of a “Notice to Proceed.”

THE CITY OF MONTEBELLO

AIM Consulting Services

Recommended By:

By: _____

Its: _____

Rene Bobadilla, P.E.
City Manager

Date: _____

Approved By:

City Attorney

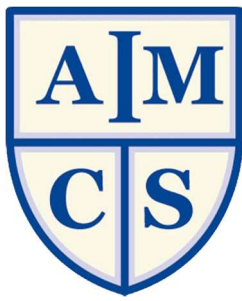
Date: _____

Exhibits:

- A. Scope of Work/Services under Engagement Letter and Cost Breakdown
- B. Master Agreement Fee Schedule

Exhibit A

Scope of Work and Cost Breakdown



July 19, 2022

Mr. James Enriquez, P.E.
Director of Public Works / City Engineer
City of Montebello
1600 West Beverly Boulevard
Montebello, CA 90640 - 3932

**RE: CITY OF MONTEBELLO ON-CALL PROGRAM/CONSTRUCTION MANAGEMENT SERVICES
MONTEBELLO MUNICIPAL GOLF COURSE RENOVATION AND RELATED PROJECTS
DESIGN TIME EXTENSION**

Mr. Enriquez,

Attached for your review, please find the AIM Consulting Services request for time extension for the subject project. In accordance with our original proposal, AIM Consulting Services is requesting the budget amendment to reflect the design effort through to the procurement of the Construction Contractor for the three projects listed below and related coordination effort with Top Golf:

- Golf Course Civil Project
- Golf Course Project
- Golf Course Club House Project

THE AIMCS PROJECT/CONSTRUCTION MANAGER

For this assignment, AIMCS proposes Scott Burkett supported by Mike McAlpine – Project Construction Manager III for a NTE of 2080 hours @ \$184.00 hourly rate. Scott's duties include management and coordination of the Topgolf design-build team throughout the plan approval process. It is understood the assignment will be billed at an hourly basis and may include other related projects on the site.

In addition, AIMCS proposes Estimator III George Elkin for a total TBD @ \$149.00 hourly rate. George's responsibility includes development of on call program estimates and cost estimates of design documents through to the completion of construction documents for construction contract award.

The total proposed management services fee including estimating services is \$188,841.40.



Attached for your consideration, please find the proposed staff resumes including:

Scott Burkett

Mike McAlpine

George Elkin.

The AIMCS team is ready committed to perform our services at the highest level of vision, integrity, innovation, and quality to meet and exceed your expectations. We will work diligently to meet project goals and call on our wide range of partnerships and relationships to address any project needs effectively and immediately.

We share the vision of serving our clients as the single point of contact to see a project through from beginning to end, and with AIMCS on your team, you can be certain our work will be conducted with sensitivity to our environment and to the finest professional standards. Should you have any questions, please feel free to contact me at (323) 271-4602. Thank you for your consideration.

Sincerely,

Gabriel Perez
Principal-in-Charge
AIM Consulting Services
gperez@aimcsworld.com

RE: PROPOSAL-22P06

July 20, 2022

Michael McAlpine
AIM Consulting Services
12121 Valley Boulevard Suite 206
El Monte, CA. 91732
Tel.: (626) 829-3389
mmcalpine@aimcsworld.com
gperez@aimcsworld.com

Subject: **Montebello Municipal Golf Course Renovation Project**
Cost Estimating Service- 100% Submittal

Dear Mr. G. Perez,

Following is the proposal to provide Cost Estimating Services for the above-referenced project.
The scope of services is as follows:

A. Estimate: Prepare an Independent Construction Cost estimate based on the documents that will be received on 7/22/22 per City approved the Golf Course new site plan and the work will be broken down between **2 contracts Civil GC and Golf Course GC.**

The 100% Estimates will be presented in CSI breakdown format with appropriate unit price assemblies. The estimate will include the cost for general conditions, GC. Markups and design contingency.

Estimating Fees:

1. **Prepare 100% Submittal Estimate - Golf Course GC\$ 20,150**
2. **Prepare 100% Submittal Estimate- Civil GC.\$ 23,2500**
3. **Prepare Bid Form Breakdown Estimate - Golf Course GC.\$ 3,720**
4. **Prepare Bid Form Breakdown Estimate - Civil GC.\$ 3,720**

Total Estimated Fee of Cost Estimating Services (1-4): \$ 50,840

Previously received set of drawings and specifications.

1. Montebello Irrigation Specs-Permit sett.pdf (53sheets);
2. 0051822 -GOLF_FOR PERMIT.pdf 13 sheets
3. 2022-05-18_Montebello Pub_SWR_1st Submittal (2 sheets);
4. Golf.Design.Specifications.Montebello.05.18.22.pd (28 pages);
5. B960-10 City of Montebello Golf Course - Lake Plans.pdf (2 sheets)
6. Golf.Course.Design.Plans.05.18.22.pdf (19 sheets)
7. B960-10 City of Montebello Golf Course - Lake Specifications.pdf (34pages)
8. 2022-05-18_Montebello GC Public SD_1st Submittal.pdf (12 sheets)
9. 2022-05-18_Montebello GC Public WA_1st Submittal.pdf (3 sheets)

10. 2022-05-18_21-167 Clubhouse Grading_1ST Submittal.pdf (23 sheets)

11 Montebello Muni Golf Irrigation Plan Set.pdf (10 sheets)

12 2022-05-18_21-167 Clubhouse Grading_1ST Submittal Electrical Lighting forES.pdf

13. 22108_Electrical.pdf (4sheets)

14. Landscape Specs May 18 2022 Curley.pdf

The estimate will be delivered to **AIMCS** electronically in PDF format within 3 weeks of NTP.
The proposed fees include expenses incurred in the preparation of the estimate.

Exclusions

- a) Reconciliation of the estimates (see additional services)
- b) Any estimates beyond that stated above
- c) Any travel outside of the Los Angeles area
- d) Any scheduling services
- e) Other Cost estimates (outside of basic services)

B. Optional / As needed services:

- 1. Reconciliation of estimates prepared by others and attendance of reconciliation meetings
– on an hourly basis (minimum 4 hours) at \$175/Hr. or **\$ 700**

C. Additional Services

Any services required in addition to Section A & B will be treated as additional services, and the following hourly rates will apply:

Principal	\$155/hr.
Senior Estimator MEP	\$145/hr.
Clerical Staff	\$60/hr.
Direct Project Expenses, at cost plus a 5% administration fee	

D. Additional Expenses

Any other costs/expenses, if specifically requested, such as travel outside of the Los Angeles area, special mailing services, reprinting of estimate reports of more than four copies, etc., will be invoiced at cost plus a 5% administration fee.

Payment

This proposal remains open for acceptance for a period of fifteen days, after which time we should be consulted for verification of scope and fees.

Again we appreciate the opportunity to be part of your team, and we are committed to making this project a success. If this proposal is acceptable, please issue a complete notice-to-proceed specifying agreement with the conditions of this proposal. If you have any questions, please call me at (818) 404-3241.

Sincerely,



George Elkin, CPE

Elkin Construction Services

Cell: 818 404 - 3241

george.elkin@sbcglobal.net

To start with the preparation of the estimate, Elkin Construction Services needs to acknowledge and acceptance of this proposal by signing it below.

Accepted: _____

Michael McAlpine, AIMCS

Date: _____

RE: PROPOSAL-22P07

July 20, 2022

Michael McAlpine
AIM Consulting Services
12121 Valley Boulevard Suite 206
El Monte, CA. 91732
Tel.: (626) 829-3389
mmcalpine@aimcsworld.com
gperez@aimcsworld.com

Subject: **Montebello Municipal Golf Course Clubhouse Project**
Cost Estimating Service- **100% Submittal**

Dear Mr. G. Perez,

Following is the proposal to provide Cost Estimating Services for the above-referenced project.
The scope of services is as follows:

A. Estimate: Prepare an Independent Construction Cost estimate based on the documents we will receive on 8/16/22.

1. Montebello Club House – 202200816_100 Package.pdf (Assumed 75 Sheets) design by DOUGLAS FREDRIKSON ARCHITECTS.

A NEW MONTEBELLO GOLF CLUBHOUSE (3,143 SF), THE MAIN COMPONENTS OF THE BUILDING WILL INCLUDE A RESTAURANT AND A PRO SHOP TO SERVICE THE GOLF COURSE. THE BUILDING WILL ALSO INCLUDE COVERED EXTERIOR PATIO SPACES (2,974SF), A SNACK BAR, A FULL-SERVICE KITCHEN, A DINING AREA, STAFF SPACES, AND CART STORAGE (4,138SF). GRAND TOTAL BUILDING AREA OF 10,426 SF

The 100% Estimate will be presented in CSI breakdown format with appropriate unit price assemblies. The estimate will include the cost for general conditions, GC. Markups, design contingency, escalation, response, and incorporation of the city comments.

Estimating Fees:

1. Prepare 100% Submittal Estimate with 3 additive options\$ 26,660
2. Prepare Bid Form Breakdown Estimate\$ 2,480

Total Estimated Fee of Cost Estimating Service (1+2): \$ 29,140

The estimate will be delivered to **AIMCS** electronically in PDF format within 2 weeks of NTP.
The proposed fees include expenses incurred in the preparation of the estimate.

Exclusions

- a) Reconciliation of the estimates (see additional services)
- b) Any estimates beyond that stated above
- c) Any travel outside of the Los Angeles area
- d) Any scheduling services
- e) Other Cost estimates (outside of basic services)

B. Optional / As needed services:

1. Reconciliation of estimates prepared by others and attendance of reconciliation meetings
– on an hourly basis (minimum 4 hours) at \$175/Hr. or **\$ 700**

C. Additional Services

Any services required in addition to Section A & B will be treated as additional services, and the following hourly rates will apply:

Principal	\$155/hr.
Senior Estimator MEP	\$145/hr.
Clerical Staff	\$60/hr.
Direct Project Expenses, at cost plus a 5% administration fee	

D. Additional Expenses

Any other costs/expenses, if specifically requested, such as travel outside of the Los Angeles area, special mailing services, reprinting of estimate reports of more than four copies, etc., will be invoiced at a 5% administration fee.

Payment

This proposal remains open for acceptance for a period of fifteen days, after which time we should be consulted for verification of scope and fees.

Again we appreciate the opportunity to be part of your team, and we are committed to making this project a success. If this proposal is acceptable, please issue a complete notice-to-proceed specifying agreement with the conditions of this proposal. If you have any questions, please call me at (818) 404-3241.

Sincerely,



George Elkin, CPE

Elkin Construction Services

Cell: 818 404 - 3241

Fax: 818 343 - 0346

george.elkin@sbcglobal.net

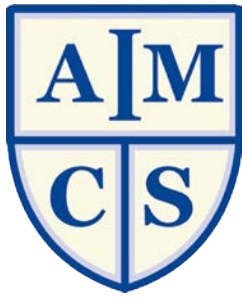
To start with the preparation of the estimate, Elkin Construction Services needs to acknowledge and acceptance of this proposal by signing it below.

Accepted: _____
Michael McAlpine, AIMCS

Date: _____

Exhibit B

Master Agreement Fee Schedule



June 17, 2021

Mr. James Enriquez, P.E.
Director of Public Works / City Engineer
City of Montebello
1600 West Beverly Boulevard
Montebello, CA 90640 - 3932

RE: CITY OF MONTEBELLO ON-CALL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES
RFP NO. 21-32 – SCHEDULE OF BILLING RATES

POSITION CLASSIFICATION	RATE
Project / Construction Manager - I	\$ 145.00
Project / Construction Manager - II	\$ 163.00
Project / Construction Manager - III	\$ 184.00
Inspection MEP/Civil - I	\$ 108.00
Inspection MEP/Civil - II	\$ 125.00
Inspection MEP/Civil - III	\$ 138.00
Scheduler / Project Controls - I	\$ 112.00
Scheduler / Project Controls - II	\$ 133.00
Scheduler / Project Controls - III	\$ 143.00
Estimator - I	\$ 107.00
Estimator - II	\$ 128.00
Estimator - III	\$ 149.00
Office Engineer - Doc Control - I	\$ 66.00
Office Engineer - Doc Control - II	\$ 77.00
Office Engineer - Doc Control - III	\$ 89.00
Engineer MEP/Civil/Controls - I	\$ 112.00
Engineer MEP/Civil/Controls - II	\$ 133.00
Engineer MEP/Civil/Controls - III	\$ 143.00
Asset/Move Coordinator - I	\$ 112.00
Asset/Move Coordinator - II	\$ 122.00
Asset/Move Coordinator - III	\$ 138.00

Should you have any questions, please feel free to contact me at (323) 271-4602. Thank you for your consideration.

Sincerely,

Gabriel Perez
Principal-in-Charge
AIM Consulting Services
gperez@aimcsworld.com



PROJECT AREA MAP



RICK SMITH
4400 NW 87th Ave
Doral, Florida 33178
(305) 591-6487

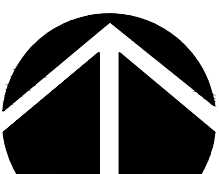
All ideas, designs, and arrangements indicated on these drawings are intended to be used in connection with this specific project only and shall not otherwise be used for any purpose whatsoever without the written consent of SportFive. There shall be no changes or deviations from these drawings or the accompanying specifications without the written consent of SportFive.

GOLF COURSE
DESIGN
PLANS

MONTEBELLO MUNICIPAL GOLF COURSE
RENOVATION PROJECT
MONTEBELLO, CALIFORNIA

Project Number	: 22 - 01
Date	: June 17, 2022
Drawn By	: MJA
Revisions	:

GOLF COURSE
SITE PLAN



NORTH

0 50 100 200 300



SIX-HOLE "REVERSIBLE" SHORT COURSE

SIX-HOLE "Red" Course			SIX-HOLE "Black" Course		
Hole	Par	Yards	Hole	Par	Yards
1	3	90	1	3	50
2	3	80	2	3	50
3	3	60	3	3	70
4	3	70	4	3	80
5	3	70	5	3	70
6	3	50	6	3	90
Total	18	420	Total	18	420

SIX-HOLE REVERSIBLE SHORT COURSE

The new six-hole "reversible" golf course is designed for fun and players of all abilities. In addition to a relaxed, casual atmosphere, the new six-hole course will help avid, more skilled golfers practice and improve their short game. There are six-holes that range from 50 yards to 90 yards in length.

The six-hole course was designed to play in two different direction, essentially being two golf courses in one. We refer to the two course options as the Red Course and the Black Course. Perhaps, every week the course can be switched from the Red Course to the Black Course. This unique golf design will add intrigue, position itself in the industry as innovative and fun, and also encourage golfers to return to play both the Red Course and Black Course options.

This unique golf experience is inclusive for all, golfers of all abilities and non-golfers. Being located near Topgolf, people on a wait-list for Topgolf might be interested in playing this six-hole course. We estimate it can be played in under one hour. No cart paths on this course, a great walkable experience to enjoy. For maximum playability and revenue the six-hole course will be overhead lighted and potentially adding on-course music.

The location of the six-hole course works well with the Golf Clubhouse. We recommend considering a small "Starter" type patio / gathering area adjacent to Hole 1 tee, providing golf operations control and a great atmosphere for post round enjoyment.

Small synthetic turf tees are designed into the golf course. Because of the amount of play, and short wedge shots on each hole. Real turf tees will not grow and be a maintenance issue. Also, the synthetic tees "guide" people where to play from and will increase efficiency in time of play. In addition, the synthetic tees will be more consistent playing surface and be more casual and less intimidating for the beginner or non-golfer.

The new six-hole golf course consists of approximate 6.3 acres of irrigated turf area. The existing lake is proposed to expand to 1.2 acres. The lake expansion will add to the golf experience, provide a challenge, be memorable and be an added value to the new Entry Drive experience.

All areas of the course will be reshaped and include synthetic tees, new bunkers and new greens. New golf course drainage will be installed and connected to the existing in ground storm drainage system. All new efficient irrigation system will be installed, including both potable and reclaimed water options. All existing trees will be carefully reviewed and determined if appropriate to remain or be removed for playability and better turf conditions. Additional trees will be installed as needed. All new turf will be planted consisting of Kikuyu grass for tees, fairways and rough, and Bentgrass for all green surfaces.

NINE-HOLE GOLF COURSE

The new nine-hole golf course is designed for players of all abilities, with multiple tees at various yardages. Bunker placement is dictated for challenge of the avid, better golfer and not a beginner. Green sizes will be larger for multiple pin options and best quality greens turf conditions possible.

The new routing of the golf course and sequence of golf holes was designed for playability, enjoyment and safety. The golf course will be enjoyable and easy to walk. During the round, golfers will return to the Golf Clubhouse after Hole #4, eliminating a need for an on-course restroom and increasing food and beverage sales.

Options of playing a four-hole loop (Holes 1, 2, 3, 4) is provided. Beginners to the game of golf or people on a wait-list for Topgolf might be interested in playing a four hole loop.

The new nine-hole golf course consists of approximate 54.6 acres of irrigated turf area. Two existing lakes are to remain and incorporated into the new golf course. One existing lake will remain as a feature and view for the new Golf Clubhouse.

All areas of the course will be reshaped and include all new tees and bunkers. New golf course drainage will be installed and connected to the existing in ground storm drainage system. All new efficient irrigation system will be installed, including both potable and reclaimed water options. Golf cart paths will be either continuous cart paths. All existing trees will be carefully reviewed and determined if appropriate to remain or be removed for playability and better turf conditions. Additional trees will be installed as needed. All new turf will be planted consisting of Bermuda grass for tees, fairways and rough, and Bentgrass for all green surfaces.

NINE-HOLE GOLF COURSE

Hole	Par	Yards			
		Black	Blue	White	Red
1	5	505	495	485	450
2	4	430	420	410	390
3	4	355	345	335	310
4	4	390	380	370	350
5	3	225	215	205	180
6	4	430	420	410	390
7	4	365	355	345	320
8	4	350	340	330	315
9	3	135	125	115	100
Total	35	3,185	3,095	3,005	2,805



CITY OF MONTEBELLO
CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: James Enriquez, Director of Public Works / City Engineer

SUBJECT: **Annual Concrete Repair Program (CP No. 891) – Engagement Letter for Construction Management and Inspection Services by Onward Engineering**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Award Task Order No. 3 via an Engagement Letter under Master Retainer Agreement No. 3920 with Onward Engineering for a not-to-exceed-fee of \$83,100; and
- 2) Authorize the City Manager to execute the Agreement, on behalf of the City; and
- 3) Take such additional, related, action that may be desirable.

FISCAL IMPACT

As part of the Fiscal Year 2021-22 Capital Improvement Program (CIP) Budget, a total of \$350,000 was allotted for this project, with the following amounts 1) \$200,000 from Gas Tax (Fund 200), 2) \$46,547 of TDA-3 funds (Fund 223); and 3) \$103,453 of Measure R funds (Fund 222).

Additional funding in the amount of \$1,400,000 is included in the Fiscal Year 2022-23 adopted CIP Budget for this project, allocated to the following funds: 1) \$500,000 from Gas Tax, Fund 200; 2) \$400,000 from Measure R, Fund 220; and 3) \$500,000 from Road Maintenance and Rehabilitation Act (SB1), Fund 201. The unspent funds from the FY 2021-22 adopted CIP budget will be carried over to FY 2022-23, and added to the new appropriations included in the FY 2022-23 CIP budget, increasing total appropriations available to \$1,750,000. (There have been no expenses towards the FY 2021-22 CIP budget for this project, therefore, the entire \$350,000 amount is available, in addition to the \$1.4 million for FY 2022-23.) .

The project is fully funded at this time and no additional appropriations are recommended.

BACKGROUND

The Project includes removal and reconstruction of existing concrete sidewalks, curb and gutters, driveway approaches, and curb ramps citywide to meet ADA requirements.

On May 26, 2022 at 11:00 AM, five (5) bids were received and opened publicly. The bids were analyzed and CJ Concrete Construction, Inc. was determined to be the lowest responsive and responsible bidder. The City Council awarded a construction contract to CJ Concrete Construction, Inc. on June 8, 2022 in the amount of \$1,208,926.

A concrete project of this magnitude and complexity requires full time oversight and management by the City. Management of the project will involve contract administration, construction management and inspection, utility coordination, labor compliance, material testing, and project close out services.

The recommended Engagement Letter with Onward Engineering will provide the required full-time management with an experienced manager that has successfully delivered numerous projects of this magnitude.

ANALYSIS

Onward Engineering was selected for the City's On-call Construction Management/Inspection Bench List in response to RFP No. 21-32, a qualification based selection. Master Retainer Agreement No. 3920 with Onward Engineering was approved by the City Council on October 13, 2021. The recommended Engagement Letter is Task No. 3 for Onward Engineering. The fee proposed by Onward Engineering is based on the contractual hourly rate, per the Master Retainer Agreement, for the staff that will be working on the project. Hours will be tracked monthly, and it is estimated that the work for the duration of the project will require a total of 678 labor hours resulting in a fee of \$83,100.

The total amount allocated for this project in the Fiscal Year 2021-22 and 2022-23 CIP Budget is \$1,750,000 (combining unspent FY 2021-22 funding and new FY 2022-23 appropriations). A summary of the projected costs is as follows:

\$ 83,100	Construction Management and Inspection
\$ 1,208,926	Construction
<u>\$ 181,339</u>	<u>Contingency (15%)</u>
\$ 1,473,365	Total

Any remaining, unspent budget once the project is completed will be made available for other CIP projects. Subsequent budgets will re-program remaining funds to existing or new capital projects, as needed.

ENVIRONMENTAL

On April 27, 2022, the City Council found the project categorically exempt pursuant to the State Guidelines for Implementation of the California Environmental Quality Act (CEQA) and approved the filling of the Notice of Exemption.

SUMMARY

Upon approval of the recommended actions, staff will execute the Engagement Letter with Onward Engineering and coordinate the completion of the Project. Sufficient appropriations exist in various funds listed above and, therefore, no budget amendments are required at this time.

ATTACHMENT:

- A. Attachment A – Engagement Letter for Onward Engineering

July 27, 2022

Majdi Ataya
President
Onward Engineering
300 S Harbor Blvd, Suite 814
Anaheim, CA 92805

ENGAGEMENT LETTER FOR CONSULTANT SERVICES

**SUBJECT: CONSTRUCTION MANAGEMENT & INSPECTION SERVICES FOR THE ANNUAL
CONCRETE REPAIR PROGRAM, FY 2021/2022 & 2022/2023 (CP No. 891)
AGREEMENT NO. 3920
TASK NO. 3**

The purpose of this Engagement Letter is for the City of Montebello (the "City") to engage Onward Engineering (the "Consultant") to provide construction management and inspection services pursuant to terms and conditions of the Master Retainer Agreement (Agreement No. 3920) approved by the City Council on October 13, 2021 and entered into by and between the City of Montebello and Consultant, in the manner set forth in Exhibit A, "Scope of Services" of the Master Retainer Agreement.

The Scope of Work to be completed pursuant to this Engagement Letter and the cost breakdown are set forth in Exhibit A, attached hereto. The cost for performing the services under this Engagement Letter shall not exceed eighty-one thousand and one hundred dollars (\$83,100), without prior written approval. The charges and hourly rates shall not exceed those stated and in effect when the Master Retainer Agreement was approved on October 13, 2021 and as stated in the fee schedule attached hereto as Exhibit B.

Consultant acknowledges and agrees that the personnel assigned to this Project, as set forth in Exhibit A shall not be substituted unless prior written authorization is given by the Director of Public Works / City Engineer. Pursuant to Government Code 87300 *et seq.*, Consultant has provided (for submittal to the City Clerk) a California Fair Political Practices Commission Statement of Economic Interest- Form 700 for each of each of its staff assigned to the Project.

By signing and returning this Engagement Letter, the authorized agent of the Consultant agrees to the provisions stated herein. The engagement of the Consultant for the services stated herein shall occur upon the execution of this letter by the Consultant and the Public Works Director pending issuance of a "Notice to Proceed."

THE CITY OF MONTEBELLO

Onward Engineering

Recommended By:

By: _____

Its: _____

Rene Bobadilla, P.E.
City Manager

Date: _____

Approved By:

City Attorney

Date: _____

Exhibits:

- A. Scope of Work/Services under Engagement Letter and Cost Breakdown
- B. Master Agreement Fee Schedule

Exhibit A

Scope of Work and Cost Breakdown

Samantha Chenelia, Assistant
Engineer Public Works Department
City of Montebello
1600 W Beverly Blvd.
Montebello, CA 90640

June 15, 2022

SUBJECT: LETTER PROPOSAL TO PROVIDE THE CITY OF MONTEBELLO WITH CONSTRUCTION MANAGEMENT & INSPECTION SERVICES FOR THE ANNUAL CONCRETE REPAIR PROGRAM FY 2021/2022 & 2022/2023 C.P. NO. 891

Onward Engineering (OE) is pleased to present this letter proposal to the City of Montebello for construction management and inspection services for the Annual Concrete Repair Program FY 2021/2022 & 2022/2023 C.P. No. 891 Project. The work includes 46 curb ramps, 2,466 linear feet of curb and gutter, 12,776 square feet of driveway replacement, and 41,710 square feet of sidewalk replacement.

Our team is led by our experienced Registered Engineer, Construction Manager, and United States Army Veteran Ludy Smeets, PE. Ludy has over 39 years of experience, and provides hands on management services. As a registered Civil Engineer, he also understands the design aspect, and is an excellent resource to advocate on behalf of the City of Montebello. Ludy has completed multiple projects for the City of Montebello, including the Arroyo Drive Rehabilitation Project, the N. Concourse Avenue Street Improvement Project, and the Various Streets Improvement Project. Ludy will be the point of contact as the CM, giving the City continuity and seamless progress. Ludy will manage Jeff Eaton, who is the proposed construction inspector for this project. Jeff has over 35 years of experience, including 11 years of inspection for the County of Orange. His meticulous notes and attention to detail will make him an excellent fit for the City on this project.

FEE PROPOSAL

60 WORKING
DAY SCHEDULE

CONSTRUCTION MANAGER

3 HOURS PER DAY

+

10 HOURS

for Pre-Construction

×

190 HOURS

at

\$142 PER HOUR

= **\$26,980 TOTAL**

CONSTRUCTION INSPECTOR

8 HOURS PER DAY

+

8 HOURS

for Pre-Construction

×

488 HOURS

at

\$115 PER HOUR

= **\$56,120 TOTAL**

= **\$83,100.00**
GRAND TOTAL

I would like to thank the City of Montebello for the opportunity to submit our letter proposal. I will act as the Principal-In-Charge for this project. My time in Public Works as a former City Engineer and Deputy Director of Public Works means I know what public-sector Clients want. I will diligently act as your advocate and as an extension of your staff. If you have any questions or require additional information, please feel free to contact me at (714) 533-3050, or by email, at mataya@oe-eng.com. We look forward to continuing our successful relationship with the City of Montebello and we thank you for the opportunity to serve you and your City.

Thank you,

A handwritten signature in blue ink that reads "Majdi Ataya". The signature is fluid and cursive, with the first name "Majdi" and last name "Ataya" clearly distinguishable.

Majdi Ataya, PE
President, Onward Engineering



LUDWIG "LUDY" SMEETS, PE

CONSTRUCTION MANAGER

BACKGROUND

Ludy has over 39 years of civil engineering experience with focus on Construction Management, as well as Project Management. He also has experience in the design of civil engineering projects such as street, sewer, water, and storm drain projects. Ludy has management level experience working in public works departments in cities throughout Southern California. His experience includes public agency budgeting, project implementation, project design, PS&E development, contract bidding, award administration, construction management and project closure reporting. He has selected, directed and managed consultants, architects and engineers as required in order to meet public works department goals and objectives. He has supervised and trained city staff junior engineers. His many responsibilities included providing project management for federally funded and state funded projects.

QUALIFICATIONS

39

Years Of Experience



BS CIVIL ENGINEERING, 1979

California State University, Long Beach

MA MILITARY SCIENCE, 1990

Agricultural & Mechanics University

US ARMY, 1989

Command & General Staff College



PE #37221

Registered Civil Engineer

APWA MEMBER

American Public Works Association

ASCE MEMBER

American Society of Civil Engineers

NSPE MEMBER

National Society Professional Engineers

SAME MEMBER

Society of American Military Engineers

FIELDS OF EXPERTISE



ROADWAY



WATER



DRAINAGE



ADA RAMP



SIGNAL



PAVEMENT

EXPERIENCE

ARROYO DRIVE IMPROVEMENT PROJECT

The City of **MONTABELLO**

Ludy provided full Construction Management and Inspection Services to the City of Montebello on the Arroyo Drive Improvement Project. The project limits are on Arroyo Drive from Astra Drive to Glen Avenue. This project includes pavement rehabilitation (2"-3" grind and overlay), ADA ramp, curb and gutter, and driveway repairs, storm drain improvements, and associated improvements. The budget for this project is \$1,239,085 made up of STPL Funds (\$1,063,000) Measure R (\$146,045) and Prop C (\$30,040) funds, and full compliance with all applicable requirements was essential. The project limits on the north side are adjacent to the back-lot of St. Joseph's Salesian Youth Retreat Center and Don Bosco Technical Institute. Coordination for parking access was vital. The Astra Drive neighborhood (cul-de-sac) and Potrero Heights Park and Community & Senior Center at the west end of the project limits also required coordination, since the parking lot and residential neighborhoods can only be accessed from Arroyo Drive.

STREET & SLURRY SEAL REHABILITATION - PHASE III

The City of **LAGUNA BEACH**

Ludy lent his skills in providing full Construction Management and Inspection Services for the City of Laguna Beach on Phase III of the Street and Slurry Seal Rehabilitation Project. The project covered the span of three phases in three years. The project limits for included two areas: Area A-Coast Royal, and Area B-South Laguna Village. These areas are in South Laguna Beach, from the neighborhoods between West Street and 10th Avenue/Sunset Avenue. The work included variable grind and overlay in some areas, and Type I Slurry Seal in other areas, along with new traffic signal poles. Lastly, the project encompassed parkway and curb and gutter improvements, and signage and striping. Due to local residents, OE provided an informative Web Page, Web Maps and a Telephone Hotline for updates and information.



SLURRY SEAL NON-ARTERIAL STREETS, ZONE B

The City of **LAKE FOREST**

Ludy expedited his expertise in providing Construction Management and Inspection services for the City of Lake Forest on the Slurry Seal Non-Arterial Streets, Zone B Project. The intent of the project was to rehabilitate several streets within the City. The Scope of Work included identifying locations for 2" grind and overlay, as well as 4" dig-outs. The remaining streets were slated for slurry seal for Zone B (non-Arterial Streets).

VINEYARD AVENUE AT SAN BERNARDINO ROAD TRAFFIC SIGNAL MODIFICATION

The City of **RANCHO CUCAMONGA**

Ludy provided Construction Management services on this project in the City of Rancho Cucamonga, which entailed traffic signal modifications at the intersection of Vineyard Avenue and San Bernardino Road for removing three pull boxes, abandoning existing footing, removing and salvaging existing signal cabinet and relocating traffic signal equipment into new cabinet, furnishing and installing one Type 1-A pole and 4" PVC conduit, installing three #6 pull boxes, one #6E pull box, and one N40 pull box, furnishing and installing Econolite Cobalt ATC Controller, Type R signal controller cabinet with new foundation, side mounted CBS-127 cabinet shell, and installing Tomar Emergency Vehicle Preemption Detector and cabling. The Contractor was also tasked with replacing existing incandescent lights with new LED signal indicators, pulling new wires, potholing, and traffic control.

19TH STREET TRAFFIC CALMING PROJECT

The City of **COSTA MESA**

Ludy served as both Design and Construct Manager for the City of Costa Mesa on this 19th Street Traffic Calming CIP Project. The project limits were located at 19th Street between Fullerton Avenue and Irvine Avenue. The scope of work involved landscaped chokers at the intersections, landscaped medians at Fullerton Avenue and Irvine Avenue entry points, install entry monument signs at Fullerton Avenue and Irvine Avenue, and reduce the street width by 4 feet. Broadway was the widest neighborhood street at a width of 50 ft. from curb to curb at Fullerton Avenue and Tustin Avenue. As a result of this \$855,700 Federal Safe Route to School Grant project, speeding was reduced by about 5 mph along with a reduction in vehicle accidents.

BALL ROAD & SUNKIST STREET INTERSECTION WIDENING & ROADWAY IMPROVEMENTS

The City of **ANAHEIM**

Ludy provided Construction Management services to the City of Anaheim on the Ball Road and Sunkist Street Intersection Widening & Roadway Improvements Project. Ball Road and Sunkist Street are designated as Primary and Secondary arterials, respectively, on the County's Master Plan of Arterial Highways (MPAH). Ball Road was striped for 1 dual left and 3 through lanes in the eastbound direction and 2 left, 2 through and 1 right – turn lane in the westbound direction of travel. Sunkist Street was striped for a single left and 2 through lanes per direction of travel. 4 public schools are located on or adjacent to Sunkist Street within the 1 mile stretch between Ball Road and South Street. The Design Phase consisted of the preparation of the contract plans, specifications and estimates for the improvement of the project. The Construction Phase consisted of excavation, clearing and grubbing, placement of new AC pavement, construction of concrete curb and gutter, driveways and access ramps, construction of concrete sidewalks, storm drain modifications, relocation of existing facilities, construction of a concrete bus pad, traffic signal modifications, striping, and CMU wall relocation and landscaping. Proposed landscaping along the project roadways included drought-tolerant and low-maintenance plantings and trees. The Right-of-way Phase consisted of the acquisition of 9 partial takes totaling approximately 3,661 square feet and 11 Temporary Construction Easements totaling approximately 2,661 square feet of right-of-way. The length of these improvements was 0.44 centerline miles. Traffic to the schools, as well as traffic to and from the adjacent SR-57 freeway, resulted in a southbound left turn demand in the AM peak period that neared 500 vehicles. The intersection operated at service level "C" during the PM peak hours. The project corrected operational deficiencies at this intersection by widening Sunkist Street by 5 ft. along each of the east and west curbs, north and south of the intersection. This provided a dual southbound left-turn lane on Sunkist Street. In addition, the project widened Ball Road at the Sunkist Street intersection, providing an exclusive westbound right turn lane while converting the lane to a third westbound through lane. The proposed 3rd west bound thru lane mitigated vehicular queuing that consistently backed up to SR-57 southbound off-ramp during PM peak hours. With these improvements in place, the intersection service level improved from "D" (0.81) to "B" (0.64) during the PM peak hour.

Jeffrey P. Eaton

Experienced construction inspector with over 35 years of experience in public works construction for the County of Orange, including 11+ years as a construction inspector for County capital improvement projects, encroachment permits, subdivisions, job order contracts, and a Caltrans project. Qualified SWPPP Practitioner (QSP). Previous experience with public works includes testing and inspecting construction materials, geotechnical investigation, and pavement design and rehabilitation. Obtained an AS degree in Construction Management. Proficient in Microsoft Office, Box, Blue Beam, Adobe Acrobat.

Education

- California State University, Fullerton, Fullerton, CA
3 years of study (2001 – 2004)
Computer Science Major
- Santiago Canyon College
Received Associate of Science degree in Construction Management in 2015.

Experience

May, 2013 – December, 2021

Senior Construction Inspector | County of Orange, Construction Division | Santa Ana

Inspected Capital Improvement Projects for County of Orange Public Works (OCPW). This includes arterial highway construction, storm drain construction, slurry seal, asphalt concrete overlay, landscaping, flood control construction, and structural concrete. I also reviewed plans, special provisions, and estimates for various types of projects. Wrote contract change orders, prepared progress payments with quantity calculations, reviewed contract submittals and RFI's, reviewed extra work bills, prepared weekly statement of working days, and produced daily inspection reports. Conducted preconstruction meetings and weekly progress meetings. Also inspected Job Order Contracting maintenance projects. Performed NPDES compliance inspections on all projects.

August, 2018 to December, 2021 – Lead Inspector on Oso Parkway Bridge at SR 241 (Caltrans specifications). Project involved inspection of temporary traffic control, paving, grading, storm drain, traffic signals, striping, post construction BMP's, temporary BMP's, concrete barrier, Midwest Guardrail System, overhead sign structures, roadside signs, toll road booth structure removal, toll plaza construction (with jointed plane concrete pavement), bridge pile driving, temporary soil nail shoring, bridge abutment, bridge approach slab, assisted structure inspector in bridge construction inspection. Wrote daily inspection reports, prepared weekly statement of working days, prepared monthly progress payments, reviewed submittals and RFI's, maintained spreadsheets on progress payments, quantities, change orders, submittals, and RFI's. Reviewed extra work bills. Maintained a professional working relationship with the Resident Engineer, Structure Inspector, Caltrans Permit Coordinator, Transportation Corridor Agency, Design Engineer, and the general public.

August, 2017 to January, 2018 – Lead Inspector on Slurry Seal of Crown Valley Parkway and Oso Parkway. Project involved slurry seal (REAS) application, temporary traffic control, pavement removal and replacement, and temporary BMP's.

July, 2016 to March, 2017 – Inspected Dana Point Harbor Drive at Puerto Place and Casitas Drive. Project involved widening Puerto Place, demolishing County office building and constructing parking lot, installing post-construction BMP's, installing traffic signal at Casitas Place.

November, 2015 to February, 2016 – Lead inspector on Dredging of Dana Point Harbor. Project included inspecting dredging within Dana Point Harbor, installation and removal of temporary pipeline from the harbor to Capistrano Beach for sediment deposit, grading of dredged material at Capistrano Beach and Baby Beach (DPH), coordinating with OC Survey on calculating quantities, inspecting temporary BMP's.

October, 2015 – Lead Inspector of Dana Point Harbor Parking Lot Overlay (Job Order Contract). Project included pavement and curb removal and replacement, AC overlay, striping, and temporary BMP's.

July, 2015 to September, 2015 – Lead Inspector of Overlay of Various Streets in North Tustin (Job Order Contract). Project included pavement and curb and gutter removal and replacement, AC overlay, striping, temporary traffic control, and temporary BMP's.

August, 2013 to July, 2015 – Lead Inspector of Trabuco Creek Phase VII. Project included steel sheet pile installation (5,000± LF), bike trail construction, CMU walls, down drain, and cable fence.

February, 2013 to June, 2013 – Lead Inspector of Slurry Seal of Various Streets in the County of Orange. Project involved slurry seal application, temporary traffic control, pavement removal and replacement, and temporary BMP's.

November, 2010 – May, 2013

Construction Inspector | County of Orange, Construction Division | Santa Ana

Inspected public works construction for work in County Right-of-Way for County Property Permits. This includes inspecting various permits for homeowners, utility companies, developers, and businesses. I also review engineered plans for permit construction and I am well versed in using the County's CPP system.

Inspected Subdivision work for County of Orange. This includes curb and gutter, sidewalk, paving, storm drain, catch basins, landscaping, grading, and utility installment.

Perform grading inspections in subdivision construction and private property. This includes inspecting mass grading in subdivision, retaining walls, and building foundations. Review certificates of compliance from engineers and contractors. Review grading plans and geotechnical reports. Perform daily entries into the department's APPS system.

Performed NPDES compliance inspections on all projects.

February, 2006 – November, 2010

Supervising Engineering Technician II | County of Orange, Construction Division | Santa Ana

Supervised Engineering Technicians performing pavement analysis and investigations; performed pavement analysis using ground penetrating radar and falling weight deflectometer; designed overlay thicknesses for County resurfacing projects. Reviewed plans and specifications for County public works projects. Wrote geotechnical and materials reports for the county geotechnical engineer, which includes design by County standard plans and Greenbook specifications. Designed traffic control plans using the MUTCD. Performed geotechnical investigations with field techniques such as drilling, site reconnaissance, and visual inspection. Assisted the geotechnical engineer and engineering geologist in inspecting the Seven Oaks Dam periodically from a geotechnical point of view.

February 2001 – February 2006

Supervising Engineering Technician I | County of Orange, Construction Division | Santa Ana

Supervised Engineering Technicians performing field density tests and laboratory maximum densities for public works construction. Designed database for keeping track of samples for the Materials Laboratory. Served on Internet Steering Committee for RDMD.

June, 1992 – February 2001

Engineering Technician III | County of Orange, Construction Division | Santa Ana

Evaluated, analyzed, and designed road structural sections for rehabilitation; wrote Materials Reports for geotechnical projects, subdivisions, and arterial highways; wrote street rehabilitation reports for county and city road projects, including strategies for rehabilitation; mapped removals and replacements, including measuring quantities; designed and implemented various computer applications; drafted boring logs, project exhibits, and maps; performed engineering calculations.

December, 1988 – June, 1992

Engineering Technician I | County of Orange, Construction Division | Santa Ana

Inspected the manufacture of PCC, Aggregate Base, Asphalt Concrete, and RSP for compliance with the Green Book, OC Standard Plans, and Project Special Provisions. Inspected cement and lime stabilization. Performed PCC slump tests and PCC cylinder fabrication. Witnessed RCP D-Load testing.

September, 1986 – December, 1988

Engineering Aid I/II/III | County of Orange, Construction Division | Santa Ana

Performed soils compaction tests on county public works projects with nuclear gauge; performed maximum density tests for calculating Relative Compaction (CTM 216, CTM 231, CTM 375, ASTM 1557). Performed various physical and chemical tests on construction materials and soils including Sand Equivalent, Cleanness Value, Specific Gravity, Gradation, Sulfate Content, Calcium Oxide Content, and Compressive Strength Tests for Concrete Samples. Also spent one month as a surveying aid.

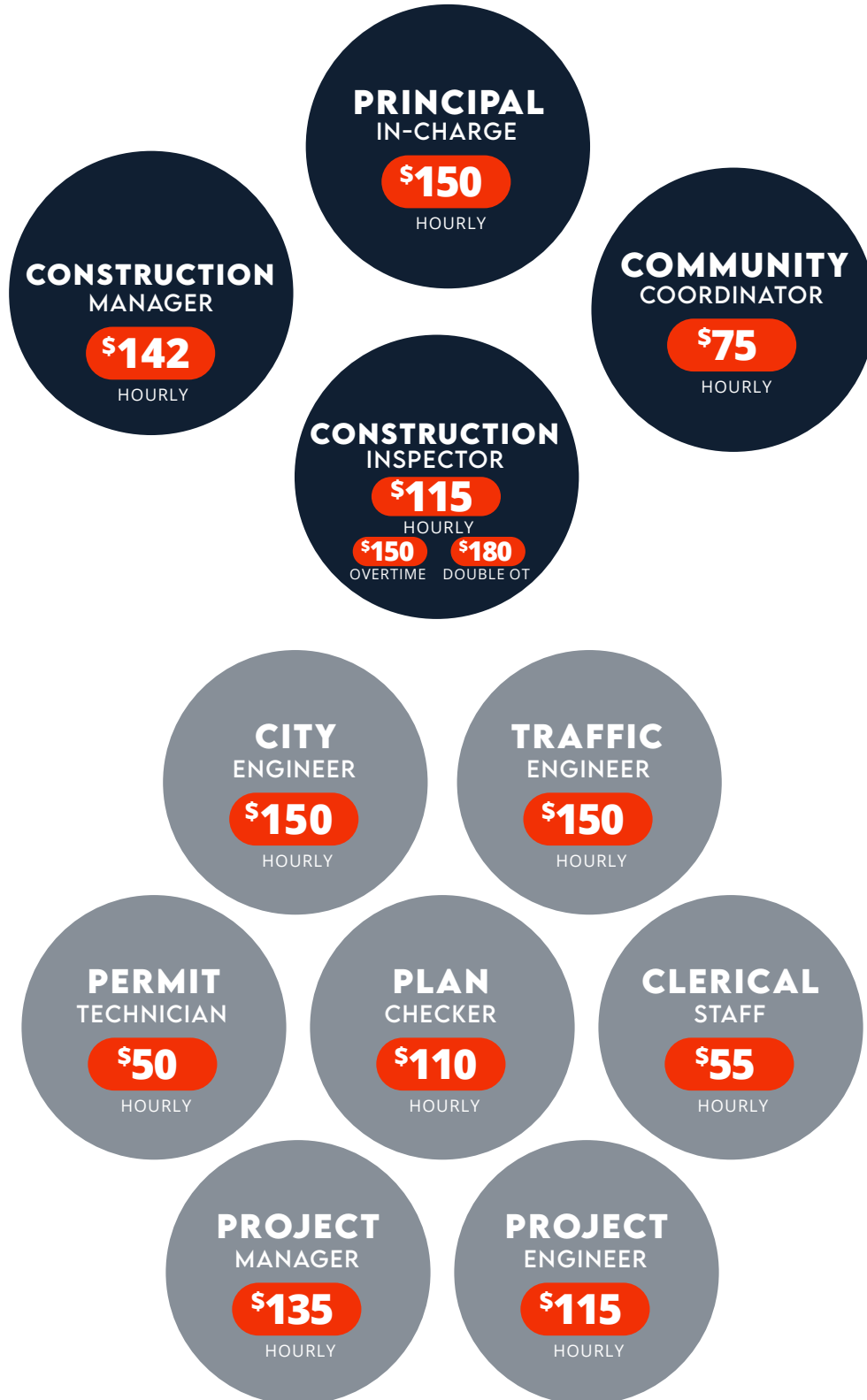
Exhibit B

Master Agreement Fee Schedule

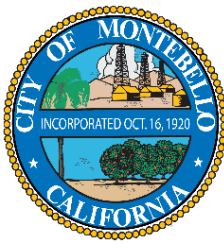
BILLING RATES

City of Montebello
On-Call Construction Management and Inspection Services
RFP No. 21-32

SCHEDULE OF BILLING RATES



*OE pays all construction inspections prevailing wage in compliance with the requirements of the Department of Industrial Relations (DIR).



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: James Enriquez, Director of Public Works / City Engineer

SUBJECT: **Approve Material Recovery Facilities (MRF) Use Agreement No. 4010 with Arakelian Enterprises, Inc. (DBA Athens Services)**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve the Material Recovery Facilities (MRF) Use Agreement (Attachment A) with Arakelian Enterprises, Inc. (DBA Athens Services); and
- 2) Authorize the Mayor to execute the agreement on behalf of the City; and
- 3) Take such additional, related, action that may be desirable.

FISCAL IMPACT

Athens Services shall pay the City a fee of five dollars (\$5.00) per ton of solid waste that is generated in the City and delivered by any Franchise Waste Hauler to any Athens MRF. The minimum anticipated annual payment to the City is \$350,000 for the residential waste stream, but can exceed this amount depending on the tonnage of waste generated by residential customers and the number of commercial franchise haulers that choose to utilize the Athens MRF. Utilization by commercial haulers is not required, but will be encouraged in order to facilitate State-mandated diversion and reporting requirements by all haulers.

The Fiscal Year 2022-23 budget did not anticipate this additional revenue at the time of adoption. This additional revenue will be recorded in the General Fund as solid waste franchise revenue. Subsequent quarterly budget updates will include the \$350,000 in projected additional General Fund revenue, and Staff will monitor trends to determine the

Approve Material Recovery Facilities (MRF) Use Agreement No. 4010 with Arakelian Enterprises, Inc. (DBA Athens Services)

Page 2 of 4

actual amount to be received. Should commercial waste haulers avail themselves of Athens MRF, the General Fund will receive additional revenue above the \$350,000 forecasted for residential organic waste.

BACKGROUND

California Senate Bill No. 1383 (SB 1383) was signed into law on September 19, 2016 to reduce organic waste disposal by 75% and increase edible food recovery by 20%, by 2025. SB 1383 is the most significant waste reduction mandate adopted in the State of California in the last 30 years and required all jurisdictions to implement a mandatory organic recycling ordinance by January 1, 2022. This legislation requires all customers to comply with recycling programs that capture food scraps, landscaping waste, and other organic waste materials.

As a result of SB 1383, the California Department of Resources Recycling and Recovery (CalRecycle), which is the state department tasked with administering California's waste and recycling programs, developed prescriptive regulations to achieve the State's outlined organic waste disposal goals by 2025. Over the last two (2) years, CalRecycle conducted informal hearings with local governments and stakeholders to develop regulations to achieve the State's organic waste reduction mandates. In November 2020, CalRecycle released the final regulations for SB 1383.

SB 1383 builds upon Assembly Bill 1826 (AB 1826), which previously went into effect on April 1, 2016. AB 1826 required any business generating two or more cubic yards of solid organic waste per week, and multi-family properties with five or more units, to recycle their organic waste (under AB 1826, multi-family properties are only required to recycle landscape debris). Additionally, AB 1826 required the City to implement an organic waste recycling program that included identifying non-compliant businesses that are required to recycle organic waste and notifying the businesses of these requirements.

On December 8, 2021, prior to the January 1, 2022 State deadline, the City Council adopted Urgency Ordinance No. 2445 amending the Montebello Municipal Code enacting a new Chapter 8.13 "Organic Waste Disposal Reduction" in compliance with SB 1383. The ordinance is an enforcement ordinance to compel commercial businesses and residents to recycle organic waste and to comply with other requirements of SB 1383, including required periodic reporting by haulers to CalRecycle demonstrating compliance with waste diversion requirements.

While the City hopes to gain voluntary compliance from residents and businesses, SB 1383 regulations provide CalRecycle with the ability to engage in enforcement actions of its own against the City if the designated level of compliance is not met. These actions may include:

- Conducting more frequent inspections;

CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 1, 2022
Approve Material Recovery Facilities (MRF) Use Agreement No. 4010 with Arakelian Enterprises, Inc. (DBA Athens Services)

Page 3 of 4

- Taking over direct enforcement on non-compliant businesses within the City;
- Establishing a schedule for City compliance and a probationary period, requiring a work plan and that the jurisdiction demonstrate it has sufficient staffing to implement the requirements of the law; and/or
- Seeking administrative penalties against the City of up to \$10,000 per day.

Staff has been in frequent communication with CalRecycle staff who are monitoring the City's path toward compliance. CalRecycle set a deadline for compliance by July 2022.

ANALYSIS

Arakelian Enterprises, Inc. (DBA Athens Services) ("Athens Services") currently serves as the City's solid waste hauler for residential waste for properties with four dwelling units or fewer. In accordance with Agreement No. 3740 (executed on February 10, 2020), this service ends on February 11, 2025, at which time the City will have conducted a Request for Proposals (RFP) for a residential waste hauling franchise agreement.

Irrespective of the RFP process, the recommended MRF agreement with Athens Services will ensure immediate and uninterrupted compliance with SB 1383 for the residential waste stream, as well as all other State-mandated waste diversion requirements, upon execution. It will also immediately provide a convenient and economical option for all commercial waste haulers to comply with the organic waste collection and diversion requirements of SB 1383.

The main deal points of the recommended MRF agreement are summarized as follows:

- **Residential Organic Waste Collection Fee Forbearance:** The increase in monthly fee for residential customers for organic waste collection will be waived upon the execution of the recommended MRF agreement (subject to penalty payments by the City if the MRF agreement is terminated prior to February 11, 2025). The residential fee that will be waived was estimated at \$2.02 per month for each residential property.
- **Payment to City:** Athens Services shall pay the City a fee of five dollars (\$5.00) per ton of solid waste that is generated in the City and delivered by any Franchise Waste Hauler to any Athens MRF. The minimum anticipated annual payment to the City is \$350,000 for the residential waste stream, but can exceed this amount depending on the tonnage of waste generated by residential customers and the number of commercial franchise haulers that choose to utilize the Athens MRF. Utilization by commercial haulers is not required, but will be encouraged in order to facilitate State-mandated diversion and reporting requirements by all haulers.
- **Capacity Guarantee:** Athens Services will ensure capacity and will accept at its MRF all solid waste (excluding hazardous/toxic waste) delivered by the City or its Franchised Haulers, including commercial haulers, and including all waste streams (mixed waste, organic, and recyclables).

Approve Material Recovery Facilities (MRF) Use Agreement No. 4010 with Arakelian Enterprises, Inc. (DBA Athens Services)

Page 4 of 4

- **Commercial Organic Waste:** Commercial haulers will have the option to dispose of organic waste at the Athens Services' MRF at the rate of one hundred ten dollars per ton (\$125/ton). (This rate would be effective between 7/1/22 through 6/30/23).
- **Reporting:** Athens Services will generate all reports required under applicable State and local laws and ordinances for all City waste delivered to and processed at its MRFs.
- **Term:** Ten (10) years beginning on August 1, 2022, provided, however, that commencing August 1, 2022, and on August 1st every year thereafter, automatic one-year extensions shall be applied to this Agreement so that the term of this Agreement shall thereafter remain at a constant ten (10) years, unless sooner terminated.
- **Delivery of Covered Waste:** During the term of this agreement, the City shall deliver or cause to be delivered to the Athens MRF all solid waste generated at residential properties (single-family dwellings and multifamily dwellings of four units or less).
- **Forbearance Reimbursement:** In the event the City issues an effective Notice of Intent to Terminate or City terminates this Agreement prior to February 11, 2025, or the Agreement is otherwise deemed terminated, void, or enjoined by a court of competent jurisdiction, the City shall immediately tender payment to Contractor in an amount equal to \$2.02 per each single-family dwelling and multifamily dwelling of four units or less in the City per month for a period of thirty-six (36) months.

SUMMARY

Upon the approval of the City Council of the recommended actions, staff will coordinate the execution of the agreement and implementation of SB 1383 programs and services with Athens Services. This includes public outreach to residential and commercial properties with educational material regarding SB 1383 organic waste collection requirements and services. Staff will also contact Commercial Franchise Waste Haulers to coordinate compliance with SB 1383 requirements. Commercial Haulers will have the option to utilize the Athens MRF, which will assist with compliance, or will be required to submit an individual plan for compliance. Those haulers that do not comply will be subject to corrective actions, up to and including revocation of franchise hauling agreements.

ATTACHMENT:

- A. Attachment A – MRF Agreement No. 4010 with Athens Services

**MATERIAL RECOVERY FACILITIES (MRF) USE AGREEMENT NO. 4010
BETWEEN CITY OF MONTEBELLO
AND
ARAKELIAN ENTERPRISES, INC. DBA ATHENS SERVICES**

This Material Recovery Facilities Use Agreement (“Agreement”) is entered on August 1, 2022 (“Effective Date”), by and between the City of Montebello, a general law city (“City”), and Arakelian Enterprises, Inc. dba Athens Services, a California corporation (“Contractor”). City and Contractor may be individually referred to as “Party” and collectively as “Parties.”

RECITALS

WHEREAS, the Legislature of the State of California, by enactment of California Public Resources Code § 40000 et seq., declares that it is within the public interest to authorize and require local agencies to make adequate provision for solid waste handling within their jurisdictions, and Public Resources Code § 40059 provides municipalities with latitude to enter into agreements to advance local objectives with regard to solid waste handling services;

WHEREAS, the City contracts or may contract for, or otherwise issues permits allowing for, the collection of solid waste generated within the boundaries of the City with certain solid waste haulers (“Franchised Haulers”), and the City has the authority to direct or encourage Franchised Haulers as well as residents and businesses engaged in self-hauling to transport solid waste generated within the City to designated waste processing facilities in a manner consistent with the protection of public health and safety;

WHEREAS, the Contractor owns and operates material recovery facilities in the cities of Industry and Irwindale, which are proximate to the boundaries of the City, may own or operate additional material recovery facilities in the future, or utilize material recovery facilities not owned by Contractor to accept City waste (collectively, “Contractor MRFs”);

WHEREAS, the Contractor wishes to enter into an agreement with the City to accept non-hazardous solid waste generated in the City at the Contractor MRFs, subject to the provisions of this Agreement, and the City desires to encourage the delivery of such waste to Contractor MRFs in exchange for fees paid to the City based on the total tonnage of City waste delivered to Contractor MRFs; and

WHEREAS, the City has determined that the execution of this Agreement by the City is in the best interests of the City and will serve the public health, safety and welfare of the City by providing greater waste diversion in accordance with state law, more predictable and reliable long-term processing service, and the continuation of sound environmental management.

NOW, THEREFORE, in consideration of the promises and of the mutual covenants and agreements herein set forth, and of the undertakings of each Party to the other, the Parties do hereby promise and agree as set forth below.

AGREEMENT

1. **Term.** The term of the Agreement shall be ten (10) years beginning on August 1, 2022, provided, however, that commencing August 1, 2022, and on August 1st every year thereafter, automatic one-year extensions shall be applied to this Agreement so that the term of this Agreement shall thereafter remain at a constant ten (10) years unless sooner terminated in accordance with Section 10 of this Agreement (“Term”). Notwithstanding the foregoing, should either Party desire that said one-year renewal and extension provision be terminated, such Party may give the other written notice of such termination sixty (60) days prior to August 1st of any year during which this Agreement is in full force and effect (“Notice of Intent to Terminate”). Such Notice of Intent to Terminate will terminate the one-year renewal and extension provision, and the Agreement shall remain in full force and effect for ten (10) years. Within thirty (30) days after receipt of a Notice of Intent to Terminate, either Party may request to meet and confer regarding the termination, and any Notice of Intent to Terminate shall not be effective unless the Party which sent the notice of termination meets and confers, in good faith, with the other Party after the other Party’s timely request to do so. The Party which sent the Notice of Intent to Terminate shall provide a supplemental written notice to the non-terminating party at the end of the meet-and-confer process which must be no later than fifteen (15) days prior to August 1st of the year a Party elects to terminate the one-year renewal and extension provision. Any notice of termination shall not be effective until the delivery of timely notice recording the end of the meet-and-confer process.

2. **Residential Food Waste Program Fee.** As of the Effective Date, Contractor and City are party to that certain Agreement No. 668, as amended by that certain Amendment No. 1 dated September 22, 1986, that certain Amendment No. 2 dated October 10, 1989, that certain Amendment No. 3 dated December 8, 1992, that certain Amendment No. 4 dated July 5, 1994, and which is anticipated to be amended by a future Amendment No. 5 addressing SB 1383 residential food waste programs (“Agreement No. 668”). Contractor agrees not to charge or assess any fee for SB 1383 residential food waste programs otherwise due to Contractor in accordance with Agreement No. 668, as it may be amended, except for (i) the termination of the automatic one-year extension specified in Section 1, (ii) the termination of this Agreement, or (iii) the termination or expiration of the Residential Franchise, whichever occurs first.

3. **Solid Waste Management Fee.**

a. **Payment to City.** During the Term, and subject to the provisions of this Agreement, Contractor shall pay the City a fee of five dollars (\$5.00) per ton of City Waste that is generated in the City and delivered to any Contractor MRF (“Solid Waste Management Fee”). The Solid Waste Management Fee will be adjusted annually commencing January 1 of each year of the Term to reflect the increase in the Consumer Price Index for Trash and Garbage Collection (CUUR0000SEHG02), U.S. City Average (not seasonally adjusted), published by the U.S. Department of Labor, Bureau of Labor Statistics (“Trash CPI”), or any other similar index deemed acceptable by City and Contractor, October to October for the previous twelve (12) months. For the purposes of this Agreement, “City Waste” means municipal solid waste, including garbage, refuse, rubbish, construction and demolition materials, and other materials and substances, such as Organic Waste and Recyclable Materials as defined below, discarded or rejected as being spent, useless, worthless, or in excess to the owners at the time of such discard or rejection and which are

normally disposed of by or collected from residential premises (single-family and multifamily), commercial, industrial, governmental, and institutional establishments, and which are deemed acceptable at the Contractor MRFs as specified in Section 6(f).

b. **Payment; Accounting.** The Solid Waste Management Fee shall be paid by Contractor to City on a quarterly basis beginning September 1, 2022. With each quarterly remission of the Solid Waste Management Fee, Contractor shall submit to City a written statement of the gross tonnage to which the Solid Waste Management Fee applies. Upon request of the City, the Contractor shall also provide copies of weight tickets or other reasonably requested documentation substantiating deliveries of City Waste subject to the Solid Waste Management Fee at the times and in the amounts specified.

c. **Solid Waste Management Review and Reconciliation.** No more than once in any 12-month period, City may request a review and reconciliation of Contractor's tonnage reports and other records related to tonnages of City Waste delivered to Contractor MRFs for the purpose of assisting with any audit pursuant to Section 3(d) below. Such review and reconciliation shall be conducted jointly by Contractor and City.

d. **Solid Waste Management Fee Audits.** No more than once in any 12-month period, City may request an audit, at City's sole expense, of Contractor's books, records, and accounts relating to the payment of Solid Waste Management Fee, provided that the City provides three (3) business days' notice and the audit is conducted during normal business hours. Such audit shall be based upon tonnage amounts determined through the review and reconciliation process described in Section 3(c) above, and conducted by an independent third-party certified public accountant applying Generally Accepted Auditing Standards.

4. **Services to be Provided by Contractor.**

a. **General.** Subject to the terms and conditions of this Agreement, Contractor shall guarantee capacity for, and accept, all City Waste delivered by City or its Franchised Haulers to Contractor MRFs. Contractor shall process or dispose City Waste as set forth in this Agreement. Contractor shall be solely responsible for marketing the finished products of any processed City Waste and shall be entitled to retain all proceeds therefrom.

b. **Organic Waste.** Annually beginning August 1st of each year of the Term, Contractor shall divert from landfills a minimum of fifty percent (50%) of source-separated Organic Waste generated in the City and delivered to Contractor MRFs. "Organic Waste" means food waste, green waste, landscape and pruning waste, nonhazardous wood waste, and food-soiled paper waste that is mixed in with food waste. Contractor shall transfer Organic Waste deemed acceptable by Contractor to a facility selected by Contractor capable of processing Organic Waste in accordance with applicable law, which includes but is not limited to the American Organics processing facility at 20055 Shay Rd., Victorville, CA 92394.

c. **Recyclable Materials.** Annually beginning August 1st of each year of the Term, Contractor shall divert from landfills a minimum of forty-five percent (45%) of source-separated Recyclable Materials generated in the City and delivered to Contractor MRFs. "Recyclable Materials" means materials which can be reused or processed into a form suitable for reuse through

reprocessing or remanufacture, and includes paper, newsprint, printed matter, pasteboard, paper containers, cardboard, glass, aluminum, polyethylene terephthalate (PET) or other plastics, beverage containers, compostable materials, phone books, used motor oil, and such other materials designated by Contractor, or designated as recyclables by CalRecycle, or any other agency with jurisdiction.

d. **Mixed Waste.** Annually beginning August 1st of each year of the Term, Contractor shall divert from landfills a minimum of twenty-five percent (25%) of City Waste delivered by to Contractor MRFs that is not source-separated and contains a mixture of Organic Waste, Recyclable Material, or garbage, refuse, rubbish, or similar materials.

e. **Residuals and Other Materials.** Contractor shall deliver of all Residuals resulting from the processing of City Waste to a disposal facility selected by Contractor capable of accepting Residuals and Other Materials in accordance with applicable law. “Residuals” means unrecoverable materials remaining after processing City Waste for which there are no other options for viable use and which therefore must be disposed of at a disposal facility. “Other Materials” means City Waste that Contractor determines will be disposed without processing.

f. **Reports.** At City’s request or as required of Contractor under applicable law, Contractor will generate, and deliver to City, CalRecycle, or any agency with jurisdiction, reports pertaining to the recycling and diversion of solid waste relating to City Waste processed at Contractor MRFs. Contractor shall also maintain records of the quantities of Residuals and Other Materials transported to and accepted at disposal facilities.

5. **Delivery of Covered Waste.**

a. **Delivery of Covered Waste.** Subject to the terms and conditions of this Agreement, the City shall deliver or cause to be delivered to Contractor MRFs all City Waste generated at residential (single-family dwellings and multifamily dwellings of four units or less) (“Covered Waste”). For purposes of this Agreement, material delivered hereunder by Franchised Haulers shall be deemed to be material delivered hereunder by the City. The City shall ensure that each of its Franchised Haulers delivers material hereunder that complies with the provisions of this Agreement as if such Franchise Haulers were a party to this Agreement.

b. **City’s Use of Contractor MRFs.** Contractor’s commitment to accept City Waste as set forth in this Agreement is expressly predicated and conditioned upon the City’s commitment not to utilize any other MRFs for the processing, transfer, and disposal of Covered Waste as defined in Section 5a. This commitment from the City is considered as an essential part of the consideration for Contractor entering into this Agreement under the terms and conditions set forth herein. During the Term, the City shall not, directly or indirectly, process, transfer, dispose, or cause to process, transfer or dispose, any Covered Waste at a Contractor MRF other than alternative facilities when Contractor MRFs are “unavailable” as specified in Section 6(f). Any cost for the City’s use of alternative facility due to Contractor MRFs being “unavailable” shall be borne by the Contractor should there be a resulting cost to the City.

c. **Put or Pay.** If City fails for any reason to deliver all Covered Waste, as reported by the City or Franchised Haulers to CalRecycle annually commencing August 1 of each year of the Term, then the City shall pay Contractor an amount calculated by subtracting the

number of tons of Covered Waste actually delivered during such year from the number of tons of Covered Waste reported to CalRecycle and multiplying the result by the Maximum Service Rates applicable at the end of such year. Any payment required by City under this Section 5(c) shall be in addition to any other payments due to Contractor. Contractor shall invoice City for such amounts. This Section 5(c) shall be the sole remedy for any failure by City to satisfy Section 5(a).

6. **Performance Standards.**

a. **Operating Hours.** Contractor is only required to accept City Waste that is delivered Monday through Saturday between the normal business hours of 6 a.m. and 8 p.m., or as may be adjusted by Contractor.

b. **Tracking; Scales and Weighing.** Contractor shall operate and maintain permanent scales at the Contractor MRFs in compliance with applicable law. Contractor shall weigh all vehicles delivering City Waste upon initial delivery. Gross, tare and net weights will be recorded, along with vehicle number, date and time of delivery. Contractor shall prepare a daily weight record of tonnage to which the Solid Waste Management Fee applies with regard to such deliveries. Contractor shall maintain all such reports for three (3) years. Contractor shall cause the scales to be calibrated and tested in accordance with applicable law. In the event that the scales are temporarily unavailable, the Contractor shall estimate the amount of City Waste based on historical records.

c. **Permits.** Contractor shall obtain and maintain, at Contractor's sole cost, all permits required under applicable law to perform the services required of Contractor hereunder. Contractor shall provide City copies of permits for the Contractor MRFs and provides to the City upon reasonable request. Contractor will comply with all permits, including any mitigation measures related to the operation and maintenance of the Contractor; notwithstanding, Contractor is solely responsible for paying any fines or penalties imposed for noncompliance with or violation of permits or failure to obtain permits.

d. **Excluded Waste.** Contractor MRFs shall not be obligated to accept Excluded Waste. "Excluded Waste" means any City Waste determined by Contractor to be (i) defined, regulated or listed as "hazardous," "toxic," a "pollutant," "biomedical," "infectious," "volatile," or words of similar import under any applicable laws, (ii) "designated waste" as defined in California Water Code Section 13173; (iii) "medical waste" as defined under the California Medical Waste Management Act; (iv) materials that would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Contractor or the City to potential liability; or (v) prohibited from being received or processed at Contractor MRFs under applicable permits or applicable law. Where there is a conflict in the definitions employed by two or more agencies having jurisdiction over Excluded Waste, Excluded Waste shall be construed to have the broader, more encompassing definition.

e. **Contaminated Waste.** Contractor MRFs shall not be obligated to accept Contaminated Waste. The presence of Contaminated Waste shall be determined by Contractor's visual or digital inspection. City acknowledges that Contractor shall have the right to charge and collect a fee in accordance with Section 8 for the acceptance and processing of Contaminated Waste delivered at Contractor MRFs should Contractor agree to accept and process such waste. "Contaminated Waste" means loads with Recyclable Materials or Organic Waste commingled

with City Waste other than Recyclable Materials or Organic Waste, respectively; loads with Organic Waste commingled with non-organic City Waste; or upon notice to City, any loads that Contractor deems contaminated in accordance with industry standards, applicable law, or prevailing market conditions.

f. **Unavailability.** Contractor shall not be obligated to accept City Waste in the event the Contractor MRF to which City Waste is delivered is unavailable. A Contractor MRF will be deemed “unavailable” if, prior to the delivery of City Waste, Contractor advises the City by telephone and email or facsimile of any situation, event, or circumstance which results in the partial or complete inability of the Contractor to receive City Waste at the subject Contractor MRF and Contractor provides its best estimate of the probable duration that the Contractor MRF is unavailable. Contractor shall use its best efforts to resume normal operation of the Contractor MRF as soon as possible.

g. **Policies and Procedures.** Contractor reserves the right to request that Franchised Haulers agree in writing to comply with all Contractor policies and procedures, as such may be added or amended from time to time, relating to Franchised Haulers use of Contractor MRFs as a condition to access Contractor MRFs, including but not limited to hours of operation, recordation of gross, tare and net weights, disposition of Unacceptable Waste as defined herein, site and vehicle safety, and compliance with applicable law.

7. **Right to Inspect City Waste; Unacceptable Waste.** Contractor shall have the right to inspect vehicles delivering material to any Contractor MRF, and may require that the hauler remove any Excluded Waste or Contaminated Waste (collectively, “Unacceptable Waste”) from any such vehicle before it is unloaded. Contractor may reject the entire load carried by the vehicle, and Contractor shall require that the hauler immediately remove or cause the removal of the entire delivery from the Contractor MRF if Contractor determines that (i) it is impractical to separate City Waste from Unacceptable Waste in any vehicle, or if the hauler are unwilling to make such separation, or (ii) if any vehicle is carrying waste which may spill or leak. Under no circumstances shall Contractor be obligated to permit the discharge of loads with Unacceptable Waste in whole or part. Loads containing Unacceptable Waste are neither subject to the Solid Waste Management Fee specified in Article 3 nor included in determining compliance with the Diversion Requirements specified in Article 4.

8. **Maximum Service Rates.** City acknowledges that Contractor shall have the right to charge and collect per-ton rates for the acceptance, processing, transfer, and/or disposal of City Waste at Contractor MRFs (“Maximum Service Rates”). Maximum Service Rates will be adjusted annually commencing January 1 of each year of the Term by the increase in Trash CPI or any other similar index deemed acceptable by Contractor, October to October for the previous twelve (12) months. Contractor may further adjust the Maximum Services Rates or add rates for new services, at its sole discretion, at any time, in the event of, market changes, changes in law, changes in permits, increases in fuel costs, increases in disposal facility costs, changes in operations or operational costs, increases in services requested by Franchised Haulers or City, or similar extraordinary changes (“Extraordinary Increase”). Contractor shall provide at least thirty (30) days’ prior notice to City of any Extraordinary Increase, along with an explanation of the need for the Extraordinary Increase. Upon receipt of an Extraordinary Increase notice, City may elect to meet and confer with Contractor to discuss the basis for the Extraordinary Increase.

9. **Unanticipated Changes.** In the event of Unanticipated Changes, Contractor shall be entitled to a reduction in the Solid Waste Management Fee, or other modifications to the Agreement as may be reasonably necessary. A final determination concerning an application for changes to the Solid Waste Management Fee or other modifications to the Agreement will be considered by the City Council within thirty (30) days of Contractor's request, unless extended by mutual agreement between the Parties, and cannot be unreasonably denied upon Contractor's demonstration of Unanticipated Changes. For the purposes of this Agreement, "**Unanticipated Changes**" shall include but are not limited to (i) an event or circumstance occurred or will occur which is not reasonably foreseeable, and is not a usual business risk of Contractor; or (ii) an event or circumstance occurred or will occur which is beyond the control of Contractor; or (iii) it is necessary for Contractor to make a substantial change in its operation, or substantial capital investment, in order to perform its obligations under this Agreement or to meet the requirements of applicable law or regulation; or (iv) change in law such as but not limited to any changes that affect whether City directs or causes to direct Covered Waste to Contractor MRFs.

10. **Termination.** This Agreement may be terminated in whole in writing by either Party in the event of substantial failure by the other Party to fulfill its obligations under this Agreement through no fault of the terminating Party, provided that no termination may be effected unless the other Party is given (i) not less than sixty (60) calendar days' written notice (delivered by certified mail, return receipt requested) of intent to terminate, and (ii) an opportunity for consultation with the terminating Party prior to termination. The opportunity for consultation will include an opportunity to cure the events leading to any substantial failure within thirty (30) calendar days of the terminating Party's written notice. If additional time is needed to effectuate a cure, such time may be requested in writing from the terminating Party subject to the terminating Party's approval, which will not be unreasonably withheld. Notwithstanding any provision in this Agreement to the contrary, Contractor may terminate this Agreement without cause upon providing thirty (30) days' written notice to City. The rights and remedies of either Party provided in this section shall not be exclusive and are in addition to any other rights and remedies provided by law or under this Agreement.

11. **Contractor Defense of City.** Contractor shall defend the City and its officers, employees, and agents from and against any claim, action, or proceeding against the City, its officers, employees, or agents to attack, set aside, void, or annul any approval or condition of approval concerning the Agreement with counsel selected by Contractor in consultation with City. The City shall promptly notify the Contractor of any claim, action, or proceeding concerning the Agreement, and the City shall cooperate fully in the defense of the matter. The City reserves the right, at its own option and expense, to engage its own attorney to represent the City, its officers, employees, and agents in the defense of the matter.

12. **Forbearance; Reimbursement.** The City acknowledges that, in consideration of this Agreement, Contractor agreed to forebear fees that Contractor otherwise could have collected for services rendered on behalf of the City. Accordingly, notwithstanding any provision in this Agreement to the contrary, in the event City issues an effective Notice of Intent to Terminate or City terminates this Agreement prior to February 11, 2025, or the Agreement is otherwise deemed terminated, void, or enjoined by a court of competent jurisdiction, City shall immediately tender payment to Contractor in amount equal to \$2.02 per each single-family dwelling and multifamily dwelling of four units or less in the City per month for a period of thirty-six (36) months.

13. **Indemnification.** Except in cases of active negligence, willful misconduct, material breach of this Agreement, or violation of law by City or third parties delivering City Waste to Contractor MRFs, or by any of their boards, officers, agents, employees, assigns, or successors in interest, Contractor undertakes and agrees to defend, indemnify, and hold harmless City and any of its boards, officers, agents, employees, assigns, and successors in interest (collectively, “City Indemnitees”) from and against all suits and causes of action, claims, losses, demands, and expenses, including but not limited to attorney’s fees, cost of litigation (to include actual litigation costs incurred by City Indemnitees, such as the cost of experts and consultants), and damage or liability of any nature whatsoever: (i) for death or injury to any of the City Indemnitees or (ii) for damage or destruction of any property of City Indemnitees, arising by reason and to the extent of the negligent acts, errors, omissions, or willful misconduct incident to the performance of this Agreement by Contractor. All consultants and attorneys engaged hereunder are subject to the approval of Contractor. This provision shall survive the expiration of the term of this Agreement, for claims arising prior to the expiration of the term of this Agreement.

14. **Insurance.**

a. **General.** Contractor shall maintain or cause to be maintained commercial liability insurance with respect to the Contractor MRFs in the amount of at least \$1,000,000 per claim and shall name the City as an additional insured on such insurance. The Contractor shall furnish the City, upon request, with appropriate certificates of insurance evidencing such coverage or other appropriate proof of insurance.

b. **Environmental Insurance.** The Contractor will obtain insurance for potential environmental liability of the Contractor MRFs in an amount at least equal to \$1,000,000 per claim. The Contractor shall maintain comparable insurance throughout the Term hereof so long as commercially available on reasonable terms, as determined at the reasonable discretion of Contractor. The Contractor shall notify the City in the event that the Contractor does not maintain the insurance described in this Section. The Contractor shall furnish the City, upon request, with appropriate certificates of insurance evidencing such coverage.

15. **Disputes.** If any dispute, controversy, or claim arises out of or relates to the enforcement or interpretation of this Agreement, or any part thereof, the Parties agree to submit the dispute, controversy, or claim to binding arbitration. Such arbitration shall be conducted by a single arbitrator. If, within twenty (20) days from the receipt of a request to arbitrate (or such longer period mutually agreed to by the Parties), the Parties are unable to agree on an arbitrator, then a single arbitrator shall be appointed pursuant to the Commercial Arbitration Rules of the American Arbitration Association, which shall govern any arbitration requested under this provision. Each Party shall bear its own costs and expenses of any arbitration. Each Party shall pay one-half of the costs of the arbitrator.

16. **Assignment.** Neither this Agreement nor any of the rights or obligations of the Contractor hereunder may be transferred or assigned by Contractor without the prior written consent of the City Manager, which may not be unreasonably withheld. Notwithstanding the foregoing, a transfer or assignment to a family member or an affiliate of Contractor may be undertaken upon notice to the City Manager, but without the requirement for its approval. For the purposes of this provision, (i) “family member” means any parents, grandparents, siblings,

children, and grandchildren of individuals having a shareholder or other equity interest in Contractor; and (ii) “affiliate” means any person or legal entity that, directly or indirectly, controls, is controlled by, or is under common control with Contractor.

17. **Force Majeure.** In the event that performance on the part of any Party hereto is affected as a result of circumstances beyond the reasonable control and without the fault and negligence of said Party, any non-performance arising therefrom shall be excused. Circumstances deemed to be beyond the control of the Parties hereunder include but are not limited to acts of God or of the public enemy; insurrection; acts of the federal government or any unit of state or local government in either sovereign or contractual capacity; fires; floods; earthquakes; epidemics; quarantine restrictions; strikes; failure of City to enforce the Municipal Code to prevent illegal hauling; and freight embargoes or delays in transportation to the extent that they are not caused by the Party’s willful or negligent acts or omissions and to the extent that they are beyond the Party’s reasonable control.

18. **Amendments.** Amendments, changes, or modifications in the terms of this Agreement may be made at any time by mutual written agreements between the Parties hereto and shall be signed by the persons authorized to bind the Parties thereto.

19. **Applicable Law.** This Agreement is governed by, and construed and enforced in accordance with, the law of the State of California, without giving effect to the state’s principles of conflicts of laws. Nothing in this Agreement shall be construed as obligating Contractor to perform services in furtherance of City’s compliance with laws and regulations arising from changes in law prior to City and Contractor having agreed to any adjustment in rates, services, or fees that may be appropriate for such changes in law.

20. **Jurisdiction; Venue.** Any action at law or in equity brought by either Party for the purpose of enforcing a right or rights provided for by this Agreement shall be tried in a court of competent jurisdiction in the County of Los Angeles, State of California, and the Parties waive all provisions of law providing for a change of venue in these proceedings to any other county.

21. **Disclaimer.** This Agreement is not intended to create, nor shall be construed as creating, any Residential Solid Waste Franchise. For the purposes of this Agreement, “Residential Solid Waste Franchise” means the right and privilege granted by the City to a solid waste hauler for the purpose of collecting curbside residential solid waste, recyclables and yard waste accumulating and generated upon single-family residential premises within the boundaries of the City, to transport such solid waste to landfills, transformation facilities or other licensed solid waste management facilities; and/or to recycle such solid waste.

22. **Headings.** Any headings preceding the text of the articles, sections, and subsections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction, or effect.

23. **Interpretation.** The language of this Agreement shall be construed according to its fair meaning and not strictly for or against City or Contractor. Any rule or law that would require interpretation of any term or ambiguity in this Agreement against the party that drafted the applicable provision is waived.

24. **Notices.** The names of the persons who are authorized to give written notices or to receive written notices on behalf of City and on behalf of Contractor under this Agreement.

For City:

Name: René Bobadilla
Title: City Manager
Dept.: Administration
Address: 1600 West Beverly Blvd
Montebello, CA 90640

Phone: (323) 887-1363

For Contractor:

Contractor: Athens Services
Attn. (name): Gary Clifford
Title: Executive Vice President
Address: 14048 Valley Blvd
City of Industry, CA 91746

Phone: (626) 336-3636

Each Party will notify the other immediately of any changes of address that would require any notice or delivery to be directed to another address.

25. **Severability.** Should any portion of this Agreement be determined to be void or unenforceable, such shall be severed from the whole and the Agreement will continue as modified.

26. **Recitals.** The recitals to this Agreement are not intended to bind the Parties hereto. In the event of a conflict between the recitals and the operative provisions of this Agreement, the operative provisions shall prevail.

27. **Waiver.** No action of Contractor or City pursuant to this Agreement (including, but not limited to, any investigation or payment), and no failure to act, shall constitute a waiver by either Party of the other Party's compliance with any term or provision of this Agreement. No course of dealing or delay by Contractor or City in exercising any right, power, or remedy under this Agreement shall operate as a waiver thereof or otherwise prejudice such Party's rights, powers, and remedies. No single or partial exercise of (or failure to exercise) any right, power, or remedy of Contractor or City under this Agreement shall preclude any other or further exercise thereof of any other right, power, or remedy.

28. **Further Assurances.** At any and all times the Contractor and the City so far as may be authorized by law shall pass, make, do, execute, acknowledge, and deliver any and every such further resolutions, acts, deeds, conveyances, instruments, assignments, transfers, and assurances as may be necessary or reasonably requested by the other in order to give full effect to this Agreement.

29. **Relationship of Parties; Independent Contractor.** Contractor is an independent contractor of City and nothing in this Agreement shall be deemed to constitute either Party a partner, agent, or legal representative of the other Party or to create any fiduciary relationship between the Parties. The work and labor herein provided for shall be performed and furnished by Contractor as an independent contractor and under the sole supervision, management, direction, and control of Contractor in accordance with the terms and conditions of this Agreement. This Agreement shall not be construed to create a partnership, joint venture, or employment relationship between the Parties.

30. **Due Execution.** The person(s) executing this Agreement on behalf of the Parties hereto warrant(s) that (i) such Party is duly organized and existing; (ii) such person(s) are duly authorized to execute and deliver this Agreement on behalf of said Party; (iii) by so executing this Amendment, such Party is formally bound to the provisions of this Agreement; and (iv) entering into this Agreement does not violate any provision of the Montebello Municipal Code and any other agreement to which said Party is bound.

31. **Entire Agreement; Integration.** This Agreement contains the entire agreement and understanding between the Parties with respect to the subject matter of this Agreement, and supersedes any and all prior or contemporaneous oral and written representations, warranties, agreements, and understandings between the Parties concerning the subject matter of this Agreement.

32. **Counterparts.** This Agreement may be executed in counterparts, each of which shall be considered an original.

[Signature page follows.]

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first set forth below.

CITY OF MONTEBELLO

**ARAKELIAN ENTERPRISES
INC. dba ATHENS SERVICES**

By: _____
Kimberly Ann Cobos-Cawthorne
Mayor

By: _____
Ron Arakelian, III
Executive Officer

Dated: _____

Dated: _____

ATTEST:

By: _____
Christopher Jimenez
City Clerk

Dated: _____

APPROVED AS TO FORM:

By: _____
Arnold Alvares-Glasman
City Attorney

Dated: _____

Exhibit A

MAXIMUM SERVICE RATES

(Effective August 1, 2022 through December 31, 2022)

Service Description	Rate
Mixed Waste Processing	\$150.00/ton
Organic Waste Processing	\$125.00/ton
Recyclable Material Processing	\$65.00/ton
Construction & Debris Processing	\$125.00/ton
Solid Waste Transfer and/or Direct Disposal	\$95.00/ton
Contamination Fee	\$25.00/ton



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: Lupita Ibarra, Director of Transportation

SUBJECT: **Approve Sole-Source Agreement No. 3978 with Optibus, Inc., for Scheduling Software Licenses and Support Services**

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve a sole-source agreement with Optibus, Inc. ("Optibus"), for scheduling software licenses and support services; and
- 2) Authorize the City Manager and/or his designee to execute an agreement on behalf of the City; and
- 3) Take such additional, related, action that may be desirable.

FISCAL IMPACT

The cost for the scheduling software licenses and support services over a two-year (2) term is for a total not-to-exceed amount of One Hundred Twenty-Three Thousand, One Hundred and Seven Dollars (\$123,107). The payment schedule is as follows:

Year 1	Year 2	Total 2-Year Agreement
\$64,908	\$58,199	\$123,107

Funding for this agreement will be allocated from the Transportation Department's Fiscal Year 2022-23 adopted operating budget (Account No. 600-90-910-6040.65, Contract Services, Equipment/Software) and the Federal Transit Administration (FTA) Grant CA-2017-149 FTA (Account No. 270-9061-2017-090). Therefore, a budget amendment is not needed.

Approve Sole-Source Agreement No. 3978 with Optibus, Inc., for Scheduling Software Licenses and Support Services

Page 2 of 3

BACKGROUND

In August 2021, the City of Montebello contracted with Remix Technologies, LLC (“Remix”) to provide end-user software license and support services for transit planning and scheduling for Montebello Bus Lines (“MBL”). The software solution would assist staff to manage operation service challenges as MBL recovered from reduced service levels caused by the global coronavirus (the “COVID-19”) pandemic. Remix digital platform would also enable transit staff to engage in transparent and simplified processes, improve labor-friendly schedules, and optimize peak bus counts, costs, overtime, straight runs, and/or crew counts. Transit was already utilizing Remix software and services for other Transit needs, hence the addition of these services seemed a reasonable choice.

Shortly after the agreement was executed, it was determined that the Remix software did not adequately align with MBL’s scheduling needs. The scheduling service lacked the necessary mechanisms to allow MBL to customize queries, constraints, and work regulations for blocking and run-cutting. In addition, there were limited integration capabilities between Remix and MBL’s enterprise transit management system, Avail, which compromised the overall workflow of the MBL Operations Division. Consequently, in May 2022, the City terminated its agreement with Remix per the “Termination for Convenience” clause in the City’s standard professional services agreement.

There is obviously still a need for scheduling software that provides compatibility with Transit’s other systems and existing processes. Therefore, Staff requests City Council’s approval to enter into an agreement for a two-year (2-year) term with Optibus for scheduling software licenses and support services.

As an end-to-end user software solution, Optibus comes with built-in and planner-defined preferences that will help staff capture any number of definitions, such as layover and recovery times, sign-in/sign-off times, number of vehicles required, running times, interlining, and deadhead times. The customizable preference-parameter feature will allow staff to produce fully optimized vehicle and driver schedules. This feature not only provides an accurate and actionable plan, it also saves staff time and effort when creating shakeup materials. Optibus scheduling software can also produce reports for driver/block schedules, usage and metrics, route summaries, and revenue trip summaries.

Furthermore, Optibus has integration capabilities with Avail for a seamless end-to-end operation. The software platform was used in a test environment to recalibrate travel times, run-cutting, blocking, rostering, and creating other relevant shakeup materials for the upcoming fall service change. This software solution will provide MBL with the necessary resources to be more efficient with transit operations.

Staff conducted research on other software providers and options before deciding on Optibus. However, the alternatives researched did not meet the necessary operational needs. Therefore, MBL requests approval of a sole-source agreement with Optibus. The procurement of this software will be obtained through the procedures outlined in

Approve Sole-Source Agreement No. 3978 with Optibus, Inc., for Scheduling Software Licenses and Support Services

Page 3 of 3

Montebello Municipal Code (“MMC”) Section 3.20.050, as authorized under California Government Code Section 54202. In accordance with MMC 3.20.050 (B), when the supplies and equipment needed can be obtained from one source only. City Council approval of this two-year agreement with Optibus acknowledges the need for a sole-source procurement of their software and support services. Furthermore, Staff can attest that additional research was conducted in determining the need for a sole-source procurement for this necessary software.

SUMMARY

Staff recommends the City Council consider approving a sole-source agreement, attached hereto in substantial form, with Optibus to provide scheduling software licenses and support services for MBL for a total not-to-exceed amount of One Hundred Twenty-Three Thousand, One Hundred and Seven Dollars (\$123,107) over the course of a two-year (2-year) contract term; and authorize the City Manager and/or his designee, to execute an agreement on behalf of the City.

ATTACHMENT:

- A. Attachment A – Proposed Professional Services Agreement No. 3978 with Optibus, Inc.

CITY OF MONTEBELLO

**PROFESSIONAL SERVICES AGREEMENT NO. 3978
WITH OPTIBUS, INC.**

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into on **July 27, 2022** ("Effective Date"), by and between the CITY OF MONTEBELLO, a California municipal corporation (the "CITY") and OPTIBUS, INC., a Delaware Corporation registered to do business in California (4193147) (the "CONTRACTOR"). The CITY and the CONTRACTOR are sometimes referred to herein individual as the "Party," and jointly as the "Parties."

RECITALS

WHEREAS, the CITY desires to retain a qualified professional Contractor to assist CITY by providing professional end-user scheduling software licenses and support services; and

WHEREAS, the CONTRACTOR represents that it is fully qualified to perform such services by virtue of its experience and the training, education and expertise of its principals and employees; and

WHEREAS, the CONTRACTOR represents the degree of specialized expertise contemplated within California Government Code, Section 37103, and is qualified to perform such services by virtue of its experience and the training, education, and expertise of its principals and employees; and

WHEREAS, no official or employee of the CITY has a financial interest, within the provisions of Sections 1090 – 1092 of the California Government Code, in the subject matter of this Agreement.

NOW THEREFORE, in consideration of performance by the Parties of the covenants and conditions herein contained, the Parties hereto agree as follows:

SECTION 1. INCORPORATION OF RECITALS AND OTHER CONTRACT DOCUMENTS

A. The above-referenced Recitals constitute a material part hereof and shall hereby be incorporated by reference. Moreover, this Agreement consists of the following documents, in order of precedence, all of which are incorporated herein and made part of this Agreement, as though fully set forth herein:

- a. This Agreement and its Exhibits.
- b. CONTRACTOR'S Scope of Services and Associated Cost Proposal dated July 18, 2022, attached hereto as **Exhibit "A,"** including:
 - Optibus Service Order
 - Optibus Terms of Use and Agency Amendment
- c. All other documents, including but not limited to all applicable bonds, insurance certificates, permits, notices, schedules, forms, certifications, and affidavits.

B. These documents shall be collectively referred to herein as the

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 2 of 12

“Contract Documents.” In the event of a conflict among the Contract Documents, the order of precedence list above shall apply.

SECTION 2. SERVICES / COMPENSATION.

A. The CONTRACTOR shall provide to the CITY those services that are set forth fully in CONTRACTOR’s “Scope of Services and Associated Cost Proposal” attached hereto as **Exhibit “A”** and incorporated fully herein by this reference (the “Professional Services”).

B. The CONTRACTOR shall complete the Scope of Services in a timely manner, and in accordance with an agreed-upon work schedule to be determined by the Parties.

C. The CONTRACTOR shall be compensated at a sum not-to-exceed **One Hundred Twenty-Three Thousand, One Hundred and Seven Dollars (\$123,107)** (the “Maximum Compensation”) for the performance of the Scope of Services as set forth in **Exhibit “A”**. The CONTRACTOR shall provide an itemized billing statement to CITY for the Scope of Services performed. The CONTRACTOR shall not incur fees or costs which exceed the Maximum Compensation without the prior written consent of the CITY.

D. The CITY will be invoiced upon completion of the Scope of Services set forth herein. Payment in full of an invoice must be received by the CONTRACTOR within thirty (30) days of the date of such invoice.

E. Work performed shall be deemed approved and accepted by the CITY as and when invoiced unless the CITY objects within fifteen (15) days of invoice date by written notice specifically stating the details in which the CITY believes such work is incomplete or defective, and the invoice amount(s) in dispute. The CITY shall pay undisputed amounts as provided for in the preceding paragraph.

SECTION 3. TERM.

This Agreement shall commence on **July 27, 2022**, and shall terminate on **June 26, 2024**, unless such deadline is extended in writing by a further agreement between the Parties or the Agreement is terminated sooner as provided in Section 8 herein.

SECTION 4. PERFORMANCE.

a. The CONTRACTOR shall at all times, faithfully, competently, and to the best of its ability, experience, and talent, perform all tasks described herein.

b. The CONTRACTOR shall employ, at a minimum, generally accepted standards and practices utilized by companies engaged in providing similar services, as are required of CONTRACTOR hereunder, in meeting its obligations under this Agreement.

c. The CONTRACTOR shall be knowledgeable of and subject to all CITY ordinances, rules and regulations, standard operating procedures, and the supervisory chain of command.

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 3 of 12

d. The CONTRACTOR shall have the right to retain, subject to the CITY's approval, additional individuals, contractors or subcontractors to assist in the completion of services as herein defined. Compensation for additional individuals, contractors or subcontractors shall be the sole and exclusive responsibility of the CONTRACTOR.

e. The CONTRACTOR shall retain all original reports, field and office notes, correspondence, calculations, maps, and other documents specifically related to the services provided by the CONTRACTOR pursuant to this Agreement for a minimum period of three (3) years, other than documents which are exempt from disclosure pursuant to the attorney-client privilege or any other law. Said documents shall be made available for inspection by the CITY upon request.

f. All non-proprietary reports, documents or other written material developed by CONTRACTOR in the performance of this Agreement shall be and remain the property of CITY without restriction or limitation upon its use or dissemination by CITY. Such material shall not be the subject of a copyright application by CONTRACTOR. Any alteration or reuse by CITY of any such materials on any project other than the Project shall be at CITY's sole risk, unless CITY compensates CONTRACTOR for such reuse.

SECTION 5. WORK PRODUCT.

a. The CONTRACTOR hereby agrees that all (non-proprietary) work product produced pursuant to this Agreement, and provided to the CITY during and upon completion of this Agreement, shall be the property of the CITY, and ownership of said work product shall be retained by the CITY. The CONTRACTOR may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by the CONTRACTOR.

b. All non-proprietary data, documents, discussion, or other information developed or received by the CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by the CONTRACTOR without prior written consent by the CITY. The CITY shall grant such consent if disclosure is legally required. All such written products shall be returned to the CITY upon the termination or expiration of this Agreement. The CONTRACTOR agrees that the covenants contained in this Section shall survive the expiration or termination of this Agreement.

c. Where applicable, documents shall be provided in CITY's standard software formats.

SECTION 6. EXTRA SERVICES.

No extra services over and above the Compensation shall be rendered by the CONTRACTOR under this Agreement unless such extra services first shall have been duly authorized in writing by the CITY's City Manager (the "City Manager").

SECTION 7. CITY SUPERVISION.

The City Manager shall have the right of general supervision of all work performed by the CONTRACTOR and shall be the CITY's agent with respect to obtaining the CONTRACTOR's compliance hereunder.

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 4 of 12

SECTION 8. TERMINATION.

In the event that either Party hereto fails or refuses to perform any of the provisions of this Agreement at the time and in the manner required, the non-defaulting party shall give the defaulting party written notice of the default, the nature of the default, and of the steps necessary to cure the default.

a. Termination for Cause. In the event that any of the provisions of the Agreement are violated by either party, the non-defaulting Party may terminate the Agreement by serving written notice upon the other Party, listing the violation(s) and its intent to terminate such Agreement unless within ten (10) days after the serving of such notice, such violation shall cease or be rectified, the contract shall upon the expiration of an additional thirty (30) days cease and terminate. Violations by the CONTRACTOR which cannot be corrected within ten (10) days, said contract shall at the option of the CITY cease and terminate upon the giving of like notice. In the event of any such termination for default by the CONTRACTOR, the CITY may take over the work and prosecute the same to completion by contract or otherwise for the account and at the expense of the CONTRACTOR. The CONTRACTOR and his sureties shall be liable to the CITY for any excess cost occasioned in the event of any such termination. This change shall not be construed to prevent the termination, for other causes authorized by law or other provisions of this contract. In the event of a termination for cause, the CONTRACTOR shall only be entitled to the Compensation for those Professional Services satisfactory performed on or before the effective date of termination.

b. Termination for Convenience. The CITY shall have the option, at its sole discretion and without cause, to terminate this Agreement in whole, or in part, by giving ten (10) business days' written notice to the CONTRACTOR. Upon the termination of this Agreement as provided herein, the CITY shall provide to the CONTRACTOR the part of Compensation which would otherwise be payable to the CONTRACTOR for services the CONTRACTOR had completed as of the date of termination, less the amount of all previous payment with respect to the Compensation. Further, upon such a termination for convenience by the CITY, the Parties agree that the CONTRACTOR shall be reimbursed for any "non-refundable" costs that the CONTRACTOR has incurred for its services under this Agreement, provided that: (1) such "non-refundable" costs were incurred by the CONTRACTOR prior to the date of termination, and (2) that the CONTRACTOR provides the CITY with adequate proof that the CONTRACTOR incurred the costs, and is unable to seek a refund for such costs. Such "non-refundable" costs may include, but are not limited to, travel reservations incurred by the CONTRACTOR for its performance of services under this Agreement. The CONTRACTOR agrees to cease all work under this Agreement on or before the effective date of any notice of termination.

SECTION 9. EMPLOYMENT OF CITY EMPLOYEES.

No regular employee of the CITY shall be employed by the CONTRACTOR during the term of this Agreement.

SECTION 10. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES.

No official or employee of the CITY shall be personally liable to the CONTRACTOR in the event of any default or breach by the CITY, or for any amount which may become due to the CONTRACTOR.

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 5 of 12

SECTION 11. INDEPENDENT CONTRACTOR.

a. The CONTRACTOR is and shall, at all times, remain as to the CITY a wholly independent contractor. Neither the CITY nor any of its elected officials, officers, employees, or agents shall have control over the conduct of the CONTRACTOR except as expressly set forth in this Agreement. The CONTRACTOR shall not at any time or in any manner represent that he or she is in any manner an elected official, officer, employee, or agent of the CITY. No employee benefits shall be available to the CONTRACTOR in connection with the performance of this Agreement. Except as provided in this Agreement, the CITY shall not pay salary, wages, or other compensation to the CONTRACTOR for performance hereunder for the CITY, the CITY shall not be liable for compensation to the CONTRACTOR, the CONTRACTOR's employees or the CONTRACTOR's subcontractors for injury or sickness arising out of performing services hereunder.

b. The parties further acknowledge and agree that nothing in this Agreement shall create or be construed to create a partnership, joint venture, employment relationship or any other relationship except as set forth in this Agreement.

c. The CITY shall not deduct from the Compensation paid to the CONTRACTOR any sums required for Social Security, withholding taxes, FICA, state disability insurance or any other federal, state or local tax or charge which may or may not be in effect or hereinafter enacted or required as a charge or withholding on the compensation paid to the CONTRACTOR. The CITY shall have no responsibility to provide the CONTRACTOR, its employees or subcontractors with workers' compensation insurance or any other insurance.

SECTION 12. CalPERS ANNUITANTS AND ELIGIBILITY INDEMNITY.

a. If the CONTRACTOR is a California Public Employees' Retirement System ("CalPERS") annuitant, the CONTRACTOR must provide the City with written notification of such fact a minimum of 14 calendar days prior to commencement of services under this Agreement. Failure to provide such notification may result in termination of the Agreement, and any penalties or other costs relating thereto shall be borne by the CONTRACTOR. If this Agreement remains in place, the CONTRACTOR shall execute any amendment(s) to this Agreement requested by the City in order to comply with all laws and regulations applicable to CalPERS annuitants.

b. In the event that the CONTRACTOR or any employee, agent, or subcontractor of the CONTRACTOR providing services under this Agreement claims or is determined by a court of competent jurisdiction or CalPERS to be eligible for enrollment in CalPERS as an employee of the CITY, the CONTRACTOR shall indemnify, defend, and hold harmless the CITY for the payment of any employee and/or employer contributions for CalPERS benefits on behalf of the CONTRACTOR or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the CITY.

c. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, the CONTRACTOR and any of its

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 6 of 12

employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by the CITY, including but not limited to eligibility to enroll in PERS as an employee of the CITY and entitlement to any contribution to be paid by the CITY for employer contribution and/or employee contributions for PERS benefits.

SECTION 13. LEGAL RESPONSIBILITIES.

The CONTRACTOR shall at all times observe and comply with all applicable laws, ordinances, codes, and regulations of the federal, state, and local governments including, but not limited to the Montebello Municipal Code. The CITY, and its appointed or elected officers, employees, or agents, shall not be liable at law or in equity occasioned by failure of the CONTRACTOR to comply with this section.

SECTION 14. INDEMNIFICATION.

The CONTRACTOR agrees to, and shall defend, indemnify, protect and hold harmless, the CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers from and against any and all claims, demands, lawsuits, defense costs, civil, penalties, expenses, causes of action, and judgments at law or in equity, or liability of any kind or nature which the CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers may sustain or incur or which may be imposed upon them for injuries or deaths of persons, or damage to property arising out of the CONTRACTOR's negligent or wrongful act, or omission under the terms of this Agreement, except only liability arising out of the sole negligence of the CITY.

SECTION 15. INSURANCE COVERAGE.

a. During the term of this Agreement, the CONTRACTOR shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with CONTRACTOR's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

- **Commercial General Liability (CGL):** Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including products-completed operations, personal injury, and advertising injury, with limits no less than \$2,000,000 per occurrence. If a general aggregate limit applies, the limit shall be twice the required occurrence limit.

- **Business Automobile Liability Insurance:** If applicable, Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if the CONTRACTOR has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than \$1,000,000 per accident for bodily injury and property damage.

- **Worker's Compensation** insurance as required by the laws of 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** insurance appropriate to the

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 7 of 12

CONTRACTOR'S profession, with limit no less than \$2,000,000 per occurrence or claim, \$2,000,000 aggregate.

b. If the CONTRACTOR maintains higher limits than the minimums shown above, the CITY requires and shall be entitled to coverage for the higher limits maintained by the CONTRACTOR.

c. The CONTRACTOR shall require each of its subcontractors, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

d. The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a current rating of at least A:VII in the latest edition of Best's Insurance Guide.

e. Each insurance policy required above shall state that coverage shall not be canceled, except after thirty (30) days' prior written notice (ten [10] days for non-payment) has been given to the CITY. The CONTRACTOR agrees that if it does not keep the aforesaid insurance in full force and effect the CITY may either (i) immediately terminate this Agreement for Cause; or (ii) take out the necessary insurance and pay, at the CONTRACTOR's expense, the premium thereon.

f. **Evidence of Insurance prior to commencement.** The Contractor shall provide to the CITY Certificate(s) of Insurance evidencing such coverage together with copies of the required policy endorsements no later than five (5) business days prior to commencement of service and at least fifteen (15) business days prior to the expiration of any policy. Unreasonable failure to provide such evidence may be cause for termination of the Agreement as provided herein or delay the services' commencement date. The evidence of insurance shall be U.S. mail or email to:

City of Montebello
Attn: Risk Manager
1600 West Beverly Boulevard
Montebello, CA 90640
Email: gskibar@cityofmontebell.com

g. Coverage shall not be suspended, voided, cancelled, reduced in coverage or in limits, non-renewed, or materially changed for any reason, without thirty (30) days prior written notice thereof given by the insurer to the CITY by U.S. mail, or by personal delivery, except for nonpayment of premiums, in which case ten (10) days prior notice shall be provided.

Evidence of Insurance during the entire term of the Agreement. At all times during the term of this Agreement, the CONTRACTOR shall maintain on file with the CITY's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming the CITY as an additional insured. The CONTRACTOR shall, prior to commencement of work under this Agreement, file with the CITY's Risk Manager such certificate(s).

h. The CONTRACTOR shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two (2) weeks prior to the expiration of the coverages.

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 8 of 12

i. The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming the CITY, its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to the CITY. The CONTRACTOR agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

j. The insurance provided by the CONTRACTOR shall be primary to any coverage available to the CITY. Any insurance or self-insurance maintained by the CITY, its officers, employees, agents, or volunteers, shall be in excess of CONTRACTOR's insurance and shall not contribute with it.

k. All insurance coverage provided pursuant to this Agreement shall not prohibit the CONTRACTOR, and CONTRACTOR's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. The CONTRACTOR hereby waives all rights of subrogation against the CITY.

l. Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of the CITY, the CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to the CITY, or the CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

m. Procurement of insurance by the CONTRACTOR shall not be construed as a limitation of the CONTRACTOR'S liability or as full performance of CONTRACTOR's duties to indemnify, hold harmless and defend under the indemnity covenants of this Agreement.

SECTION 16. SUBCONTRACT, ASSIGNMENT OR DELEGATION.

The CONTRACTOR shall not subcontract, delegate, or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of the CITY. Any proposed subcontract, delegation, or assignment shall provide a description of the services to be covered, identification of the proposed sub-contractor, delegee, or assignee, and an explanation of why and how the same was selected, including the degree of competition involved.

Any subcontract, delegation or assignment shall be made in the name of the CONTRACTOR and shall not bind or purport to bind the CITY and shall not release the CONTRACTOR from any obligations under this Agreement including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegees or sub-contractors. No such subcontract, delegation or assignment shall result in any increase in the amount of total compensation payable to the CONTRACTOR under the Agreement.

SECTION 17. NO WAIVER.

Waiver by any party hereto of any term, condition or covenant of this Agreement shall not constitute the waiver of any other term, condition, or covenant hereof.

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 9 of 12

SECTION 18. DISPUTE RESOLUTION; GOVERNING LAW.

Disputes regarding the interpretation or application of any provision(s) of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the Parties. If any action at law or in equity is brought to enforce this Agreement or because of alleged dispute, breach, default or misrepresentation in connection with the provisions of this Agreement, the prevailing party in such action shall be entitled to reasonable attorney's fees, expert fees, costs and necessary disbursements incurred in that action or proceeding, in addition to such other relief as may be sought and awarded. The venue for any litigation shall be County of Los Angeles, California. The Parties agree that the covenants contained in this Section shall survive the expiration or termination of this Agreement.

SECTION 19. ATTORNEY'S FEES AND COSTS.

If litigation is reasonably required to enforce or interpret the provisions of this Agreement, the prevailing party in such litigation shall be entitled to an award of reasonable attorney's fees and costs in addition to any other relief to which it may be entitled.

SECTION 20. WARRANTIES.

Each of the parties represents and warrants to one another as follows:

- a. It has received independent legal advice from its attorneys with respect to the advisability of entering into and executing this Agreement;
- b. In executing this Agreement, it has carefully read this Agreement, knows the contents thereof, and has relied solely on the statements expressly set forth herein and has placed no reliance whatsoever on any statement, representation, or promise of any other party, or any other person or entity, not expressly set forth herein, nor upon the failure of any other party or any other person or entity to make any statement, representation or disclosure of any matter whatsoever; and
- c. It is agreed that each party has the full right and authority to enter into this Agreement, and that the person executing this Agreement on behalf of either party has the full right and authority to fully commit and bind such party to the provisions of this Agreement.

SECTION 21. MISCELLANEOUS.

- a. The descriptive paragraph headings of this Agreement are included for purposes of convenience only and shall not control or affect the construction of interpretation of any of its provisions.
- b. Whenever the context hereof shall so require, the singular shall include the plural, the male gender shall include the female gender, and the neuter and vice versa.
- c. In case any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provision hereof and this Agreement shall be construed as if such invalid, illegal, or unenforceable provisions had never been contained herein.

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 10 of 12

d. The representations and warranties made by the parties to this Agreement shall survive the consummation of the transaction herein described.

e. This Agreement may be signed in any one or more counterparts all of which taken together shall be but one and the same Agreement. Any signed copy of this Agreement or of any other document or agreement referred to herein, or copy or counterpart thereof, delivered by facsimile transmission, shall for all purposes be treated as if it were delivered containing an original manual signature of the party whose signature appears in the facsimile and shall be binding upon such party in the same manner as though an originally signed copy had been delivered.

f. Each of the parties acknowledges that it has been represented by independent counsel of its own choosing, or if it has not been so represented, it has been admonished to obtain independent counsel and has freely and voluntarily waived and relinquished the right to counsel. Each party who has not obtained independent counsel acknowledges that the failure to have independent legal counsel will not excuse such party's failure to perform under this Agreement or any agreement referred to in this Agreement.

SECTION 22. NOTICE.

All notices, demands, requests or approvals to be given under this Agreement shall be given in writing and conclusively shall be deemed served when delivered via e-mail (an "Electronic Notice" as further defined below), personally or on the second (2nd) business day after the deposit thereof in the United States mail, postage prepaid, registered or certified, addressed as hereinafter provided. All notices, demands, requests, or approvals hereunder shall be given to the following addresses or such other addresses as the Parties may designate by written notice:

If to CITY:	City of Montebello Attn: René Bobadilla, City Manager 1600 W Beverly Blvd Montebello, CA 90640 (323) 887 -1200
With a copy to:	City of Montebello – Montebello Bus Lines Attn: Lupita Ibarra, Director of Transportation 400 South Taylor Avenue Montebello, CA 90640 (323) 558 -1625 x 101 (323) 887- 4643 (Fax) libarra@cityofmontebello.com
If to Contractor:	Optibus, Inc. Attn: Amos Haggiag, CEO 135 Madison Ave, 5th Floor New York, NY 10016 (972) 689-8487 amos@optibus.com

An electronic communication ("**Electronic Notice**") shall be deemed written notice for purposes of this section if sent to the electronic mail address specified above. Electronic Notice shall be deemed received at the time the party sending Electronic Notice receives verification of receipt by the receiving party. Any party

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 11 of 12

receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form.

SECTION 23. NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYER.

In the performance of this Agreement, the CONTRACTOR shall not discriminate against any employee, sub-contractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, mental condition or sexual orientation. The CONTRACTOR will take affirmative action to ensure that sub-contractor and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

SECTION 24. CONFLICT OF INTEREST.

The CONTRACTOR covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by the CONTRACTOR under this Agreement, or which would conflict in any manner with the performance of its services hereunder. The CONTRACTOR further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, the CONTRACTOR shall avoid the appearance of having any interest that would conflict in any manner with the performance of its services pursuant to this Agreement.

The CONTRACTOR covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to the CITY as a result of the performance of this Agreement, or the services that may be procured by the CITY as a result of the recommendations made by the CONTRACTOR. The CONTRACTOR's covenant under this section shall survive the termination of this Agreement.

SECTION 25. ENTIRE AGREEMENT.

This Agreement contains the entire understanding between the CITY and the CONTRACTOR. Any prior agreements, promises, negotiations or representations not expressly set forth herein are of no force or effect. Subsequent modifications to this Agreement shall be effective only if in writing and signed by each party. If any term, condition, or covenant of this Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of this Agreement shall be valid and binding.

[SIGNATURE PAGE TO FOLLOW]

PROFESSIONAL SERVICES AGREEMENT NO. 3978

Page 12 of 12

IN WITNESS WHEREOF, the parties, through their respective authorized representatives, have executed this Agreement as of the date first written above.

("CITY")

("CONTRACTOR")

CITY OF MONTEBELLO

OPTIBUS, INC.

René Bobadilla, City Manager

Amos Haggiag, CEO

Date: _____

Date: _____

ATTEST:

Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman, City Attorney

EXHIBITS

- Exhibit A – Contractor's Scope of Services and Associated Cost and:
 - i. Optibus Service Order
 - ii. Optibus Terms of Use and Agency Amendment

Exhibit “A”

CONTRACTOR’S SCOPE OF SERVICES

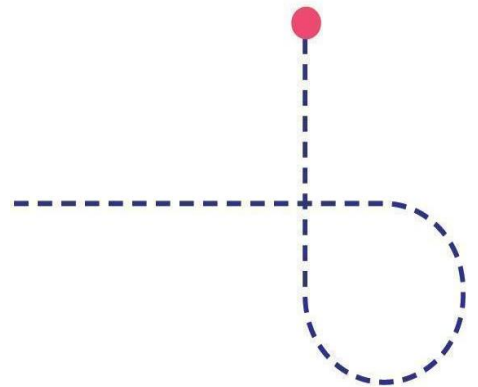
optibus



Proposal and Contracting Terms for

Montebello
B U S L I N E S

July 18, 2022



Contents

Proposal and Contracting Terms for	Error! Bookmark not defined.
About Optibus	3
Platform Overview	5
Solution Modules Offered	6
Planning	6
Timetable	8
Scheduling	10
CAD/AVL Integration	12
AVAIL and Optibus: A Seamless End to End Transit Solution	12
Avail Integration/Scheduling Conversion Scope of Work and Fee Detail (provided by Avail)	13
Optibus Service Order	17

About Optibus

Optibus enables transit providers to better run mass transportation through a unique cloud-based platform that provides a proven approach to transit planning, scheduling and performance.

We have vast experience helping transit agencies and operators grow and improve their operations. The Optibus platform has been chosen for more than 340 cities and drives some of the most complex and large-scale transit operations worldwide.

The platform has a proven, measurable ability to improve the quality of service and efficiency, reduce costs, and streamline overall operations.

Optibus has ensured implementations of projects and operations with sites ranging from 10s of vehicles to larger sites with 1000s of vehicles. The Optibus Solution Engineering team helps ensure our clients successfully meet their schedules and timelines.

The Optibus platform has been deployed in many US sites, including:

- Antelope Valley Transit Authority
- Los Angeles Department of Transportation (LA DOT)
- Marin Transit
- Ventura County Transportation Commission
- Nassau Inter County Express (NICEBus)
- Capital Area Transit (CAT)
- Central Pennsylvania Transportation Authority (Rabbit)
- Lehigh & Northampton Transportation Authority (LANta)
- Madison County Transit



The Optibus platform is unique in several respects:

Focused on real business metrics: Optibus models your transportation network at the most granular level, generating a quality schedule and immediately highlighting the business key performance indicators and cost data you need to make optimal schedule and cost decisions.



Unique ability to provide visibility and optimization from agency to operator and from routes to rosters:

Optibus creates a holistic plan that carries timetable and route data all the way to scheduling, ensuring that various options can be tested and evaluated, creating visibility on the use of third-party funds and the quality of operations, and allowing for optimizations that create better on-time performance on the same budget or even less.

A cloud-native, open data platform: Optibus is provided as a SaaS (Software as a Service) platform. Being cloud native, it saves IT resources and requires no hardware, allows the decommission of costly servers and supports IT needs. Feature improvements are made continuously. Clients are up and running in weeks, not months. Further, your staff can work remotely, including from home.

Data-Driven: With the strongest algorithms in the business and machine learning muscle, we turn your operation into a smart, data-driven business. We can forecast the likelihood of on-time performance, incorporate external data and help you use demand-related data to bring your service to the forefront of mobility.

Robust and scalable: Optibus was built to support the world's most complex transit operations or small local services. The platform can model any type of preference and constraint, across thousands of vehicles to quickly provide an optimized schedule or plan. This not only provides an accurate and actionable plan; it also saves scheduler time and effort and frees them to focus on other areas in the business where their expertise is required.

Platform upgrades

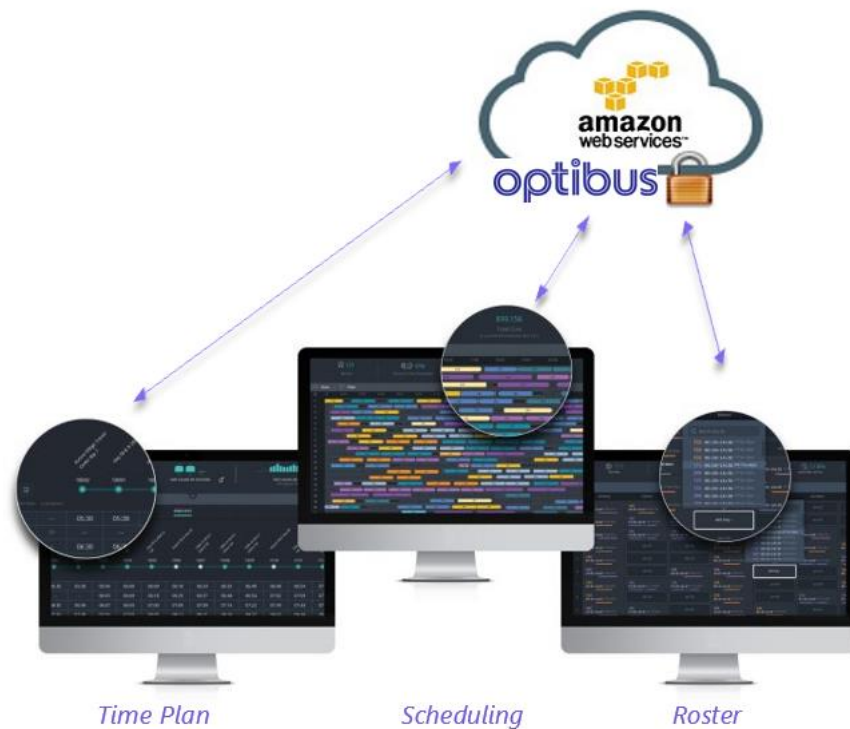
The Optibus platform is completely cloud native. All platform upgrades are on secure Amazon Web Services cloud servers and are completely seamless to end-users and at no additional cost.

The Optibus platform user-experience is agnostic to any software upgrade as it is done on the back end on cloud servers. New feature development and support in the purchased software modules are released free of charge.

Platform Overview

Optibus provides a SaaS platform that plans and schedules the movements of every vehicle and driver, with detailed insight into how this affects operations, on-time performance and costs. The Optibus software is entirely **web based and cloud native** with no need for any additional IT equipment and providing full accessibility from a standard internet browser.

An important distinction needs to be made around the subject of being cloud based and cloud native. Being cloud based simply refers to an application being web based. Being cloud native, however, refers to the architecture of the platform, which enables better advantages for accessibility and collaboration. Cloud native architecture allows Optibus to create better and faster solutions by distributing our optimization processing across multiple servers simultaneously—through Amazon Web Services, in the case of Optibus—and to seamlessly scale our number of users.



Solution Modules Offered

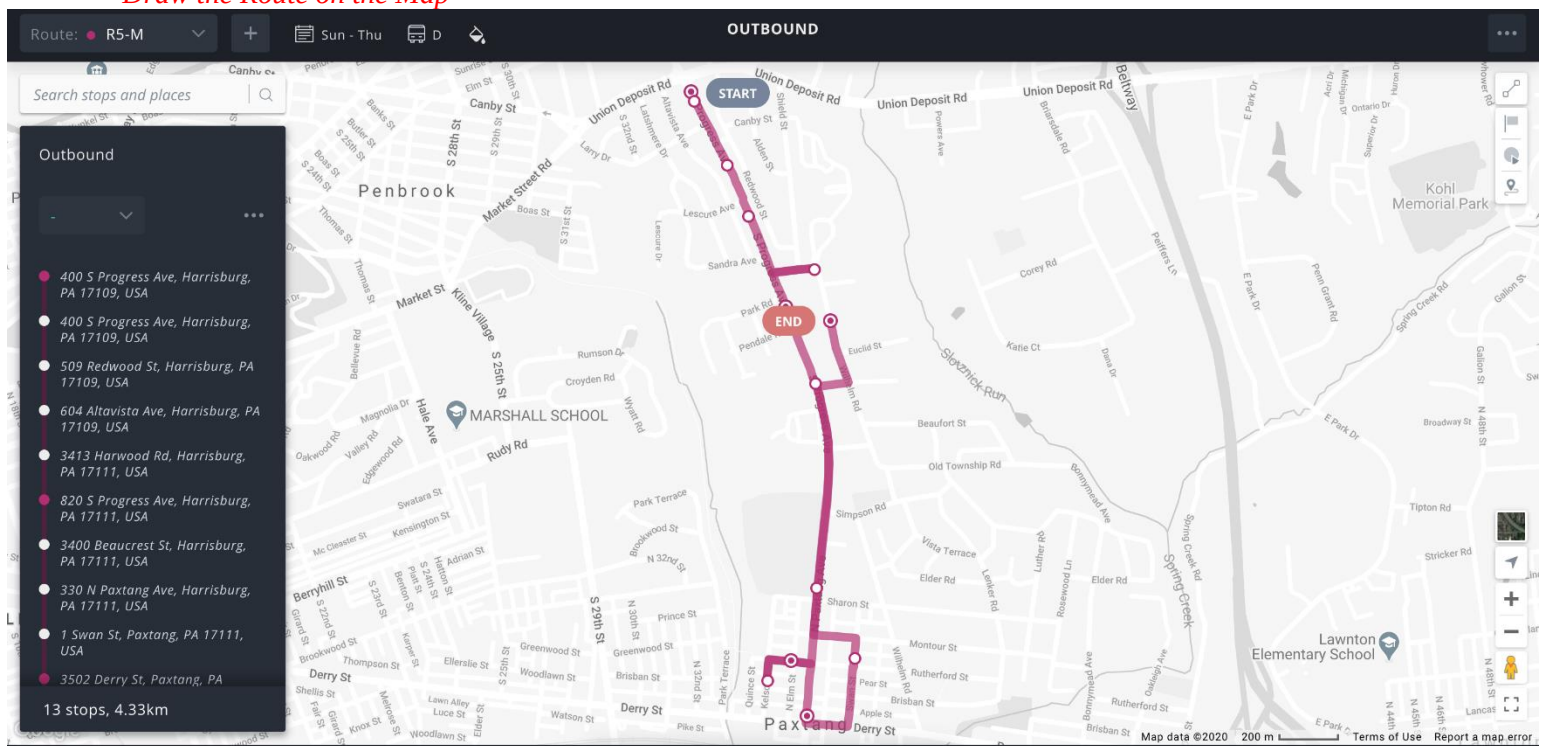
Optibus offers an end-to-end, web-enabled single platform solution which consists of fully integrated and automated modules each handling a different part of the process. The Optibus platform includes the following software modules:

Planning

Optibus Planning provides the planner with tools to create and modify routes that will be reflected in the timetable (see below). The planner can draw a line on the map and the system will then create a route with all the stops. An existing route can also be modified through the map to finetune the route or examine other possibilities. The planner can drop a 'check point' (i.e. a pin on the map) to act as a virtual anchor to change the route to go through the area marked with the pin. If the planner moves the pin the route will realign to the pin location.

The Planning module is based on Google Maps, which offers superior geocoding, performance and quality. All map editing can also override the defaults provided by Google Maps.

Draw the Route on the Map



Modify the Route on the Map

Route: R5-M + Sun - Thu D

OUTBOUND

Search stops and places

Outbound

- 400 S Progress Ave, Harrisburg, PA 17109, USA
- 400 S Progress Ave, Harrisburg, PA 17109, USA
- 509 Redwood St, Harrisburg, PA 17109, USA
- 604 Altavista Ave, Harrisburg, PA 17109, USA
- 3413 Harwood Rd, Harrisburg, PA 17111, USA
- 820 S Progress Ave, Harrisburg, PA 17111, USA
- 3400 Beacrest St, Harrisburg, PA 17111, USA
- 330 N Paxtang Ave, Harrisburg, PA 17111, USA
- 1 Swan St, Paxtang, PA 17111, USA
- 3502 Derry St, Paxtang, PA

13 stops, 4.33km

Map data ©2020 200 m

Satellite View

Route: R5-M + Sun - Thu D

OUTBOUND

Search stops and places

Outbound

- 400 S Progress Ave, Harrisburg, PA 17109, USA
- 400 S Progress Ave, Harrisburg, PA 17109, USA
- 509 Redwood St, Harrisburg, PA 17109, USA
- 604 Altavista Ave, Harrisburg, PA 17109, USA
- 3413 Harwood Rd, Harrisburg, PA 17111, USA
- 820 S Progress Ave, Harrisburg, PA 17111, USA
- 3400 Beacrest St, Harrisburg, PA 17111, USA
- 330 N Paxtang Ave, Harrisburg, PA 17111, USA
- 1 Swan St, Paxtang, PA 17111, USA
- 3502 Derry St, Paxtang, PA

13 stops, 4.33km

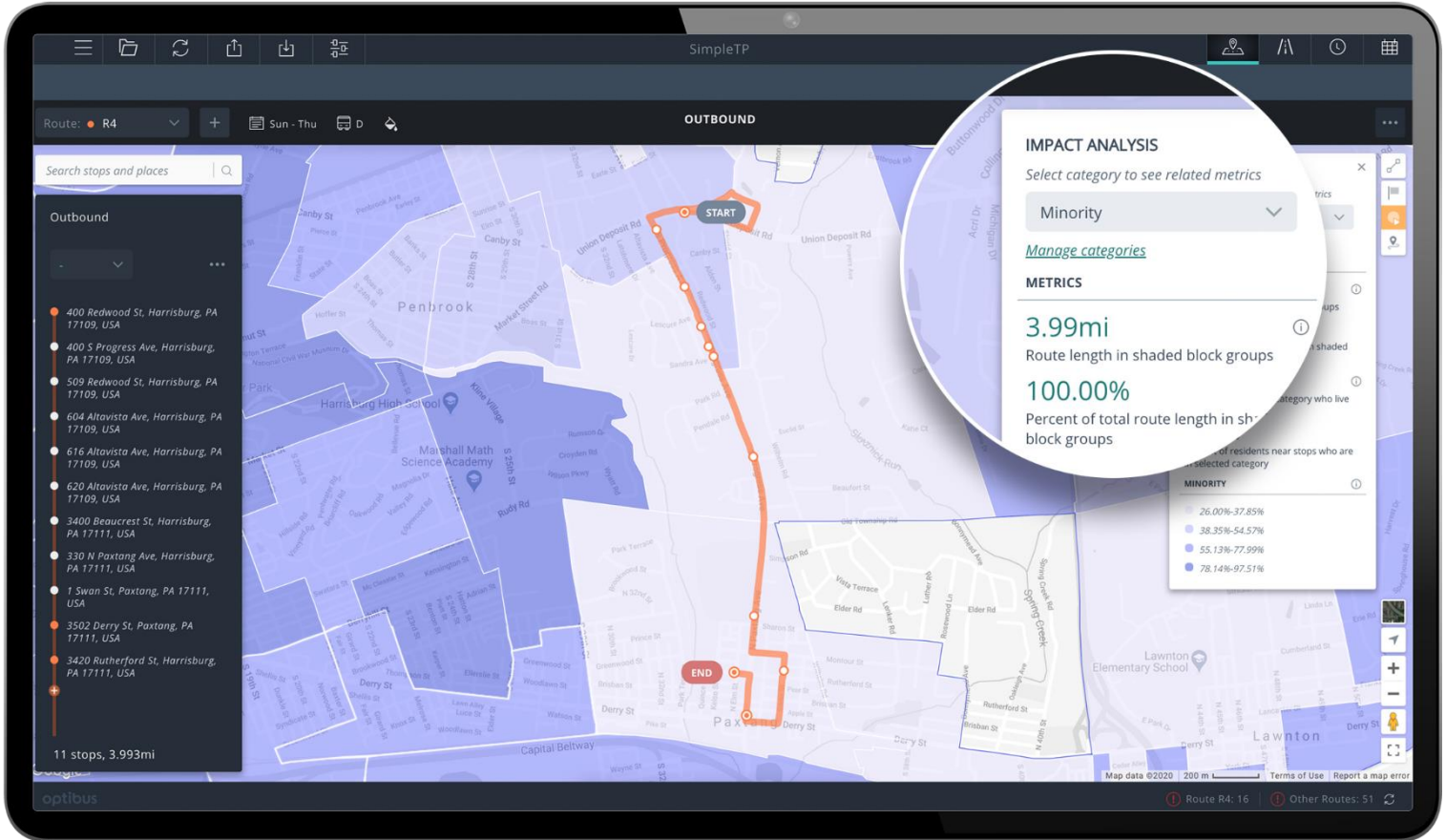
Imagery ©2020, Landsat / Copernicus, Maxar Technologies, PA Department of Conservation and Natural Resources-PAMAP/USGS, U.S. Geological Survey, USDA Farm Service Agency 500 m

Optibus Planning uses all the Google Maps functionalities such as satellite view, street view, etc.

Data Driven Demographics Planning

The Planning module also includes demographic layers on the map using US census data to enable visualization for how route changes will affect selected demographic groups living along your routes. This feature helps transit planners make service more equitable by assessing the impact on low-income and minority populations. The feature is popular among agencies as they seek to comply with Title VI reporting requirements.

Demographic Layer View



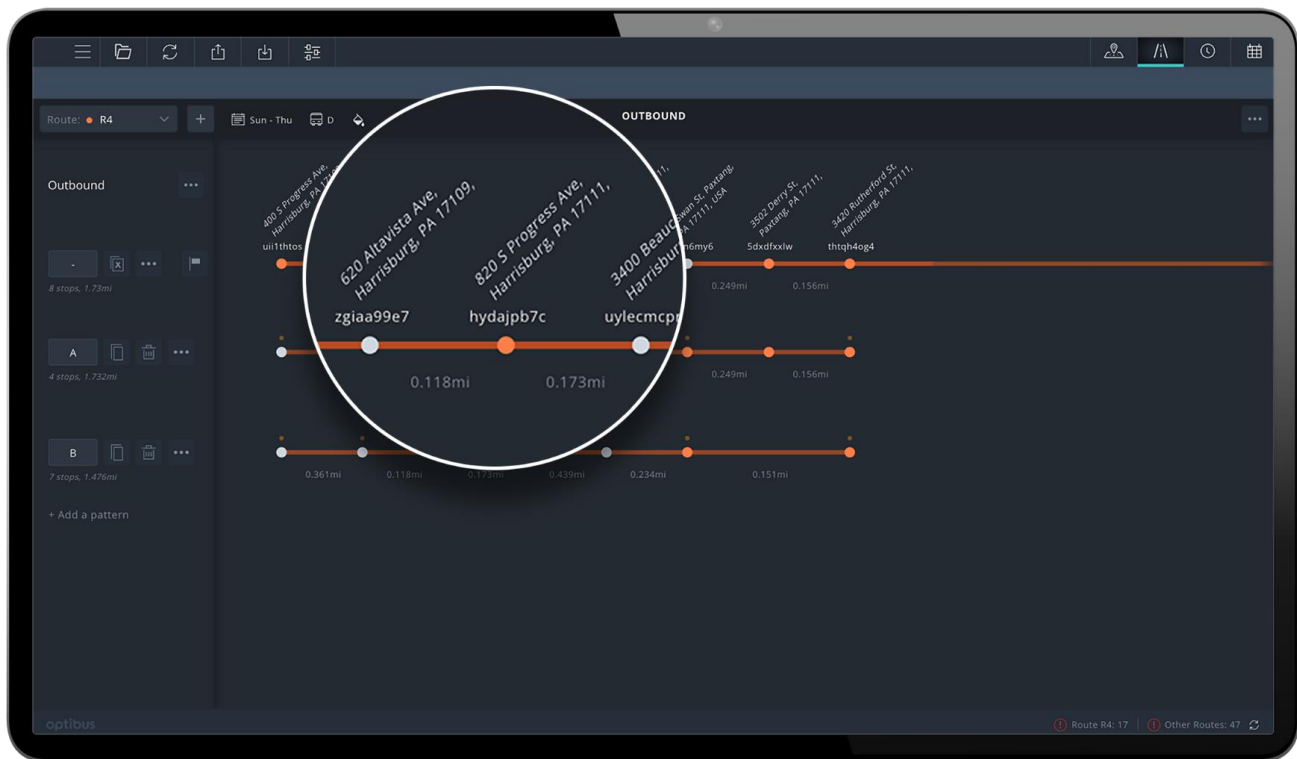
Timetable

Optibus Timetable provides the tools required to build a service schedule data set. Optibus Timetable enables the planner to define a route from scratch by selecting the route stops, defining time points, setting the distance between the stops/time points, etc.

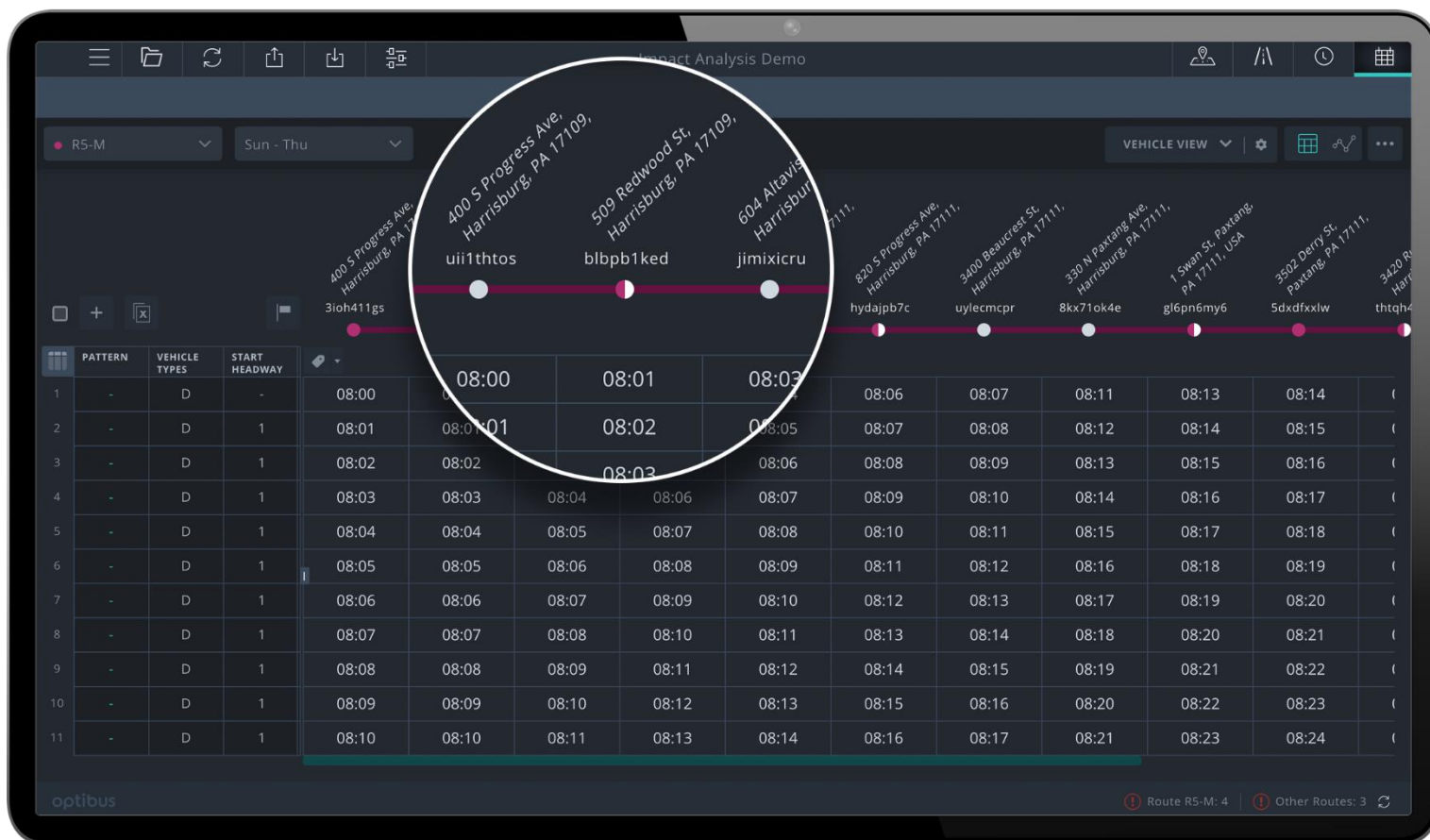
The planner can define the following (manually or by uploading from Excel):

1. The different route service for weekdays, weekends, school holidays and any other special service
2. Route patterns
3. Vehicle types within the fleet, including electric vehicles (EVs)
4. Allowed vehicle types for each of the route patterns (to be used later in the vehicle scheduling stage)
5. Locations of charging stations for EVs
6. Travel time between stops for different time bands of the day
7. Start time, end time and frequency for each route

Based on the data above, the system automatically generates a full timetable for any given route. The planner can later make any manual amendments to the plan, with the system automatically updating the subsequent stop times, highlighting the manually updated times and clearly marking any violation.



Generate the timetable for the route and review the KPIs



Scheduling

Optibus Scheduling provides the tools to easily create a fully optimized schedule and compare multiple what-if scenarios using clear and accurate KPIs. The platform uses the master service schedule created in Timetable, which contains all the trip information as the main dataset. Using predefined and customer-specific preferences and constraints for vehicle, driver, depot and other global preferences, the cost-based optimization engine produces, with a single click of a button, a fully optimized vehicle and driver schedule in a matter of seconds/minutes. The planner can then review the schedule, make any manual amendments, change preference parameters and run the optimization again to produce additional scenarios.

The tuning of the optimization engine is done via the preferences—an intuitive, highly flexible and expandable rule-based mechanism that allows the planner to model any type of preference, constraint and work regulation for both blocking and runcutting. The preferences are used to capture any number of definitions such as layover and recovery times, sign-in/sign-off times, number of vehicles required, running times, interlining, deadhead times and various other built-in and planner-defined preferences and constraints. Any preference definition is respected by the automatic optimization process, so every optimization run yields a valid and feasible plan.

Optibus Scheduling offers a fully interactive experience, assisting the planner with the decision-making process. The planner can filter the vehicle and duty views as well as review and sort by various statistics. When making manual amendments to the schedule, the system gives clear recommendations and grading for every action, allowing the planner to clearly understand the impact of any manual amendment on the schedule validity and overall cost.

Optibus Scheduling also provides a set of predefined built-in reports for driver/block schedule, usage and metrics, route summary, revenue trip summary, depot allocation and others. Additional planner-defined reports can be viewed and created through the Analytics add-on.

[illegible]

CAD/AVL Integration

AVAIL and Optibus: A Seamless End to End Transit Solution



Integration used by:



Integrating Optibus' schedule into myAVAIL can save agencies both time and money. Optibus' quick and easy planning and scheduling modules will allow for agencies to perform multiple what if scenarios especially in a time where the industry is going through many changing uncertainties. Based upon these scenarios, Optibus will then optimize vehicle and crew schedules while adhering to unique and specific agencies rules & inputs. However, the journey does not end at optimized schedules for transit agencies. Once this is done, this data will have to be fed and managed in a day to day operation. AVAIL provides data driven transit solutions for operations, riders, business intelligence, and fleet management. This will empower agencies to drastically improve efficiency, tracking, and compliance. Different codes (such as headsign, route, pattern, etc.) and run information provided from scheduling can be configured within Optibus, which will then provide a myAVAIL export to then be managed with AVAIL's real time fleet management platform.



6/17/22

Sean Grimes
Regional Director
Optibus
535 Mission St.
San Francisco, CA 94105

Re: Optibus Integration

Dear Mr. Grimes,

Thank you for your continued interest in partnering with Avail Technologies. Avail values partnering with Optibus to ensure the success of our customers. The agencies that are part of Project #04-2022 are an important part of the Avail family. We have provided a scope to assist and ensure that the integration between Avail and Optibus continues to the high-quality deployment that has been implemented previously.

This offer shall remain valid until 9/17/22. Should you have any questions or would like to discuss these options in more detail, we would be happy to do that. Please feel free to contact me, at (814) 234-3394, ext. 1091 or email at klightner@availtec.com. We appreciate this opportunity and look forward to speaking with you soon.

Respectfully,

A handwritten signature in black ink that reads "Kayla Lightner". The signature is written in a cursive, flowing style.

Kayla Lightner
Account Manager

1 SCOPE OF WORK & DELIVERABLES

1.1 SCHEDULING CONVERSION

Changing a scheduling package software is large undertaking that requires much time and effort to ensure accurate data. The following schedule is driven by receipt of the first functioning scheduling package export from your agency that meets the requirements outlined in **Attachment A** of this document. The schedule provided depends heavily on the involvement of your agency to ensure the data is correct and that the initial export meets guidelines.

Avail shall deploy the desired technologies following a similar Systems Engineering approach as we have done with you on our previous ITS deployments, with an assigned team, project schedule, regular status calls, etc.

Compressing the schedule is contingent on a complete, functional and correct export being provided along with the responsiveness of your agency to inquiries from Avail. These tasks that allow schedule compression are only the first 3 tasks listed in the table below. Avail requires the listed timeline for the remainder of the tasks in the table.

1.1.1 AVAIL RESPONSIBILITIES

1. Avail will test the export provided by your Agency in the test environment and provide feedback on adjustments that need made.
2. Avail then will work with your Agency to validate schedule data in the test environment. This may take several iterations to complete.
3. Avail will have the necessary resources available to promptly answer questions and commit to the validation process with your Agency.
4. Once we have a successful import, the effort is complete and ready for final cutover.
5. This will complete the schedule package conversion

1.1.2 AGENCY RESPONSIBILITIES

1. Your Agency will provide the first schedule package export by the date agreed upon
2. Your Agency will have the necessary resources available to promptly enter schedule data and commit to the validation process with Avail.
3. Your Agency understands that their active involvement and feedback are keys to completing this effort on time.
4. Your Agency will update the schedule data to ensure the export processes error free utilizing the MyAvail Import Tool.
5. All supporting data (trigger boxes, GTFS, route data) will be created/updated to align with the new schedule data



6. Your Agency will commit to a review session to review all routes after the final export has been tested. The joint review of each route and stop may take up to 3 days. A sign-off that the export is correct is required before going live with the export.

1.1.3 PROJECT TIMELINE

Task	Timeframe
Property provides first export that meets export requirements outlined in Attachment A after PO is issued	1 week
Initial Validation & QA (prior to successfully importing and merging new schedule data set)	
Avail must validate that new schedule data set complies to our data requirements - Typically, we see a few iterations or back and forth between Avail and Scheduling Vendor/Transit Agency to update data fields that aren't in compliance with schedule data specs - Avail does a second round of validation and those warnings and errors are reported back to vendor/transit agency for clean-up until all data elements pass validation - Ensure data is correct to properly import to myAvail; Customer ensures that data errors are resolved - Property commits to 1-2 calls per week to refine and correct any other errors or issues in the import to ensure valid data	1-3 weeks
Secondary Validation & QA (Post successful import and merge of new schedule data set into Avail DB)	1-3 weeks
- Ensuring all Trigger Box/Geofences in the system remain the same now that we are pointing to a new set of schedule data files - Ensuring all schedule data element ID's remain the same or are mapped correctly: - Routes, Stops - Blocks, Runs - Patterns - Etc.	1-2 weeks



Verify the following using a vehicle simulator software tool: • All blocks can be logged into • All schedule data elements appear correct on the operator MDT screen • All announcements play the same as they did prior to the schedule conversion – including text displayed on the internal LED sign • We received valid stop and timepoint reports • Headsigns change correctly at the completion of each scheduled trip • Data is presented correctly on the Avail CAD/AVL software • All reporting is correct in the new schedule format • All historical reporting data from prior to schedule migration remains intact and is transparent to the customer • All real-time passenger information (Bus Tracker website and mobile apps) data is being displayed the same as before the schedule data migration in terms of: ○ Route names, Stop names ○ Route destinations, Etc.	1-2 weeks
Customer will review and work with Avail to sign-off on the data in the test environment	2-3 weeks
Schedule data conversion will be complete and entered in the live environment; Avail will work with customer to schedule and support go-live.	1 week
Live data is published and deployed; test period to ensure any errors or issues are resolved.	1-2 weeks
Avail and customer POC sign-off on schedule data conversion stating live data is correct, post-publish. Schedule Data conversion complete.	1 week



Optibus Service Order

This Software as a Service Agreement Service Order is made and entered into as of [_____] 2022, by and between Optibus Inc., (“**Optibus**”), and [_____] having its principal offices at [_____] (the "**Customer**") (each may also be referred to as a "**Party**" and collectively the "**Parties**").

Optibus Platform Pricing

Optibus- Year 1- 50 vehicles						
Product/ Service	Included Features	Unit Fee per vehicle	QTY	Months	Total	Term
Planning, Scheduling and Rostering						
	Route Planning (Mapping and Demographics)	\$88.18	50	12	\$52,908	1 year
	Timetable Planning					
	Vehicle Schedule Optimization					
	Crew Schedule Optimization					
	Relief Vehicle Schedule Optimization					
	Rostering Optimization					
Optibus- Year 2- 55* vehicles						
Product/ Service	Included Features	Unit Fee per vehicle	QTY	Months	Total	Term
Planning, Scheduling and Rostering						
	Route Planning (Mapping and Demographics)	\$88.18	55*	12	\$58,198.80	1 year
	Timetable Planning					
	Vehicle Schedule Optimization					

	Crew Schedule Optimization					
	Relief Vehicle Schedule Optimization					
	Rostering Optimization					
*Price per vehicle can remain at \$88.18 for year 2. Montebello Bus Lines and Optibus can assess the # of vehicles being utilized in year 2 to determine / “true up” yearly cost.						
Established, seamless GTFS integration with Avail					Avail data Integration (pass through expense from Avail through Optibus) \$12,000	
Unlimited GTFS exports included						
2 Year Total Subscription Fees					\$123,106.80 for 2 year term (Optibus and Montebello Bus Lines to assess vehicles on platform 12 months after initial contracting date to establish any change in price based on \$88.18 per vehicle per month per year)	
Support						
Service						
Optibus Academy Access		Included in subscription				
Knowledgebase Access		Included in subscription				
Technical Support		Included in subscription				

OPTIBUS TERMS OF USE

Last Revised: June 22, 2022

Optibus Ltd. (“**Optibus**”) provides a proprietary software as a service which uses unique algorithms designed to analyze and generate optimized arrangements for vehicles and drivers for transportation agencies that operate fixed-route transportation service vehicles (the “**Platform**”), and may include other services provided by Optibus, as further detailed in the relevant Service Order (as defined below) (collectively, the “**Services**”). You may use the Services (or any part thereof) in accordance with your specific applicable Service Order duly executed with Optibus and strictly subject to the terms and conditions provided hereunder.

1. Acceptance of these Terms

- 1.1. Please read carefully these terms and conditions of use (these “**Terms**”) before executing the Service Order and/or other ordering document that references or incorporates these Terms. By accepting these Terms through the execution of a Service Order, you agree to comply with and be bound by the following terms and conditions. If you are agreeing to these Terms not as an individual but on behalf of your company, government, or other entity for which you are acting (for example, as an employee or governmental official) you represent that you have the authority to bind such entity to these Terms, to use the Services on behalf of such entity and, in such event, “you” and “your” as used in these Terms shall refer to such entity. If you do not have such authority, or if you do not agree to these Terms, you may not access the Platform or use the Services. Each of Optibus and you may also be referred to herein as a “**Party**” and collectively as the “**Parties**.”

The “**Effective Date**” of these Terms is the date which is the earlier of (a) your initial access to or use of the Platform or Services or (b) the effective date of the first executed Service Order referencing these Terms.

2. Scope of Services

- 2.1. The scope of Services shall consist of performing the Services as stipulated and agreed in an applicable Service Order (the “**Service Order**”) that references these Terms. The Service Order (and any additional Service Order mutually executed by the Parties) is hereby incorporated by reference into these Terms. Unless otherwise expressly set forth in a Service Order, the Parties agree that these Terms shall apply to and govern each Service Order. In the event of any conflict between these Terms and a Service Order, these specific conflicting terms of the Service Order shall prevail.

3. Use of Services

- 3.1. Upon Optibus’ acceptance of your Service Order and for the duration of the Term (as defined below), Optibus grants you the nonexclusive, revocable, non-assignable, non-transferable, royalty-free and limited right to use the Platform and any standard published documentation provided by Optibus (“**Documentation**”) to receive the Services solely for your internal business operations and subject to these Terms. You may access the Platform via individuals who are authorized by you, in accordance with these Terms, to access and use the Platform on your behalf (“**Authorized Users**”). You are solely responsible for maintaining the

confidentiality of your account information and for anything that happens through your account information, including via your Authorized Users.

3A. Use of Services in Bidding (Tenders)

Notwithstanding anything to the contrary contained herein, including with respect to the Use Restrictions contained in Section 4(v) below, You may make use of the Services for purposes of bidding on a Tender (as defined below) subject to strict compliance with these Terms and the following specific conditions:

- i) You clearly indicate to Optibus your intent to use the Services for purposes of a Tender offer at the time You place your Order;
- ii) You do not, without the prior written consent of Optibus, bind Optibus to any obligation or undertaking that is in any way inconsistent with the express conditions of these Terms;
- iii) You promptly notify Optibus of the results of the Tender;
- iv) If your Tender offer is accepted, you hereby agree to exclusively use the Services of Optibus for purposes of your performance pursuant to the Tender for a period of **two (2) years** from the date your Tender offer was accepted ("**Tender Term**") on the same commercial Service terms as were agreed by You and Optibus prior to the submission of the Tender offer, or as shall be otherwise agreed between the Parties in writing;
- v) If you terminate use of the Services prior to the end of the Tender Term, You shall pay to Optibus the remainder of any Fees (as defined below) due and owing for the remainder of the Tender Term.

"Tender" shall mean any invitation to suppliers to submit competitive bids or offers to supply products or services, whether to public or private institutions, whether in open or sealed bids, and whether in the form of a Request for Tender (RFT) or Request for Proposal (RFP).

4. Use Restrictions

4.1. There is certain conduct which is strictly prohibited when using the Platform and Services. Please read the following restrictions carefully.

Unless prior written authorization is obtained from Optibus and/or otherwise specified in the applicable Service Order, you shall not, and shall not authorize others, to: (a) modify, alter, create derivative works from, reverse engineer, decompile, or disassemble any part of the Platform or Services, nor attempt in any other manner to obtain the source code or otherwise reduce to human-perceivable form any part of the Platform or Services; (b) frame, mirror, republish, download, display, transmit, or distribute all or any portion of the Platform or Services (including any Documentation which accompanies the Services) in any form or media or by any means; (c) remove any proprietary notices, labels, or marks on or in any part of the Platform or Services, including without limitation any trademark or copyright notices; (d) disclose the results of testing or benchmarking of the Services to any third party, or access or use the Services or any part thereof in order to build or support, and/or assist a third party in building or supporting, products or services which are competitive to Optibus' Platform or Services; (e) sublicense, rent, or lease, host, outsource, display, or commercially exploit any part of the Services, or use the Services to provide services to third parties; (f) attempt to obtain, or assist third parties in obtaining, access to the Platform, Services and/or associated Documentation; (g) use the Services in any manner not expressly authorized by these Terms; or (h) take any actions which (i) would disable the Platform or Services or impair in any way their operation based on the

elapsing of a period of time, the exceeding of an authorized number of copies, or the advancement to a particular date or other numeral (referred to as “time bombs”, “time locks”, or “drop dead” devices); (ii) would prevent Optibus from accessing the Services for the purposes of its operations; or (iii) infringe or violate any of the Terms or allow and/or enable a third party to do any of the aforementioned.

5. Fees

5.1. In consideration for the Services, you shall pay Optibus the amounts set forth on each Service Order (the “**Fees**”). Optibus will issue an invoice to you referencing the applicable 12-month period at the beginning of each 12-month period, commencing upon the signing a respective Service Order.

5.2. Payment Terms. Unless otherwise provided in a Service Order, within thirty (30) days from the issue date of the invoice, you shall pay Optibus all amounts for Fees referenced in such invoice. Any payment not received by Optibus within such period shall accrue interest at a rate of one percent (1%) per month, or the highest rate allowed by applicable law. All Fees are non-cancellable and non-refundable. All Fees are stated and payable in US Dollars, and are exclusive of VAT, which shall be added to Optibus’ invoice(s) at the appropriate rate.

5.3. You will be responsible for, and will promptly pay, all taxes and duties of any kind (including but not limited to sales, use and withholding taxes) associated with these Terms or your receipt or use of the Services, except for taxes based on Optibus’ income. Notwithstanding the foregoing, in the event you claim an exemption from the payment of such applicable taxes or duties, you will provide to Optibus any such exemption information at the time of payment.

5.4. You agree to make all payments under each Service Order and these Terms without set-off or counterclaim and free and clear of any withholding or deduction (save as required by law) for any present or future taxes and/or duties. All payment of amounts referenced in such invoice shall be made in readily available funds, directed to Optibus’ bank account which details are:

Account name:	Optibus Ltd.
Bank Name:	Bank Leumi
Branch Number:	864
Branch Address:	Arie Shenkar 10 Herzelia Israel
Account number:	556700/01
Swift code:	LUMIILITXXX
IBAN:	IL210108640000055670001

6. Intellectual Property

6.1. You retain all ownership and intellectual property rights in and to all data you provide to or make available to Optibus or which is generated by you during your use of the Services (collectively, “**Customer Data**”). You hereby grant Optibus the right to use your Customer Data (a) in order to provide the Services to you and (b) in aggregate, anonymized form for Optibus’ internal business purposes.

6.2. You acknowledge and agree that Optibus and/or its licensors own the Platform, the Services, Optibus' Confidential Information and/or any part of the foregoing, including any related Documentation, updates, upgrades, copies, emulations, modifications, adaptations, enhancements, or derivative works thereof and all intellectual property rights in the aforementioned. Except as expressly stated herein, these Terms does not grant you or your Authorized Users any rights or licenses in respect of the Platform and/or Services or any other intellectual property of Optibus. All rights not granted herein are expressly reserved by Optibus.

6.3. In the event that you decide to provide to Optibus any suggestions, ideas, comments, questions and/or other feedback relating to the Platform and/or Services ("**Feedback**"), you hereby grant Optibus the irrevocable right to freely use such Feedback and, accordingly, all rights to any improvements and/or enhancements to the Platform and/or Services, howsoever arising, including as a result of any ideas, input or information provided by you as aforesaid, shall vest solely with Optibus. Optibus may in connection with any of its products or services freely use, copy, disclose, license, distribute and exploit any Feedback in any manner without any obligation, royalty or restriction based on intellectual property rights or otherwise. No Feedback will be considered your Confidential Information, and nothing in these Terms limits Optibus' right to independently use, develop, evaluate, or market products or services, whether incorporating Feedback or otherwise.

7. Your Obligations

7.1. You represent that during the Term and at all relevant times, you shall: (a) hold and maintain any necessary rights, licenses, consents and/or permissions required to allow Optibus and its third party service providers to perform their obligations under these Terms, including without limitation, the use of your Customer Data by Optibus and its service providers as required under applicable law and as contemplated hereunder; (b) comply with all applicable laws and regulations with respect to your activities under these Terms; (c) ensure that your network and systems comply with the relevant specifications provided by Optibus from time to time; (d) be solely and fully responsible for any decision made or action taken or not taken in reliance on the use of the Services and/or any data output; (e) be solely responsible for regularly tracking, reviewing and verifying that the Platform and Services are duly performing in accordance with your requirements, specifications, expectations, and goals.

8. Privacy and Data Protection

8.1. Optibus may collect certain data and information from you and your Authorized Users in connection with your and your Authorized Users' use of the Platform and Services and otherwise in connection with these Terms. All such data and information will be collected and used by Optibus in accordance with Optibus' [Privacy Policy](#), which you acknowledge and agree to.

8.2. You hereby warrant and represent that any content, information, and data (including Customer Data) provided to Optibus during the course of your engagement with Optibus shall not include Personal Data of any third party. You alone, and not Optibus, shall be responsible for any information provided, uploaded to the Platform or otherwise made available to Optibus beyond the scope permitted hereunder. For the purposes of these Terms, "Personal Data" shall

mean all information and data of any kind collected, received, held, accessed, maintained, stored, processed, controlled, or used, that is considered to be personal data or individually-identifiable information from or about an individual under applicable law, including but not limited to the CCPA, GDPR and/or other applicable data protection or privacy laws and regulations to which the you or Optibus are subject.

8.3. Without derogating from the aforementioned, in the event Personal Data is included in the Customer Data, you shall take all necessary measures to ensure and hereby represent and warrant to Optibus, that any third party (including, without limitation, your employees, suppliers, customers and contractors) whose Personal Data has been provided to Optibus hereunder, is aware of and has

8.4. provided explicit consent to Optibus' processing, storing, displaying, transmitting, and performing any other actions on and in connection with such third party's Personal Data, as shall be required or advisable.

9. Indemnification

9.1. Optibus shall defend, indemnify and hold you harmless from and against any damages, liabilities, costs, and expenses (including reasonable attorney's fees) finally awarded by a court of competent jurisdiction to a third party claiming that the Services, when used in accordance with these Terms and any Documentation, infringe such third party's intellectual property rights ("**Infringement Claim**"), provided you do the following: (a) notify Optibus promptly in writing, not later than 30 days after you receive notice of the claim (or sooner if required by applicable law); (b) give Optibus sole control of the defense and any settlement negotiations; and (c) give Optibus the information, authority, and assistance Optibus needs to defend against or settle the Infringement Claim. Optibus shall have the sole right to control the defense of such Infringement Claim and all related settlement negotiations.

9.2. If Optibus believes or it is determined that the Service be subject to an Infringement Claim, Optibus may at its discretion choose to either modify the Services to be non-infringing (while substantially preserving their utility or functionality) or obtain a license to allow for your continued use thereof, or if in Optibus' sole discretion, these alternatives are not commercially practicable, Optibus may terminate these Terms and refund any unused, prepaid Fees paid by you for the Services. Notwithstanding anything to the contrary contained hereunder, Optibus will not indemnify or defend you for any Infringement Claim that is based on: (a) any modification to the Services by anyone apart from Optibus, without the prior written consent of Optibus; (b) use of the Service not in accordance with these Terms, any Documentation or other instructions provided by Optibus; (c) use of the Services with hardware or software that does not meet the minimum requirements set forth in the Documentation, and/or that has not been preapproved by Optibus; or (d) any information, design, specification, instruction, software, data, or material not furnished by Optibus.

9.3. You shall indemnify, defend, and hold Optibus (including its officers, employees, agents and affiliates) harmless from and against any claims, damages, liabilities, costs, and expenses (including reasonable attorney's fees) resulting from any third-party claims: (a) that Customer Data violates any third party rights, including without limitation infringement or violation of

intellectual property rights or privacy rights; or (b) arising from your violation or alleged violation of any of your representations and/or obligations under these Terms.

10. Confidentiality

10.1. By virtue of these Terms and/or provision of the Services, the Parties may have access to information that is proprietary or confidential to one another (“**Confidential Information**”). A party’s Confidential Information shall not include information that: (a) is or becomes a part of the public domain through no act or omission of the other party; (b) was in the other Party’s lawful possession prior to the disclosure and had not been obtained by the other Party either directly or indirectly from the disclosing Party; (c) is lawfully disclosed to the other Party by a third party without restriction on the disclosure; (d) is independently developed by the other Party without use of

10.2.

10.3. or reference to the Confidential Information; or (e) is required to be disclosed by a court of competent jurisdiction or other governmental authority or otherwise as required by law.

10.4. The Parties agree to hold each other’s Confidential Information in strict confidence for a period of five years from the date of disclosure and to only use such Confidential Information as necessary for performance under these Terms. Also, the Parties agree to disclose Confidential Information only to those employees or agents who have a need to know such information and are required to protect it against unauthorized disclosure in a manner no less protective than under these Terms. Optibus will protect the confidentiality of your Customer Data in accordance with its published [Privacy Policy](#).

10.5. The Parties each acknowledge and agree that a violation of the confidentiality undertakings in these Terms may cause significant harm to the disclosing Party. In addition to any other rights and remedies disclosing Party may have, receiving Party agrees that an injunction (whether temporary, preliminary, or final) may be sought in a court of competent jurisdiction against it upon the request of disclosing Party, without the requirement of posting a bond.

11. Disclaimer and Warranties

11.1. Optibus warrants and represents that, when used in accordance with these Terms and the Documentation: (a) the Platform does not infringe upon the intellectual property rights of any third party and (b) the Services will substantially conform to the Documentation. If the Services does not substantially conform to the Documentation, Optibus will, at its expense, use all reasonable commercial endeavors to correct any such non-conformance promptly, or provide you with an alternative means of accomplishing the desired performance. Such correction or substitution constitutes your sole and exclusive remedy for any breach of the warranty set out above. The aforementioned warranty shall not apply to any problem caused by: (i) any modification or provision of the Services by anyone apart from Optibus, without the prior written consent of Optibus; (ii) use of the Services not in accordance with the Documentation or other instructions provided by Optibus; (iii) use of the Services with

hardware or software that does not meet the minimum requirements set forth in the Documentation, and/or that has not been preapproved by Optibus; (iv) any computer virus or similar malicious code in the Services which is introduced into the Services by you, your Authorized Users or any other third party; or (v) any errors caused by you or users on your behalf and/or errors due to requests and/or specifications provided by you that are inconsistent with the Documentation, including problems caused by incorrect configuring or a failure to perform the required administrative obligations contained in the Documentation or instructions provided to you by Optibus.

11.2. EXCEPT FOR THE WARRANTIES SET FORTH ABOVE, YOU UNDERSTAND AND AGREE THAT THE PLATFORM, DOCUMENTATION, AND THE SERVICES ARE PROVIDED BY OPTIBUS ON AN “AS IS” AND “AS AVAILABLE” BASIS, WITHOUT ANY OTHER WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT, ACCURACY, OR RELIABILITY, TO THE EXTENT PERMITTED UNDER APPLICABLE LAW. WITHOUT DEROGATING FROM THE GENERALITY OF THE FOREGOING, YOU ACKNOWLEDGE THAT OPTIBUS DOES NOT GUARANTEE THAT THE PLATFORM OR THE PERFORMANCE OF THE SERVICES WILL BE SECURE, ACCURATE, COMPLETE, UNINTERRUPTED, WITHOUT ERROR, OR FREE OF ANY PROGRAM LIMITATIONS OR

11.3. FAILURES, OR THAT THE PLATFORM AND/OR ANY FEATURE AVAILABLE THEREIN (WHETHER OR NOT CONFIGURABLE BY YOU) AND/OR ANY INFORMATION OBTAINED BY YOU THROUGH THE USE OF THE PLATFORM AND/OR SERVICES WILL MEET AND/OR PERFORM IN ACCORDANCE WITH YOUR REQUIREMENTS, SPECIFICATIONS, EXPECTATIONS, CONFIGURATIONS, OR GOALS, OR THAT OPTIBUS WILL CORRECT ANY OR ALL PRODUCT ERRORS, DEFICIENCIES, OR NON-PERFORMANCES. YOU ACKNOWLEDGE THAT OPTIBUS DOES NOT CONTROL THE TRANSFER OF DATA OVER TELECOMMUNICATIONS INFRASTRUCTURE, INCLUDING THE INTERNET, AND THAT THE SERVICES MAY BE SUBJECT TO LIMITATIONS, DELAYS, OR OTHER PROBLEMS INHERENT IN THE USE OF SUCH INFRASTRUCTURE AND TECHNOLOGIES. OPTIBUS IS NOT RESPONSIBLE FOR ANY DELAYS, DELIVERY FAILURES, OR OTHER DAMAGE RESULTING FROM SUCH PROBLEMS.

11.4. You acknowledge that the Platform will enable or assist you in accessing the website content of, correspond with, or use of the services of certain third-party websites/providers, and you do so solely at its own risk. Optibus makes no representation or commitment and shall have no liability or obligation whatsoever in relation to the content or use of, or correspondence with, any such third-party website, or any transactions completed, or any contract entered into by you, with any such third party. Any contract entered into and any transaction completed via any third-party website or service is between you and the relevant third party, and not Optibus. Optibus recommends that you refer to the third party’s website terms and conditions and privacy policy prior to using the relevant third-party service.

12. Limitation of Liability

12.1. UNDER NO CIRCUMSTANCES WILL EITHER PARTY BE LIABLE FOR INDIRECT, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES, INCLUDING, WITHOUT LIMITATION, FOR ANY LOST PROFIT OR LOSS RESULTING FROM BUSINESS INTERRUPTION OR LOSS OF DATA, EVEN IF A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OR LIKELIHOOD OF SUCH DAMAGES. EXCEPT IN CASES OF GROSS NEGLIGENCE AND WILLFUL MISCONDUCT, IN NO EVENT WILL OPTIBUS' AGGREGATE LIABILITY FOR ANY AND ALL CLAIMS, LOSSES, OR DAMAGES ARISING OUT OF OR RELATING TO THESE TERMS OR ANY SERVICES (WHETHER IN CONTRACT, EQUITY, NEGLIGENCE, TORT, OR OTHERWISE) EXCEED THE AGGREGATE FEES PAID BY YOU TO OPTIBUS UNDER THE RELEVANT SERVICE ORDER DURING THE TWELVE (12) MONTH PERIOD IMMEDIATELY PRECEDING THE DATE UPON WHICH THE APPLICABLE CAUSE OF ACTION ARISES. THE FOREGOING SHALL NOT LIMIT YOUR PAYMENT OBLIGATIONS UNDER THE SECTION 6 ABOVE.

13. Government Customers

13.1. Any United States federal, state, or local government customers are subject to the Agency Amendment attached below, in addition to these Terms.

14. Term and Termination

14.1. The Services provided under these Terms shall commence on the Effective Date and shall be provided for the subscription period defined in the Service Order unless earlier terminated in accordance with these Terms (the "**Term**").

14.2. Either Party may terminate a Service Order for cause: (a) upon 30 days' prior written notice to the other Party of a material breach of these Terms (including breach of any terms stated in the relevant Service Order), if such breach remains uncured at the expiration of such period; or (b) if the other Party becomes the subject of a petition in bankruptcy or any other proceeding relating to insolvency, receivership, liquidation or assignment for the benefit of creditors.

14.3. Upon expiration or termination of these Terms for any reason, any and all licenses and rights granted to you shall cease and you shall immediately cease all use of the Platform and Services and shall delete and purge all traces of the Services from your systems and custody. Each Party shall return or destroy all copies of the Confidential Information of the other Party in its possession, custody or control, and, in the case of destruction, upon receipt of written request from the disclosing Party, certify such destruction in a written notice to the disclosing Party.

This Section 14, and Sections 4-6, 10-13, and 16 shall survive the termination or expiration of these Terms.

15. Support and Training

15.1. During the Term, you will be entitled to receive Optibus' standard customer support services ("**Support Services**") 9:00 a.m. to 5:00 p.m., Monday-Friday, EST, in connection with the Services, as well as emergency tech support on a 24/7 basis. You may be entitled to receive enhanced Support Services in the event such are included under an applicable Service Order.

15.2. During the Term, Optibus shall make available to you, upon written request, such on-site (at your premises) training services as generally made available by Optibus to its customers, for a separate training service fee stated in the Service Order. You undertake that you will provide Optibus with all necessary co-operation and access to information in relation to these Terms as may be required by Optibus in order to render the Support Services, including with respect to Customer Data, security access information, and configuration services. In the event of any delays in your provision of such assistance as agreed by the Parties, Optibus may adjust any agreed timetable or delivery schedule as reasonably necessary.

16. Miscellaneous

16.1. Any notice provided pursuant to this Terms shall be in writing and shall be sent to the addresses of the Parties set forth in the Service Order, by registered mail, or facsimile with telephone confirmation, or e-mail with notice of receipt requested. Nothing in these Terms shall in any way be construed to constitute you or Optibus as an agent, partner, joint-venturer, employee, or representative of the other, and both you and Optibus shall remain independent contractors. You may not assign these Terms or any Service Order or an interest in them to another individual or entity without the

16.2. prior written consent of Optibus. Subject to the foregoing, these Terms shall bind and inure solely and exclusively to the benefit of the Parties hereto and their successors and assigns, and not to the benefit of any third party whatsoever. You agree that Optibus may use your name and/or logo on Optibus' website and in Optibus' promotional materials as a user of the Services. Each of you and Optibus will be excused for delays in performing or from its failure to perform hereunder (other than an obligation to make a payment of money when due) to the extent that the delays or failures result from causes beyond the reasonable control of such Party; provided that, in order to be excused from delay or failure to perform, such Party must inform the other Party of the reason for such delay or failure and act diligently to remedy the cause of the delay or failure. No waiver by either you or Optibus of any breach of these Terms will constitute a waiver of any other breach of the same or other provisions of these Terms. No waiver by either You or Optibus will be effective unless made in writing and signed by an authorized representative of that Party. These Terms (including reference to information contained in a URL or referenced policy), together with any outstanding Service Order executed pursuant thereto, constitutes the entire agreement and understanding of you and Optibus relating to the subject matter hereof. These Terms supersedes all prior written and oral agreements and all other communications between you and Optibus. If any provision in these Terms is found by a competent court to be invalid or unenforceable under any circumstance,

its application in any other circumstance and the remaining provisions of these Terms will not be affected thereby. Unless designated as replacing a specific outstanding Service Order, a new Service Order will be considered to be in addition to a then-outstanding Service Order.

16.3. Optibus may modify the terms and conditions of these Terms (including related policies) from time to time, with notice given to you by email, through the Platform or Services, or through posting updated terms to our website. Together with such notice, Optibus will specify the effective date of any modifications. Otherwise, all other changes to these Terms are effective as of the stated “Last Revised” date noted above and your continued use of the Services after the Last Revised date will constitute acceptance of, and agreement to be bound by, those changes.

16.4. These Terms and any relevant Service Order and any claim arising from these Terms or any relevant Service Order will be governed by and interpreted in accordance with the laws of the State of California without regard to conflicts of laws and principles. Any and all actions brought to enforce or resolve any dispute arising out these Terms or any relevant Service Order must be brought exclusively in courts having jurisdiction in Los Angeles County, California and each party hereby consents to and agrees to submit to the exclusive personal jurisdiction and venue of such courts.

For information, questions, or notification of errors, please contact Optibus:

If you have any questions (or comments) concerning the Terms, you are most welcomed to send Optibus an e-mail at: info@optibus.com, and we will make an effort to reply within a reasonable timeframe.

Optibus Inc.

By: _____

By: _____
Amos Haggiag - CEO

AGENCY AMENDMENT

This Agency Amendment (“**Amendment**”) modifies the Optibus Terms of Use (the “**Terms**”) and applies to United States federal, state, and local government customers (hereinafter “**Agency**”) only. Agency and Optibus agree to modify the Terms only to the extent required to accommodate any statutory restrictions or obligations that apply, without exception, to the Terms. Accordingly, the Terms are hereby modified as set forth below as it pertains to use of the Platform and Services by Agency. Optibus may update or modify this Amendment from time to time as set forth in the Terms.

All capitalized terms not defined in this Amendment have the meanings given to them in the Terms. Except as expressly set forth herein, all of the terms and conditions of the Terms shall remain in full force and effect.

1. **Commercial Items.** The Optibus Platform and Services (together, “**Products**”), Documentation, and related services are commercial in nature and available in the open marketplace. The Products, Documentation, and related services are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, and all software provided by Optibus is "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are defined at 48 C.F.R. §252.227-7014(a)(5) and 48 C.F.R. §252.227-7014(a)(1), and used in 48 C.F.R. §12.212 and 48 C.F.R. 227.7202, as applicable. All sales to Agency shall be consistent with 48 C.F.R. §12.212, 48 C.F.R. §252.227-7015, 48 C.F.R. §227.7202 through 227.7202-4, 48 C.F.R. §52.227-14, and other relevant sections of the Code of Federal Regulations, as applicable. The Products, Documentation, and related services are licensed to Agency with only those rights as granted to all other customers, according to the terms and conditions contained in the Terms.

2. **Government Purpose.** Agency’s use of the Products, Documentation, and related services under the Terms as amended herein shall only be for a governmental purpose. Any private, personal, or non-governmental purposes shall result in the waiver of this Amendment and the terms and conditions of the Terms shall apply without modification.

3. **Indemnification, Liability, Statute of Limitations.** Any provisions in the Terms imposing indemnification by Agency are hereby waived and shall not apply except to the extent expressly authorized by applicable law. Liability for any breach of the Terms as modified by this Amendment or any claim arising from the Terms as modified by this Amendment, shall be determined under the Contract Disputes Act, the Federal Tort Claims Act, or other governing federal or state authority. Federal Statute of Limitations provisions or, if applicable, state statute of limitations, shall apply to any breach or claim. In the event of a dispute between the Parties, Agency agrees that Optibus shall

have standing and direct privity of contract to bring a claim directly against Agency in a court of competent jurisdiction or an agency board of contract appeals.

4. **Governing Law.** Any terms regarding choice of law and venue in the Terms are hereby waived. The Terms and this Amendment shall be governed by, and interpreted and enforced in accordance with, the laws of the state in which Agency is established without reference to conflict of laws principles. The laws of the State of California will apply in the absence of such applicable law.

5. **Intellectual Property Ownership.** Except as expressly stated in the Terms, no rights to any derivative works, inventions, products or product modifications, or documentation are conferred to Agency or any other party. All such rights belong exclusively to Optibus.

6. **Publicity Rights.** Optibus may identify Agency as a customer in its promotional materials to the extent permitted by GSAR 552.203-71-RESTRICTION IN ADVERTISING. Optibus will not suggest that Agency endorses the Products but only that Agency is an Optibus customer. Agency may request that Optibus stop doing so by submitting an email to the applicable contact address set forth in the Terms. Optibus will make reasonable commercial efforts to promptly process Agency's request.

7. **Order of Precedence.** If there is any conflict between this Amendment and the Terms, or between this Amendment and other terms, rules, or policies on the Optibus website or otherwise related to our Products or related services, this Amendment shall prevail.

8. **No Additional Terms.** Agency hereby acknowledges and agrees that other than the Mandatory Provisions expressly set forth in Section 9 below, no other linked, click-acceptance or other terms and conditions presented or otherwise provided with Agency's Service Order or other ordering document ("**Additional Terms**") will be binding on Optibus, even if acceptance of the Service Order requires an affirmative "acceptance" of such Additional Terms. Any Additional Terms are hereby deemed rejected by Optibus in their entirety and shall be of no force or effect.

9. **Mandatory Provisions.** Optibus acknowledges that certain public agencies and authorities are bound to contract with their vendors and suppliers under specific terms and conditions mandated by United States federal, state, and local municipal laws and regulations ("**Mandatory Provisions**"). To the extent that any Mandatory Provisions are applicable to Agency and to the engagement of the Parties under the Terms, this Amendment, and applicable law, such Mandatory Provisions will be set forth below:

Agency Mandatory Provisions:



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: Fire Chief Fernando Pelaez, Fire Department

SUBJECT: Approval to Submit Application for the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) Wildfire Prevention Grant Program

DATE: August 1, 2022

RECOMMENDATION (S):

It is recommended that the City Council:

- 1) Approve the submission of the grant application for the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) Wildfire Prevention Grant Program; and
- 2) Take such additional, related, action that may be desirable.

FISCAL IMPACT

The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) Non-Bond Priorities Grant Program currently has a funding opportunity to submit a competitive grant application for Wildfire Prevention. If a grant is awarded and once the amount is determined, staff will return to the City Council with a request to appropriate the funds.

BACKGROUND

On April 13, 2021, Governor Newsom signed into law the Wildfire Prevention and Resiliency Early Action Budget for Wildfire Prevention (SB 85), amending the Budget Act of 2020. This bill allots \$536 million for the State of California to put toward preventative measures to increase fire-resilience and prevention, improve forest health, restore burned areas, and stimulate workforce development. The Budget Act of 2020 (Sec. 14 Item 3825-

CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 1, 2022
Approval to Submit Application for the for the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) Wildfire Prevention Grant Program
Page 2 of 2

102-0001) appropriated to RMC \$12 million for wildfire prevention and resiliency projects within its jurisdiction.

The RMC was provided an additional \$15 million through the State's General Fund in the Wildfire and Forest Resilience package of the Budget Act of 2021 (Sec. 68 Item 3825-102-0001). In addition to wildfire prevention and resiliency projects, the funding is focused on supporting the goals of California's Wildfire and Forest Resilience Action Plan. The City is interested in leveraging this grant opportunity to invest in prevention activities that build wildfire resilience such as fuel load maintenance, removal of high-fire risk invasive plants and restoration with native plants, fire prevention education and stewardship building in fire prone areas within the City, and preparation of community/region-wide fire protection or fire prevention plans.

DISCUSSION

Wildfires are part of California's natural landscape; however, drought and climate change conditions have increased wildfire frequency, size, and severity in recent years, extending California's Wildfire season. Historical fire perimeters within RMC's territory show that many sections of the San Gabriel Mountains and foothills have burned repeatedly in the last few decades, with some sections having burned multiple times. Understanding the challenges brought by environmental changes to communities in the region, the RMC is prioritizing projects that strengthen the protection of communities and build wildfire resilience.

The Fire Department is seeking to submit a grant proposal seeking funding that will be used towards building fire resiliency by implementing fire prevention activities in areas of the community that are at-risk of wildland fire. The additional funding would provide much needed financial resources to actively invest in proactive fire prevention activities that will support the Fire Department's overall strategic goals in the area of fire prevention, fire-resilience, and protection of the community.

SUMMARY

That the City Council approve the submission of a grant proposal application for the San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) Non-Bond Priorities Grant Program. Should the City be successful in receiving the grant, subsequent City Council action will be presented to appropriate the grant funds.

ATTACHMENT (S):

- A. Attachment A - NOFO RMC Non-Bond Priorities Grant Program

State of California - Natural Resources Agency

**San Gabriel & Lower Los Angeles
Rivers and Mountains Conservancy**

Non-Bond Priorities Program Guidelines



STATE OF CALIFORNIA
Rivers and Mountains Conservancy

Inquiries and Contact Information

All inquiries, correspondence, and grant applications should be addressed to:

San Gabriel & Lower Los Angeles Rivers and Mountains Conservancy (RMC)
Grant Program
100 N Old San Gabriel Canyon Road
Azusa, CA 91702

Office Number (626) 815-1019
General Email info@rmc.ca.gov

Grant applications are currently being accepted until all funding is expended or the call for projects is closed, whichever occurs first. Please see Section 2 for additional details. Projects must be fully vetted through the application process and approved by the RMC Governing Board prior to release of funds.

The regular RMC Board meeting schedule convenes virtually on the third Monday of January, March, May, June, July, September, and November. Schedule and location are subject to change.

Guidelines and criteria are also subject to change at any time.

For more information regarding RMC, grants, board meetings, and other resources, please visit us at our website <http://www.rmc.ca.gov>. You can also find/follow us on [Facebook](#) and [Instagram](#) (@RiversMountainsConservancy).

Grant Program Guidelines Contents

SECTION 1	Introduction	2
	1.1 Background.....	2
	1.2 Choosing the Right Program.....	2
SECTION 2	Non-Bond Priorities Funding & Objectives.....	4
	2.1 Wildfire Prevention Grant Program	4
	2.2 Lower Los Angeles-Urban Streams and Rivers Program	6
	2.3 Climate Resilience Grant Program	7
SECTION 3	General Eligibility and Important Points	9
	3.1 Eligible Applicants.....	9
	3.2 Eligible Project Costs and Tasks.....	9
	3.3 Ineligible Project Costs and Tasks	10
	3.4 Indirect/Overhead and Administrative Costs.....	10
	3.5 Important Points and Other Considerations	10
	3.6 Contract Policies with Disadvantaged Businesses and Individuals	12
	3.7 Conflict of Interest.....	12
SECTION 4	RMC's Objectives & Policies	13
	4.1 RMC's Guiding Principles.....	13
	4.2 RMC's Environmental Justice Policy.....	14
	4.3 RMC's Tribal Consultation Policy.....	16
SECTION 5	Application Process & Project Administration	17
	5.1 Typical Application Process	17
	5.2 What to Submit	17
	5.3 Evaluation Criteria	20
	5.4 Grant Awards and Agreements	21
SECTION 6	Appendices	24
	Appendix A: Application.....	25
	Appendix B: Useful Web Links.....	29
	Appendix C: Definitions.....	30

SECTION 1

Introduction

1.1 Background

The San Gabriel and Lower Los Angeles Rivers and Mountains Conservancy (RMC) is one of ten conservancies within the Natural Resources Agency established in 1999 (Chapters 788 and 789, Statutes of 1999). A copy of its general provisions, powers and duties, and other guidelines can be found in [Division 22.8 of the Public Resources Code §§ 32600-32622](#).

Our mission is *to preserve open space and habitat in order to provide for low-impact recreation and educational uses, wildlife habitat restoration and protection, and watershed improvements within our jurisdictions*. This work supports the public's enjoyment and enhancement of recreational and educational experiences on public lands in a manner consistent with the protection of lands and resources in those watersheds.

RMC's jurisdiction includes eastern Los Angeles County and western Orange County, comprised of the San Gabriel River Watershed and its tributaries, the Lower Los Angeles River Watershed and its tributaries, Upper Santa Clara River and its tributaries, northern slope of the Angeles National Forest, the San Gabriel Mountains National Monument, Puente Hills, and the San Jose Hills. There are sixty-eight cities (including portions of the cities of Los Angeles and South Pasadena) in our territory and twenty unincorporated communities. A full list of cities and more information about the physical geography of the greater Los Angeles area can be found at <http://rmc.ca.gov/territory/>.

1.2 Choosing the Right Program

Since 2003, the RMC awarded over 295 grants and interagency agreements, which invested at least \$91 million of State funds toward creating open space, habitat restoration, expanding greenspace in disadvantaged communities, and protecting the watersheds of the Lower Los Angeles and San Gabriel Rivers. Currently, we have these grant programs:

1.2.1 Non-Bond Priorities Grant Program

- **Wildfire Prevention Grant Program**, including Senate Bill 85 Wildfire Prevention and Resiliency Early Action Plan (see Section 2)
- **Lower Los Angeles-Urban Streams and Rivers Program**: Projects that improve the climate resiliency or the protection of the Los Angeles River Watershed or are consistent with the Lower Los Angeles River Revitalization Master Plan (see Section 2)
- **Climate Resiliency Grant Program**: Projects that promote climate resilience, wildfire prevention, community access, and natural resource protection (see Section 2)

1.2.2 Bond-Funded Grant Programs

Please visit the RMC Grants webpage at <http://rmc.ca.gov/grants/> for additional information including the application process on the following programs.

- **Proposition 1 Urban Creek (Lower Los Angeles River) [WC § 79735(a)]:** \$50,000,000 for projects to fund ecosystems and watershed protection and restoration, water supply infrastructure projects, including surface and groundwater storage, and drinking water protection. Projects are specific to protecting and enhancing the Lower Los Angeles River.
- **Proposition 68 River Parkways and Urban Streams [PRC § 80100(a)(1)(B)]:** \$37,500,000 for projects that protect or enhance the Lower Los Angeles River watershed and its tributaries pursuant to Section 79508 of the Water Code and Division 22.8 (commencing with Section 32600) and Division 23 (commencing with Section 33000)
- **Proposition 1 and 68 (both Regionwide and Lower Los Angeles River) Small Grants Program:** As a subset of RMC's Proposition 1 & 68 allocations, grants are between \$50,000 and \$300,000. Projects evaluated under Evaluation Criteria that receive an average score of 70 percent or better (as opposed to 80 percent or better for regular grant program) will be considered competitive. Priorities include jump-start projects and small design-build projects, project planning, technical assistance such as application assistance to disadvantaged communities, and securing matching funds
- **Proposition 1 and 68 (both Regionwide and Lower Los Angeles River) Very Small Grants Program:** As a subset of RMC's Prop 1 & 68 allocations, grants are less than \$50,000, and has a more simplified application process compared to all other RMC programs. Projects evaluated under Evaluation Criteria that receive an average score of 75 percent or better will be considered competitive. Priorities include technical assistance such as application assistance to disadvantaged communities, project planning, gap/emergency and high-need project implementation, and securing matching funds
- **Proposition 68 Technical Assistance Program (TAP):** Pursuant to Section 8008(b)(1) of Proposition 68, up to 10% of the funds available may be allocated for technical assistance to disadvantaged communities. TAP supports local communities with application assistance with the goal of facilitating access to the Conservancy's funding programs.

Many programs or their funding sources are not "one size fits all" types. While there is some overlap between different grant programs, a project may score higher for one program than another, and sometimes multiple sources would be most beneficial for a project. If you are unsure of which program is best for your project, please contact RMC for assistance.

Future grant opportunities for the above programs may be funded through a similar legislative action, or another funding source. Please be sure to subscribe to RMC's newsletter by visiting our website or social media to receive future updates.

Applicants should also visit the California Grants Portal at grants.ca.gov as well as the California Natural Resources Agency at resources.ca.gov to search additional funding opportunities.

SECTION 2

Non-Bond Priorities Funding & Objectives

2.1 Wildfire Prevention Grant Program

Wildfires are part of California's natural landscape; however, drought and climate change conditions have increased wildfire frequency, size, and severity in recent years, extending California's Wildfire season. Historical fire perimeters within RMC's territory show that many sections of the San Gabriel Mountains and foothills have burned repeatedly with in the last few decades, with some sections having burned multiple times. The 2020 fire season broke numerous records, including the largest wildfire in the State's history. In Los Angeles County, the Bobcat Fire was recorded as the second largest wildfire on record and burned 116,000 acres of the San Gabriel Mountains and foothills. The Bobcat Fire damaged natural resources, threatened property and infrastructure, impacted regional air quality, and caused the closure of regionally significant recreation areas during the COVID-19 pandemic.

On April 13, 2021, Governor Newsom signed into law the Wildfire Prevention and Resiliency Early Action Budget for Wildfire Prevention (SB 85), amending the Budget Act of 2020. This bill allots \$536 million for the State of California to put toward preventative measures to increase fire-resilience and prevention, improve forest health, restore burned areas, and stimulate workforce development. The Budget Act of 2020 (Sec. 14 Item 3825-102-0001) appropriated to RMC \$12 million for wildfire prevention and resiliency projects within its jurisdiction.

The RMC was appropriated another \$15 million through the General Fund in the Wildfire and Forest Resilience package of the Budget Act of 2021 (Sec. 68 Item 3825-102-0001). In addition to wildfire prevention and resiliency projects, the funding is focused on supporting the goals of [California's Wildfire and Forest Resilience Action Plan: A Comprehensive Strategy](#).

2.1.1 Program Details and Priorities

The RMC will be accepting proposals for projects on a rolling basis in the Mountains, Hills, and Foothills areas within its territory, particularly areas most at risk for wildland fires. Projects should address the risk or potential impact of wildfire to communities and forested landscapes, and consider wildfire resilience benefits including:

- Protect and expand native forests/wildlands
- Support communities in increasing their resilience to wildfire and improving fire safety
- Promote sustainable land use
- Promote investment in wildlands management and workforce development
- Protect cultural resources vulnerable to wildfire

Funding for projects will fall under three main categories:

1. **San Gabriel Mountains and Foothills Fire Prevention Planning and Management:** Projects under this category will serve mainly the San Gabriel Mountains and Foothills. Work may include invasive species management and fuel break maintenance in the Angeles National Forest, fuel modification of open spaces in foothill communities, or protection of tribal cultural resources from fire impacts.

2. **Urban Wildlands and Hills Fire Prevention Planning and Management:** Projects under this category will serve mainly the San Jose, San Rafael, Montebello, Puente, Chino, and Coyote Hills, which are urban wildlife corridors surrounded by urban development. Work may include fire prevention planning, fuel load reduction, invasive species management, and maintenance of defensible space.
3. **Forest Health: Fire Recovery, Response, Restoration, Education and Stewardship:** Projects under this category will cover all regions in the Mountains, Hills, and Foothills. Work will improve forest health through a variety of actions with co-fire prevention benefits including native habitat revegetation, infrastructure improvements, and public stewardship building.

2.1.2 Project Duration

A project should have clearly defined goals and outcomes that can be achieved from half a year to two years. Preference will be given to projects that can be implemented quickly and have completed environmental permitting. Additionally, preference will be given to projects that leads to longer term resilience or more sustainable benefits.

BA 2020 funded Projects must be completed no later than March 31, 2025. RMC must receive final reimbursement requests (invoices) by April 30, 2025.

BA 2021 funded Projects must be completed no later than March 31, 2028. RMC must receive final reimbursement requests (invoices) by April 30, 2028. Please note grants from this appropriation may be vetted but not awarded before July 2022.

2.1.3 Project Examples

This grant program addresses the Governor's priorities for Wildfire Prevention and Resiliency, including those identified in the [California's Wildfire and Forest Resilience Action Plan: A Comprehensive Strategy](#). Projects that will support these priorities should have a special focus on the following:

- Removal of high-fire risk invasive plants and restoration with native plants
- Understory clearing
- Fuel load maintenance
- Equipment to support wildfire reduction work
- Multi-benefit projects
- Landscape-Scale and High-Impact Projects
- Prescribed grazing
- Post-fire native habitat restoration
- Post-fire restoration of trails and recreation areas with co-fire prevention benefits
- Fire prevention education and stewardship building
- Workforce development incorporating job skills training while preserving and protecting the environment, especially with youth living in disadvantaged communities
- Preparation of community/region-wide fire protection or fire prevention plans
- Projects developed through the California Department of Conservation's [Regional Forest and Fire Capacity Program](#)

2.2 Lower Los Angeles-Urban Streams and Rivers Program

The RMC was appropriated \$10 million through General Fund in the Water and Drought Resilience Package of the Budget Act of 2021 (Sec. 67 Item 3825-101-0001) over three years to support immediate drought response and long-term water resilience. This includes funding to support drought response; drinking water, wastewater, and water supply reliability; water recycling and groundwater cleanup; flood management; restoration of natural areas and ecosystems; groundwater sustainability; water conveyance; and water and habitat improvement for environmental flows.

2.2.1 Program Details and Priorities

As mandated by California State Assembly Bill 530, the [Lower Los Angeles River Revitalization Plan](#) (LLARRP) is intended to revitalize the Lower Los Angeles River encompassing one mile on each side of the 19-mile river from the City of Vernon to the City of Long Beach. The plan was developed through a watershed-based, equitable, community-driven process and it identified 155 potential multi-benefit projects that would improve community economics, health, and equity; the public realm; and water and the environment along and in the vicinity of the river. The Plan is incorporated into the [Los Angeles River Master Plan Update](#).

The program will primarily focus on the Water and Environment Plan Element of the LLARRP. Its overarching goal is to conserve and restore natural river and watershed functions while managing flood risk, enhancing the long-term ecosystem services provided to surrounding communities, and mitigating climate changes and environmental impacts of urbanization on the LLAR, floodplains, and associated habitats. The Water and Environment Objectives are:

- **Manage Flood Risk:** Protect life and property by managing flood risk and localized flooding issues and by prioritizing floodplain reclamation and green infrastructure when possible.
- **Enhance Local Water Capture and Use:** Maximize water resiliency and sustainability, including long-term regional supply augmentation and harvesting for local onsite uses.
- **Improve Environmental Quality:** Restore the recreational and ecological multi-benefits of the LLAR for surrounding communities, and to protect human health and the environment, by creating, expanding, and improving public open space, such as through the use of nature-based solutions to capture polluted runoff, improving access to open space and low impact recreation, remediating soil contamination, and improving air quality.
- **Conserve, Enhance, and Restore Habitat Biodiversity, and Floodplain Functions:** Restore or enhance biodiverse, climate-resilient, self-sustaining habitat (including native species both instream and complementary habitats on land outside the river levees) to add value to the riparian and other habitat already along the river corridor, as well as enhance the natural hydrological processes and support the floodplain reclamation necessary for long-term health of the watershed and the community.

2.2.2 Project Duration

A project should have clearly defined goals and outcomes that can be achieved from half a year to two years. Preference will be given to projects that can be implemented quickly, have completed environmental permitting, or program funding is necessary to complete development or implementation (in accordance with program priorities) for any of the seven signature projects listed in the LLARRP.

Projects must be completed no later than March 31, 2024. RMC must receive final reimbursement requests (invoices) by April 30, 2024.

2.2.3 Project Examples

Funding will be available for investments in nature-based solutions and projects for the climate resiliency or the protection of the Los Angeles River Watershed, or are consistent with the Lower Los Angeles River Revitalization Plan. Projects may include:

- Community and urban greening
- Grey-to-green development/implementation
- Water conservation or infiltration improvements
- Restoration of wetlands, riparian, and complementary habitats
- Increase regional self-reliance and integrated water management across all levels of government
- Expand water storage capacity and improve groundwater management
- Stormwater Flooding and/or capture

2.3 Climate Resilience Grant Program

Climate policies and programs in California have cut carbon emissions, created jobs, catalyzed innovation, and spurred partnerships across the United States and around the world, all while prioritizing public health and equity. As California drives toward carbon neutrality, the state is committed to protecting people and nature from the impacts of climate change such as catastrophic wildfire, sea level rise, drought, extreme heat, and flooding. However, climate-related disasters are occurring at an increasing speed and scale and require additional strategic investments.

The RMC was appropriated \$11.1 million through General Fund in the Climate Resilience package of the Budget Act of 2021 (Sec. 69 Item 3825-103-0001) over three years to support investments that address the climate risks within RMC's jurisdictions, which ultimately contributes to the State's overall promotion of climate resiliency. These funds will build community resilience and capacity where resources are most needed. Investments will support multi-benefit and nature-based solutions, which includes funding to support climate change impacts on fish and wildlife, habitat restoration, and activities that accelerate climate smart management of California's natural and working lands and help meet the State's 2030 GHG reduction goals.

2.3.1 Program Details and Priorities

Funding will be available for projects that support or promote climate resilience, wildfire prevention, community access, and natural resource protection. Multi-benefit projects and nature-based solutions focused on resilient urban/non-urban forests and landscapes will be prioritized, such as:

- Protecting and accelerating conservation of natural lands to provide climate change adaption and resilience for habitats and natural resources within the RMC's territory.
- Restoring or enhancing habitat that have high carbon sequestration benefits.
- Facilitating the reduction of GHG emissions.
- Increasing carbon sequestration using natural lands.
- Restoring and/or enhancing watershed ecosystems that have high carbon sequestration rates. Reducing the effects of urban heat islands.

- Create, expand, and/or improve public open space (natural landscapes and/or urban greenspaces), particularly in both disadvantaged and severely disadvantaged communities, to increase access to nature and low impact recreation for all communities
- Promoting healthy lifestyles and improving the environment, particularly in both disadvantaged and severely disadvantaged communities, providing additional social, economic, and environmental benefits.

2.3.2 Project Duration

A project should have clearly defined goals and outcomes that can be achieved from half a year to two years. Preference will be given to projects that can be implemented quickly and have completed environmental permitting.

Projects must be completed no later than March 31, 2024. RMC must receive final reimbursement requests (invoices) by April 30, 2024.

2.3.3 Project Examples

- Land acquisitions to project habitats that provide direct adaption or resilience to climate change for natural resources and wildfire, or provide connection to allow plants and animals to move in response to climate change
- Habitat and forest (urban and rural) restoration, such as coastal wetlands, riparian habitat, and oak woodland habitat
- Create or expand urban canopy, urban reforestation, and/or urban greening
- Connect nature to park-poor communities, both urban and rural
- Habitat creation or linkage
- Increase access points and trails within existing natural areas including coastal areas and urban rivers
- Workforce development incorporating job skills training while preserving and protecting the environment, especially with youth living in disadvantaged communities
- Shrubland and chaparral restoration and management
- Green infrastructure mitigation measures for climate hazards
- New or restoration of living shoreline for coastal erosion control or improving water quality
- Projects that implement strategies found in [Pathways to 30x30: Accelerating Conservation of California's Nature](#). As part of Executive Order N-82-20, this initiative sets California on the path to conserving 30% of California's lands and coastal waters by 2030

SECTION 3

General Eligibility and Important Points

3.1 Eligible Applicants

Eligible applicants for projects located within the boundaries of the RMC are:

- State agencies
- Federal agencies
- Tribal entities recognized on the current US Federal Register or the Native American Heritage Commission as a California Native American tribe
- Local public agencies, including:
 - City or county
 - Water districts
 - School districts
 - Water districts
- Certified local conservation corps
- Non-profit organizations with a 501(c)(3) designation Joint Powers Authority (JPA) if at least one of the parties to the joint powers agreement qualifies as an eligible applicant

Individuals and corporations are not eligible for this grant program; however, RMC encourages multiple partners or joint projects. As long as the lead agency is one of the above listed eligible applicants, applications will be accepted from joint projects with non-eligible agencies.

The State reserves the right to reject any application from an agency who is in violation of law or policy at any other public agency. Potential violations include, but are not limited to, being in default of performance requirements in other contracts or grant agreements issued by the State, being engaged in, or suspected of criminal conduct that poorly reflects or brings discredit to the State or failing to have all required licenses necessary to carry out the project.

The State further reserves the right to reject any application from an agency who has a history of performance issues with past grants or other agreements with any public entity, including the RMC.

3.2 Eligible Project Costs and Tasks

The following non-exhaustive list are uses ***eligible for reimbursement from RMC*** grant funds:

- Grant funds may be used for the acquisition, development, rehabilitation, restoration, and protection of land and water resources.
- Land acquisition costs may include appraisals, land, improvements, relocation costs, title reports, surveying, and escrow.
- Land must be acquired from willing sellers (acquisitions).
- Facilities development projects must demonstrate a strong relationship and value to natural resource stewardship or environmental education.
- Rehabilitation and restoration projects must be biologically and technically feasible.
- For implementation projects, planning and pre-project costs may be included, though shall not exceed ten percent (20%) of total Grant Funds. These costs may include consultant fees, plan documentation, specifications, CEQA planning, and direct project management costs.

3.3 Ineligible Project Costs and Tasks

The following non-exhaustive list are uses **not** eligible for reimbursement from RMC grant funds:

- Operations and Maintenance related costs.
- Projects that are located on school properties and not open to the general public or designed solely for school students, unless part of a multi-use project which allows for access from the general public.
- Playground equipment and/or infrastructure such as swing sets and skate parks.
- Facilities that do not have an environmental education focus or theme, such as basketball courts and soccer fields. Multi-use projects may include these elements, but this program will not fund planning or development of such facilities.
- Projects that cause erosion or contribute to flooding.
- Costs associated with fundraising.
- Food, entertainment, refreshments, and expenses that exceed current State/Federal mileage reimbursement rates.
- BMP (Best Management Practices) directed projects that lack an improved habitat, low impact public recreation access, or environmental education components.
- Removal of trees, invasive plants, or other landscaping on private property
- Projects that exclusively fulfill other mitigation requirements.
- Purchase of capital equipment without first demonstrating how the equipment will be utilized
- Monetary donations to other organizations, speaker/presentation stipends, or subgrants
- Research, education, outreach, or event-related projects, although these types of activities may be included as a small part of the overall implementation of a project eligible for RMC grant funds.
- Grant writing expenses

3.4 Indirect/Overhead and Administrative Costs

Indirect/Overhead costs is also known as indirect costs, administrative costs, overhead, or administrative overhead. Indirect and Overhead expenses are allowed, though shall not exceed ten percent (10%) of total RMC grant award, minus equipment costs. Methodology of indirect costs calculation and types of expenses (i.e., administrative support, rent, utilities, phone, copying, office supplies) must be retained by the grantee for audit purposes, and may be requested by State at any time. A typical method for documentation of administrative overhead expense is a Cost Allocation Plan (CAP).

It is the responsibility of the Grantees to keep documentation for all indirect costs. For all indirect costs claimed, Grantees must keep backup documents in audit-ready files. Typical backup documents include, but are not limited to timesheets, utility, and rent bills. If a Grantee seeks to recover indirect costs from any grant, this item should be included as a line item in the approved project budget. Any cost that is billed as a direct cost may not be included in indirect cost rates.

Projects that have lower overhead will be deemed more competitive.

3.5 Important Points and Other Considerations

Consistency with these policies is an essential element of the grant agreement required for execution by all successful project applicants. All project applicants will be required to submit a Project Development Plan which contains information on how the project will conform to these policies for approval by the RMC prior to

commencement of the project. Applicants should also consider the following when applying and if approved, during implementation of the project:

- Project is consistent with the purposes and requirements of the funding source and program
- Project is consistent with RMC's enabling legislation (Public Resources Code, Division 22.8), *Common Ground*, its Environmental Justice and Tribal Consultation Policies (see Section 4), and existing and adopted river and flood control projects/plans
- Each project must include information that addresses RMC Project Evaluation Criteria (see Appendix B)
- Grants shall be paid on a reimbursement basis
- The Grantee shall provide for public access and low-impact recreation, unless it is specifically prohibited or not ecologically or biologically feasible
- Projects should have an education element and habitat component
- Projects that have multiple benefits will be considered more competitive
- To identify an important community need, RMC recommends that applicants directly engage local residents and community-based groups
- The applicant has the ability to administer the funds conduct to the project in a manner that will meet the State's requirements and will protect the grantee from potential financial or legal risk. If the applicant does not have the capacity, they have partnered with a fiscal sponsor that will provide them the needed administrative support.
- The applicant has or will have the legal right to carry out the project on the land on which the project is proposed
- The applicant has a plan for the long-term management, maintenance, and monitoring of the project. A Monitoring and Assessment Plan will be required as part of the application process. The scope of the Plan will vary depending on the nature of the project.
- All real property shall be acquired from a willing seller and in compliance with current State laws governing Relocation and Acquisition of real property by public agencies. Appraisals will be subject to prior approval of fair market value by the California Department of General Services.
- Unless an exemption applies to the project or to the work being funded, such as the exemption for feasibility or planning studies, the required CEQA documentation must be complete prior to grant approval. If RMC funds will be used for the CEQA process and the Grantee has made a full-faith effort to complete CEQA but is unable to complete CEQA or otherwise proceed with the Project due to issues related to the CEQA process, costs incurred by the Grantee that are directly related to the CEQA process can be applied up to the limit of 20 percent of the total original grant.
- If the project is subject to the National Environmental Policy Act (NEPA), it must be in compliance at the time the RMC Governing Board authorizes a grant.
- Grantee shall comply with all applicable laws and policies.
- All information contained in the grant applications is confidential until the grant awards are announced. After that time, all applications will become public information.
- Grantees must sign an agreement with RMC before funds can be disbursed.
- Grantee shall post signs acknowledging the source of funds pursuant to guidelines established for this grant Program.
- RMC will determine when reports will be required by the grantee, including progress, financial, and monitoring and assessment reports.
- Projects with one or more partners will be deemed more competitive.
- If this project is funded in whole or in part with funds from the "Safe Drinking Water, Water Quality and Supply, Flood Control, River and Coastal Protection Bond Act of 2006" ("Proposition 84"), Section 75075 of the Public Resources Code applies, which imposes on a body awarding any contract for a public works project

financed in any part with Proposition 84 funds responsibility for adoption and enforcement of a “labor compliance program” under Labor Code Section 1771.5(b).

- Although matching funds or services are not required, priority shall be given to projects that include a commitment for a matching contribution. Matching funds may include prior project planning, operations and maintenance, volunteer support, and ongoing monitoring and assessment. Contributions may be in the form of money, property, or services and must be verifiable.

3.6 Contract Policies with Disadvantaged Businesses and Individuals

The RMC is committed to supporting disadvantaged businesses and individuals – including Small Business (SB), disabled veteran business enterprise (DVBE), and businesses owned by women and/or minority. From the COVID-19 pandemic to a resulting economic recession, the RMC understands the inequities and challenges disadvantaged business and individuals are facing. The RMC advocates these businesses because:

- There are 4.2 million small businesses in California
- 99.8% of California businesses are small and employ 48.2% of California’s employees
- California has the highest number of veterans of any state in the US with over 1.6 veteran residents
- For every \$100 spent at a small business, about \$68 stays in California
- There are more than 244,000 local small businesses in Los Angeles County and nearly 1.2 million sole proprietors
 - They account for 43% of the local workforce
 - LA County has more minority- and women-owned businesses than any other in the nation
- Small business are the economic engine of California’s and Los Angeles County’s economy. Contracting and procuring goods and services from small businesses creates and sustains jobs that strengthen our economy

In an effort to increase outreach and contracting opportunities for these businesses, the **RMC requires grant applicants to adopt and implement contract policies for the purpose of increasing outreach and advertising to disadvantaged business and individuals.** This is not intended to create barriers to participation by potential grantees with limited sources. As such, RMC will work with applicants to comply with the requirement in a manner that most appropriately fits each applicant’s need.

Notes: Statistics were acquired from the [US Small Business Administration’s Office of Advocacy](#), [County of Los Angeles’s Business Office](#), and [Department of General Services SB/DVBE Advocate](#).

3.7 Conflict of Interest

All participants are subject to Federal and State conflict of interest laws. Failure to comply with these laws, including business and financial disclosure provisions, will result in the application being rejected and any subsequent contract being declared void. Other legal action may also be taken. Accordingly, before submitting an application, applicants are urged to seek legal counsel regarding potential conflict of interest concerns that they may have and requirements for disclosure. Applicable statutes include, but are not limited to, Government Code Section 1090, and Public Contract Code Sections 10410 and 10411 for State conflict of interest requirements.

Applicants should note that by submitting an application, they waive their rights to the confidentiality of that application. RMC staff will review each application. Once the application is signed and submitted to RMC any privacy rights as well as other confidentiality protections afforded by law will be waived.

SECTION 4 RMC's Objectives & Policies

4.1 RMC's Guiding Principles

The overall policy guidelines for the RMC are found in two primary references: the statute which created the RMC, Public Resources Code Section 32600, and *Common Ground, from the Mountains to the Sea*, the watershed and open space plan for the *Los Angeles and San Gabriel River watersheds* which was adopted by the RMC and further identifies the policies of the agency. *Common Ground* is currently being updated. These and other relevant plans can be found at <http://rmc.ca.gov/resources/>.

Further, RMC is committed to promoting projects which meet multiple objectives such as, providing water quality protection through storm water best management practices on urban land which creates new open space with passive recreation elements and educational/interpretive elements. The RMC further promotes project partnerships which increase stakeholder involvement and commitment, and projects that bundle multiple funding sources which increase project resources.

GIS planning tools developed by the [Green Visions Plan](#), or similar mapping efforts may be used by applicants to identify projects which are likely to meet RMC funding criteria and policy objectives and will be used by RMC staff to evaluate and validate information submitted on some projects. [Cal-Adapt](#), a program developed by the Geospatial Innovation Facility at the University of California, Berkeley with funding and advisory oversight by the California Energy Commission and the California Strategic Growth Council, offers free public access to peer-reviewed data that support exploration of California's climate change impacts on state infrastructure, communities, and natural resources, including stream flow charts, extended drought scenarios, and local climate change snapshots.

The RMC's *Common Ground* objectives and the types of projects supported by this grant program are as follow:

- Projects must promote the RMC's statutory programs and purposes as stated in Division 22.8. of the Public Resources Code 32600-32621
- Projects must be consistent with the purposes of the funding source
- Projects must promote and implement the State's Water Plans and Policies
- Create, expand, and/or improve public open space throughout the region by improving water quality supply, create, enhance or improve a reliable water supply and/or restore an important species and habitat
- Improve access to open space and low impact recreation for all communities and promote healthy lifestyles
- Improve habitat quality, quantity, and connectivity through creation, enhancement, preservation, and restoration
- Connect open space with a network of trails, accessible as appropriate to the site
- Promote stewardship of the landscape via stakeholder involvement and long-term maintenance (long-term means for a period not less than 20 years)
- Encourage sustainable growth that balances environmental, social, and economic benefits
- Maintain and improve flood protection through natural and non-structural systems and ecosystem restoration
- Establish riverfront greenways to cleanse water, hold floodwaters, and extend open space

- Optimize water resources by improving the quality of surface and ground water and enhance ground water recharge, to reduce dependence on imported water
- Coordinate watershed planning across jurisdictions and boundaries
- Encourage multi-jurisdictional and multi-beneficial planning and implementation projects
- Involve the public through education and outreach programs
- Projects will utilize the best available science to inform decisions regarding, state and local water resource. In addition, special consideration will be given to projects that employ new or innovative technology or practices, including decision support tools that support the integration of multiple jurisdictions, including, but not limited to, water supply, flood control, land use, and sanitation.

The RMC Board has established policies and project evaluation criteria derived from the above objectives. The major elements of the project evaluation criteria are as follows:

- Urban Land
- Recreation
- Stakeholders / Partners
- Educational / Interpretive
- Sustainability
- Public Health
- Access
- Water Resources and Quality
- Habitat
- Restoration
- Trails / Bikeways
- Cultural or Historic Resource
- Stewardship and Management Plan

4.2 RMC's Environmental Justice Policy

Projects must be consistent with the RMC's [Environmental Justice Policy](#). It is the policy of the RMC that the fair treatment of people of all races, cultures and income shall be fully considered during the planning, decision-making, development and implementation of all RMC programs, policies, and activities. The intent of this policy is to ensure that the public within the RMC catchment area including minority and low-income populations are not discriminated against, treated unfairly, or caused to experience disproportionately high and adverse human health or environmental effects from environmental and land-use decisions, and children and their families have access to safe open space and healthy neighborhoods.

The RMC adopted the following key principles:

1. Make environmental justice considerations a standard in the way we do business. We will keep an environmental justice perspective in our programs, activities, and training, as we set priorities, identify program gaps, and assess the benefits and adverse impacts our programs have on communities in our catchment area.
2. Work with local elected officials, staff of cities, and community groups, to address concerns about lack of access to safe open space, especially in low-income and minority communities.

3. Review and evaluate RMC programs and activities to ensure that the environmental justice perspective through its programs does not contain any substantive gaps.
4. Develop and incorporate an environmental justice program element into our employee-training curriculum.
5. Annually provide a staff briefing to the Board at a public meeting regarding ongoing and planned activities. Issue a written annual status report identifying action items accomplished and a proposed work plan outlining the action items for the next year. The work plan shall include quantitative goals for working in disadvantaged communities and populations adversely impacted by industrial and transportation proximities.
6. Strengthen our public outreach, education, and organizing efforts in all communities, especially low-income communities and where we see a need for the implementation.
7. Identify partners within land-use and transportation agencies that are responsible for the environmental benefits or adverse impacts in our neighborhoods and address potential mitigation activities.
8. Work with cities, County of Los Angeles, and community groups in identifying relevant populations living in close proximity to industrial and transportation locations that may benefit from RMC programs and activities.
9. Taking a proactive role in working with cities in adopting and/or updating their General Plans to implement environmental justice policies.
10. Work in conjunction with other federal, state, regional, and local agencies to ensure consideration of disproportionate impacts on relevant populations and create action-oriented mitigation plans.
11. Fostering broad access to existing and proposed data sets and technology to better identify, analyze, and respond to environmental justice issues.

RMC commits to integrating environmental justice principles into its programs and plans and will continue to improve our outreach efforts in all communities of our catchment area, ensuring that everyone has an opportunity to participate fully in the development and implementation of our programs. As an oversight agency we will work closely with local cities and County of Los Angeles, and other stakeholders to jointly develop environmental justice awareness so that it is in line with our funding grant programs for project design and development. Our commitment is to take consideration of neighborhoods where people encounter environmental pressures given their close proximity to industrial and transportation zones, as well as incompatible land uses. The RMC's goal is to ensure that the populations in our area, especially children and families, are empowered to play a role in creating a healthful environment.

4.3 RMC's Tribal Consultation Policy

On September 19, 2011, Governor G. Brown, Jr. issued Executive Order B-10-11, which provides, among other things, that it is the policy of administration that every state agency and Department subject to executive control to implement effective government-to-government consultation with California Indian Tribes. On July 24, 2017, the RMC Governing Board approved a [Tribal Consultation Policy](#) consistent with the approved policy adopted by the California Natural Resources Agency.

Additionally, Assembly Bill No. 52 (AB52) specifies that projects with an effect that may cause a substantial adverse change in the significance of a tribal cultural resource is a project that may have a significant effect on the environment. With regards to CEQA, the bill requires a lead agency to begin consultation with a California Native American Tribe that is traditionally and culturally affiliated with the geographic area of the proposed project, if the tribe requested to the lead agency, in writing, to be informed by the lead agency of proposed projects in that geographic area and the tribe requests consultation, prior to determining whether a negative declaration, mitigated negative declaration, or environmental impact report is required for a project.

SECTION 5

Application Process & Project Administration

5.1 Typical Application Process

Submit completed application package and all supporting documentation. Incomplete applications will not be automatically disqualified, but applicants should take every effort to ensure their application as complete as possible prior to submission.

Complete applications that have passed the initial selection will be reviewed and scored. All grant applications will be scored in accordance with the Project Evaluation Criteria. Grant applications that receive an average score of seventy percent (70%) or better will be considered the most competitive for a funding recommendation. RMC staff will determine if funding is available and if due diligence is completed, RMC staff will subsequently recommend to the RMC Governing Board for grant award.

If projects do not meet these minimum administrative thresholds for grant award, they will be assigned a Tier and placed in a queue which will be regularly reviewed and considered for award against subsequent applications that also did not meet the minimum threshold. During this time, project proponents are provided the opportunity to receive higher scores based on additional information provided through staff interviews and documentation that demonstrate an alignment with RMC goals and objectives, and granting of funds is consistent with RMC programs. This extended consideration process will ensure that the most competitive projects are recommended for funding and prioritization is not based on proposal submittal date.

While completing applications and determine timelines, please review the RMC's board schedule as projects must be approved by the RMC Governing Board prior to start of the grant performance start date. Grant performance start dates should be at least thirty (30) days after the date of the Board's authorization of the grant. If there are any issues with this timeline, please discuss with your RMC project manager.

Because both bond and general funds have liquidation dates (also known as sunset or reversion dates), time is of the essence.

5.2 What to Submit

A complete application package will consist of **one (1) complete digital copy** of the required materials emailed to info@rmc.ca.gov, with the **Program Name and Project Name in the subject email line**. A digital signature must be included on the Application Form via an online document signing application (i.e., DocuSign). Applicants shall provide the electronic format in PDF and provide an online cloud storage link (i.e., Dropbox or Google Drive), if the attachment(s) exceeds 25 MB for email delivery.

The following materials are required for a complete application (some submittal requirements may not be applicable to all applications):

5.2.1 Grant Application Form (Refer to Appendix A) – this Form acts as a Cover Page to the full application package

5.2.2 Supporting Documents

Information required for the Application is proposed to include:

1. **Project Description:** Description should not exceed seven pages, single-spaced, 11-point font minimum. Please quantify the project's goals and expected outcomes and identify the major tasks involved in the project. If possible, consider including the following :
 - a. Complete Project Description: for acquisition projects include APN, acreage, and purpose for acquisition; for planning and implementation include specific tasks and deliverables.
 - b. Statement of Need for the Proposed Project: a summary of the needs for the project and how the project meets the RMC's policies and project evaluation criteria.
 - c. Description of audience and geographic area served: provide a summary of the communities, cities, and populations that will be served once the project is completed.
 - d. Description of Goals and Objectives: the goals and objectives should clearly define measurable and outcome-oriented goals and objectives for the project, performance measures to track progress toward objectives, and a reporting system to present the analysis of performance measures against the deliverables and tasks.
 - e. Community Outreach: how will the community be involved in the project design and implementation, include how the project is consistent with the RMC Environmental Justice Policy and RMC Tribal Consultation Policy (include specific plans for community outreach, education, community involvement).
 - f. Monitoring and Assessment Plan: the monitoring and assessment plan should include the tracking of the progress of the measurable goals and objectives of the project during as well as after the project is completed. Outline of a monitoring and assessment plan should include measurable and quantifiable targets for a planning and implementation project. The RMC is interested in measuring the progress of each of its activities in achieving results or outcomes. Hence, the focus of each project evaluation must be on outcomes, defined as the project results or impact on users and society. Output and other measures are important, but the focus should be on results. The project, whether it is acquisition, planning or implementation, must result in a clear, demonstrable, and enduring public benefit.
 - g. Organizational capacity: include a brief history of your organization and the ability to fully complete and maintain the project long-term.
2. **California Conservation Corps:** Applicants applying for funds to complete restoration and ecosystem protection projects are strongly encouraged to consult with representatives of the California Conservation Corp (CCC) and the California Association of Local Conservation Corps (CALCC), the entity representing the certified CCC, to determine the feasibility of the CCC in completing the proposed project (Public Resource Code 80016).
3. **Certified Youth Employment Plan:** If not utilizing the CCCs, Applicants are encouraged to include the organization's capacity to develop, manage and implement a training program for young adults in the environmental discipline that leads to permanent employment in the green industry (maximum one page).

4. **Tasklist and Timeline:** The tasklist should include a detailed description of each task and should include tasks for evaluation, monitoring, and assessment. An example of a tasklist can be found on the RMC website at <http://www.rmc.ca.gov/>.
5. **Budget:** The budget will include any matching funds that may be used for the project. Please also identify any other grants for which you have applied for this project (include amount, potential funding agency, and contact). See the RMC website for an example of a project budget at <http://www.rmc.ca.gov/>. Applicants should endeavor to submit a budget in the format presented in the example on the RMC website.
6. **Resolution:** The applicant's governing body certifies that their governing board gives the authorized signatory the authority to apply, receive and manage the project.
7. **Environmental Compliance:** Identify the status of the environmental assessment. This information may include a notice of exemption filed with the county clerk, an initial study, or a brief description of how the applicant will comply with CEQA/NEPA once the grants are awarded.
8. **Permits, Easements, or Certifications:** Identify status of all permits related to the proposed project for implementation of the project and/or brief description of how applicant will obtain all permits (plan/schedule).
9. **Operation and Maintenance:** The applicant must demonstrate, specifically for development projects an outline of how the project will address future operations and maintenance needs (no more than one page).
10. **Agreements:** The applicant must include proof of ownership and compliance with Land Tenure Requirements, or the applicant must demonstrate movement to secure land tenure through a willing seller letter, memorandum of agreement, or other binding agreements in place.

5.2.3 Other Requirements and Attachments

1. **Design/Construction Documents and/or Project Site Photographs:** Digital format is preferred and may be sent through email or via an online cloud storage link, and each photograph should be saved as a separate file [no more than six (6) photographs, not larger than 8 ½" by 11"].
2. **Form STD 204 Payee Data Record:** The purpose of the STD 204 form is to obtain payee information for income tax reporting and to ensure tax compliance with federal and state law. It is required for any non-governmental entity or individual entering into a transaction that may lead to a payment from the state. Therefore, a completed, dated, and signed STD 204 with handwritten or electronic signature must be submitted with the application. The form may be found on our website or <https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std204.pdf>.
 - a. **Form STD 205 Payee Data Record Supplement:** This form is optional. This form is used to provide remittance address information if different than the business/ mailing address on the STD 204. The form may be found on our website or <https://www.documents.dgs.ca.gov/dgs/fmc/pdf/std205.pdf>.

3. **Non-profit:** If applicable, provide proof of non-profit status (Copy of IRS Determination Letter)
4. **Letters of Support:** The applicant is required a minimum of three support letters to fulfill this requirement, but additional support letters may be included.

5.3 Evaluation Criteria

Project applications will not move forward with recommendation to RMC staff until the following criteria have been addressed to the satisfaction of RMC and the project proponent:

1. Alignment with funding and program goals and related state priorities – The degree to which a project aligns with:
 - a. Grant Program Priorities
 - b. RMC and State priorities and policies previously addressed in these guidelines
 - c. Other local, regional, or State, or Federal plans
2. Project Design and Budget
 - a. Purpose, goals, and deliverables are clearly defined
 - b. Directly benefit disadvantaged or severely disadvantaged communities (DAC or SDAC, respectively)
 - c. Protects or enhances natural resources
 - d. Multiple benefits are identified and quantified
 - e. If it is a planning project, project is prepared for all needed elements for the future implementation of the project, including a strategy for obtaining necessary approvals and funding
 - f. Budget is reasonable, with costs clearly defined and supported
 - g. Leverage private, federal, or local funding or in-kind sources; matching funds are identified and secured
3. Project Timeline – The degree to which the project is ready to proceed promptly and can be completed before funding reversion dates
 - a. CEQA/NEPA requirements are complete or near completion
 - b. Access is secured, permitting, and other necessary preparations are complete as appropriate
 - c. Tasklist and timeline are reasonable and conducive to the budget, tasklist, and proactive spending of the program funds
4. Long-Term Management and Likelihood of Success
 - a. Monitoring and assessment plan is reasonable and approached methodically
 - b. Public benefits are sustainable that balances environmental, social, and economic benefits
 - c. Project is resilient to or able to adapt to expected climate change impacts including wildfire, flood, and drought
5. Workforce Development, Collaboration, and Outreach – The degree to which the project has public support, collaboration, and outreach efforts with varying levels of the community, such as:
 - a. Involving California Native American tribes – applicant has communicated, consulted, or engaged with tribes who are traditionally and culturally affiliated to the project area as early as possible in project development
 - b. Includes a workforce development effort, including but not limited to California Conservation Corps
 - c. Project is reflective of the needs and desires of the local community, residents, and non-profit organizations

- d. Community engagement is meaningful and maximizes its outreach, including making outreach materials available in multiple languages and easily accessible
- e. Employs a collaborative approach in project development or implementation

5.4 Grant Awards and Agreements

For each awarded grant, the RMC develops an individual grant agreement with detailed provisions and requirements specific to that project. Please be aware that if an entity is awarded a grant from the RMC, the provisions listed below will apply.

5.4.1 Payments of Grant Funds

A complete reimbursement request must include the following forms, all of which are available at our website and instructions at <http://rmc.ca.gov/payment-requests/>:

- Exhibit J – Payment Request Form with signature and date.
- Exhibit K – Project Costs Summary Form
- Exhibit L – Labor Costs Summary Form (if any labor/staff time were expended during the reporting period)
 - Supporting documentation may include but not limited to time sheets, cost allocation plan, and proof of payment to employee (i.e., payroll report).
- Exhibit M – Equipment Costs Summary Form (if any equipment purchases and/or rentals were made during the reporting period)
 - Supporting documentation may include but not limited to invoices and proof of payment (i.e., cancelled check, credit card receipt).
- Exhibit N – Services and Materials Costs Summary Form (if any services, consultants, or purchases were made during the reporting period)
 - Supporting documentation may include but not limited to invoices, purchase orders, contracts, and proof of payment (i.e., cancelled check, credit card receipt)
- Exhibit O Report of Alternative Funding Expenditures Form. If no expenditures were made from outside/matching funding sources, this form must still be submitted with a “zero” value,
- Updated Exhibit P Progress Report
- Updated Exhibit Q Expenditure Projection Report

Disbursements of grant funds will be made incrementally, as separate components of the Project are satisfactorily completed.

Payments shall be on the basis of actual costs incurred, less 10 percent to be withheld from all invoiced amounts.

Requests for reimbursement are preferred on a quarterly basis but may be made as frequently as monthly. Requests must include documentation that demonstrates that costs have been incurred and an itemized description of all work done for which reimbursement is requested. Payment requests should clearly identify the specific elements of the work plan to which they pertain.

Grantees should allow up to forty-five (45) days to receive payment after submitting a complete payment request package. Payment requests with issues (i.e., unsupported expenses, missing timesheets) will delay payment. Any request that is submitted without supporting documents will not be approved for payment.

5.4.2 Monitoring

Performance measures should be used to track progress toward project goals and desired outcomes. These indicators provide a means of reliably measuring and reporting the outcomes and effectiveness of a project, and how the project contributes to RMC and the State achieving its program goals. Grantees should provide quantitative performance measures including, but not limited to: number of trees planted, number of trail miles created or restored, number of people reached during community and outreach efforts, the number and type of jobs created, amount of GHG reductions.

Grantee ensures that the agreement requirements are met and communicated to the RMC through completion of biannual monitoring report, which is composed of two documents - Exhibit P – Project Progress Report and Exhibit Q – Expenditure Projection Report - submitted to the State in accordance with the Work Plan and through regular communication with the State adhering to the following schedule:

- | | | |
|----------------------------|------------------------|----------------|
| • 1 st Biannual | October 1 - March 31 | Due April 30 |
| • 2 nd Biannual | April 1 - September 30 | Due October 30 |

The State reserves the right to require reports more frequently than on a biannual basis, if necessary, including monthly or quarterly. Exhibits P and Q may be found at <http://rmc.ca.gov/grants/>.

5.4.3 Records Retention and Audit

All projects funded by the RMC are subject to audit by the State of California annually and for three (3) years following the final payment of grant funds. If the project is selected for audit, advance notice will be given. The audit shall include all books, papers, accounts, documents, or other records of the grantee, as they relate to the project for which the funds were granted. All project expenditure documentation should be available for an audit whether paid with grant funds or other funds.

The grantee must have the project records, including the source documents and evidence of payment, readily available, and provide an employee with knowledge of the project to assist the auditor. The grantee must provide a copy of any document, paper, record, etc., requested by the auditor.

Additionally, grantees must include planning, monitoring, and reporting necessary to ensure successful implementation of the project objectives and have documentation available for State review upon request and through annual monitoring reports. After the end of a grant, the grantee will submit annual monitoring reports for a minimum of ten years (for partially or fully bond-funded grants, for the life of the bond or 30 years, whichever is later).

The grantee agrees to use generally accepted accounting principles (GAAP) and therefore, must maintain an accounting system that:

- Accurately reflects fiscal transactions, with the necessary controls and safeguards
- Provides a good audit trail, including original source documents such as purchase orders, receipts, progress payments, invoices, employee paystubs and timecards, evidence of payment, etc.
- Provides accounting data so the total cost of each individual project can be readily determined

Records must be retained for a period of three (3) years after final payment is made by the State. Grantee must retain all project records for at least one (1) year following an audit or final disputed audit findings, whichever is later.

5.4.4 Changes to Project Scope, Budget, and/or Timeline

A Grantee wishing to change the scope of an approved project shall submit the proposed change in writing with all documentation clearly supporting the change, including an updated Budget and Tasklist. The changes must be provided to the RMC and no later than sixty (60) days prior to the performance end date. Any change must be consistent with this grant program and guidelines, including *Common Ground*.

Additionally, the project may need to be re-scored and/or returned to the RMC Governing Board for approval. Major changes to the project scope, budget, timeline, or any other project element may deem the project ineligible for funding under this program. The Grantee is expected to complete the project according to the time identified in their project timeline.

5.4.5 Project Withdrawal

If a Grantee wishes to withdraw a Project, Grantee shall notify RMC in writing. In the event an approved project cannot be completed. If the CEQA/NEPA work is done after the grant has been awarded, and the determination is an impediment to completing the project, RMC will reimburse the applicant for costs expended up to 20 percent of the total grant as outlined above.

Grantee will immediately notify the RMC of its inability to complete a project according to the Grant Agreement. RMC reserves the right to terminate a grant if a Grantee cannot complete the project, is not submitting the required progress reports, advance reconciliations, or other grant documentation on a timely basis, does not have the organizational capacity to carry out the deliverables of the grant, change in scope of the project is significantly different from original project description, has financial hardships (i.e.; bankruptcy, fiscal insolvency or mismanagement), legal matters, and/or cannot complete the grant as agreed upon, and/or bond funds are at risk of reverting.

SECTION 6 Appendices

The appendices listed below are included in this report on the following pages:

Appendix A: Application.....	25
Appendix B: Useful Web Links.....	29
Appendix C: Definitions.....	30

Appendix A: Application

The application follows this page. A copy PDF and Word version of the application is available for download at www.rmc.ca.gov.

RMC NON-BOND PRIORITIES GRANT PROGRAM

GRANT APPLICATION FORM

Please select program for which you are applying (choose only one per application/project)

- ☐ Wildfire Prevention Grant Program ☐ Lower Los Angeles-Urban Streams and Rivers Program
☐ Climate Resilience Grant Program

1. APPLICANT INFORMATION:

Name of Agency			
Applicant Name & Title			
Agency's Full Address			
Applicant's Phone No.		Applicant's Email	
Name & Title of Person Authorized to Execute Agreements (if different from applicant)			

2. PROJECT INFORMATION:

PROJECT NAME					
Address		County(ies)			
City Council District(s)		County Supervisor District(s)			
State Senate District(s)		State Assembly District(s)			
Congressional District(s)		Parcel No(s)			
Lat/Long:		Located in DAC?	☐ Yes ☐ No	Serves a DAC(s)?	☐ Yes ☐ No

3. **BRIEF PROJECT DESCRIPTION:** In 2-3 paragraphs, describe the proposed project. Please quantify the project's goals and expected outcomes. Identify the major tasks involved in the project. Attach a map of the project location (and photos) and briefly describe the project location.

Highlight if your project serves a disadvantaged community (DAC) and how.

For GHG reduction projects, practice determination methodology, number of acres, and benefit timespan should be included.

For acquisitions, the current status must be included (i.e., willing seller letter, appraisal status)

(Enter project description here – add more pages if needed)

**RMC NON-BOND PRIORITIES GRANT PROGRAM
GRANT APPLICATION FORM**

4. **PRELIMINARY BUDGET:** Attach a budget that includes the total cost of the project and the proposed sources of funding. Include proposed funding sources even if they are not yet secured, but please make status clear. Estimate the budget by major task identified in the project description.
5. **PROJECT TIMELINE:** Attach a project schedule that estimates the start date and completion date of the major project tasks and any major milestones. Please see Program Guidelines for deadlines.

Assuming that the RMC awards the grant within the next six months, what is the expected timeline for this project? **Start:** Click or tap to enter a date. **End:** Click or tap to enter a date.

6. **PROJECT CATEGORY – for Wildfire Prevention Grant Program Only (select one):**

- ☐ San Gabriel Mountains and Foothills Fire Prevention Planning and Management
- ☐ Urban Wildlands and Hills Fire Prevention Planning and Management
- ☐ Forest Health: Fire Recovery, Response, Restoration, Education and Stewardship

7. **PROJECT TYPE (select all that apply):**

- | | |
|--|---|
| ☐ Acquisition – _____ acres(ac) | ☐ Open Space |
| ☐ Riparian Habitat Restoration – _____ (ac) | ☐ Habitat Restoration – _____ (ac) |
| ☐ Community and/or urban greening | ☐ Increase access points or trails – _____ miles |
| ☐ Implementation – _____ ac | ☐ Fire Prevention Planning |
| ☐ Hazardous Fuels Reduction – _____ ac | ☐ Fire Prevention Education/Stewardship |
| ☐ Forest Thinning/Chipping – _____ ac | ☐ Fire Response |
| ☐ Fuel Break and Defensible Space – _____ ac | ☐ Workforce Development |
| ☐ Invasive Species Remove/Treat – _____ ac | ☐ Post Fire Restoration/Enhancement |
| ☐ Number of trees _____ | ☐ Park improvements – _____ ac |
| ☐ Other GHG Reducing Practice (list here) _____ | – _____ ac |
| ☐ Other GHG Reducing Practice (list here) _____ | – _____ ac |
| ☐ Other GHG Reducing Practice (list here) _____ | – _____ ac |

8. **SITE CONTROL:**

- ☐ Applicant owns the property for the proposed project.
- ☐ Applicant has a written agreement with the landowner to conduct the project on their land.
- ☐ Applicant does not have a written agreement with the landowner to conduct the project on their land. If this answer is checked, specify how and when the landowner agreement will be reached.

9. **ENVIRONMENTAL COMPLIANCE AND PERMITTING (check all that apply):**

What is the status of the environmental documentation for this project, check the most appropriate box?
Please provide documentation of environmental compliance if applicable.

- ☐ No CEQA/NEPA work initiated
- ☐ Initial Study Completed, date of completion _____
- ☐ Negative Declaration, date of certification _____
- ☐ Categorically Exempt, date of certification _____
- ☐ CEQA/NEPA in process, expected date of completion _____
- ☐ CEQA/NEPA completed, date of completion _____

**RMC NON-BOND PRIORITIES GRANT PROGRAM
GRANT APPLICATION FORM**

<u>AGENCY</u> <u>identify permits necessary for project implementation</u>	<u>YES</u>	<u>NO</u>	<u>DATE OF APPROVAL/PENDING</u>
California Fish and Wildlife			
State Water Control Resources Board			
US Army Corp of Engineers			
US Fish and Wildlife			
Los Angeles County Flood Control District			
City/County Construction Permits			
Coastal Commission			
Other			

10. WORKFORCE DEVELOPMENT (check only one):

- ☐ YES, this project will involve the California Conservation Corp or another local Conservation Corp.
If checked, please specify the Conservation Corp you will be hiring: _____
- ☐ YES, this project will implement a youth employment or job training program.
If checked, please provide a 1 paragraph description of program: _____
- ☐ NO, this project will not involve a workforce development component.
- ☐ Not applicable, this project is a planning only project.

11. RESOLUTION: Attach the resolution from the applicant's governing body certifying that their governing board gives the authorized signatory the authority to apply, receive and manage the project.

- ☐ YES, attached.
- ☐ NO, draft attached. Expected date of authorization: _____

12. OTHER REQUIREMENTS AND ATTACHMENTS:

- ☐ Applicant has read the RMC Non-Bond Priorities Program Guidelines and understands the project is consistent with the purposes and requirements of the funding source, respective program, and RMC's policies
- ☐ Applicant has adopted and implemented contracting policies in order to increase outreach and advertising to disadvantaged businesses and individuals.
- ☐ [STD 204 Payee Data Record](#) (required for all applications)

13. SIGNATURES:

Signature of Applicant: _____ Date: _____

Name and Title: _____

Signature of Authorized Official: _____ Date: _____

Name and Title: _____

Appendix B: Useful Web Links

Cal-Adapt <https://cal-adapt.org/>

California Grants Portal <https://www.grants.ca.gov/>

California Natural Resources Agency <https://resources.ca.gov/>

Grant Programs <https://resources.ca.gov/grants>

Initiatives <https://resources.ca.gov/Initiatives>

California Water Action Plan <https://resources.ca.gov/Newsroom/Page-Content/News-List/State-Agencies-Track-Five-Years-of-Progress-on-California-Water-Action-Plan>

California's 30x30 Initiative <https://www.californianature.ca.gov/>

California Wildfire & Forest Resilience Task Force <https://fmtf.fire.ca.gov/>

State and Local Conservation Corps

California Conservation Corps <https://ccc.ca.gov/>

Los Angeles Conservation Corps <https://www.lacorps.org/>

Conservation Corps of Long Beach <https://www.cclb-corps.org/>

San Gabriel Valley Conservation Corps <https://www.sgvcorps.org/>

Disadvantaged Communities

CalEnviroScreen 4.0 <https://oehha.ca.gov/calenviroscreen>

Statewide Comprehensive Outdoor Recreation Plan (SCORP) Community FactFinder
<http://www.parksforcalifornia.org/communities>

Department of Water Resources Disadvantaged Communities Mapping Tool
<https://gis.water.ca.gov/app/dacs/>

Los Angeles Countywide Parks and Recreation Needs Assessment <https://lacountyparkneeds.org/>

Executive Orders and Legislation

Assembly Bill 1550 Greenhouse gases: investment plan: disadvantaged communities
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201520160AB1550

Senate Bill 85 Wildfire Prevention and Resiliency Early Action Plan
https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220SB85

Senate Bill 170 Budget Act of 2021 Amendment
https://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=202120220SB170

Executive Order N-82-80 <https://www.gov.ca.gov/wp-content/uploads/2020/10/10.07.2020-EO-N-82-20-.pdf>

Extreme Heat Threat California Heat Assessment Tool <https://www.cal-heat.org/explore>

Los Angeles River

Lower Los Angeles River Revitalization Plan (LLARP) <https://lowerlariver.org/>

Los Angeles River Master Plan <https://www.larivermasterplan.org/>

San Gabriel River

San Gabriel River Corridor Master Plan <https://www.ladpw.org/wmd/watershed/sg/mp/>

San Gabriel & Lower Los Angeles Rivers and Mountains Conservancy <http://rmc.ca.gov/>

Board Meetings <http://rmc.ca.gov/meetings/>

Grants, Funding Opportunities, and Templates: <http://rmc.ca.gov/grants/>

Appendix C: Definitions

Unless otherwise stated, the terms used in these grant guidelines have the following meanings:

Acquisition: to obtain from a willing seller fee interest or any other interest, including easements and development rights, in real property.

Applicant: an eligible organization requesting funding from a program administered by RMC.

Application: the individual Application Form and its required attachments and supporting documentation for grants pursuant to the enabling legislation and/or program.

Appraisal: a written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of defined value of an adequately described property as of a specific date, supported by the presentation and analysis of relevant market information.

Appropriation: a budget authorization from a specific fund to a specific agency/or program to make expenditures or incur obligations for a specific purpose and/or period of time.

California Indian Tribe: any California Indian tribe, band, nation, consortia, or other organized group or community.

CEQA: the California Environmental Quality Act, Public Resources Code Section 21000, et seq.; Title 14 California Code of Regulations Section 15000, et seq. For more information, please see <https://opr.ca.gov/ceqa/>.

Climate Resilience: the capacity of a natural or developed community to withstand environmental disruptions, recover from shocks or stresses, and adapt to changing climate conditions.

Common Ground: the San Gabriel and Los Angeles Rivers Watershed and Open Space Plan prepared by RMC and approved by a majority of the cities representing a majority of the population, the Board of Supervisors of Los Angeles County, and by the Central Basin Water Association and the San Gabriel Valley Water Association.

Community Access: engagement programs, technical assistance, or facilities that maximize safe and equitable physical admittance, especially for low-income communities, to natural or cultural resources, community education, or recreational amenities

Connectivity: continuity in open space enabling linkages between open space, and wildlife habitat areas and typically including trails and passive or active recreation nodes.

Contract: the agreement between the RMC, grantee, property owner, and/or mortgage lender, specifying the payment of funds for the performance of a project scope within the project performance period by the grantee. The terms “contract” and “agreement” may be used interchangeably.

Development: improvements to real property by construction of new facilities or rehabilitation, restoration, renovation or additions to existing sites, property, or facilities.

Disadvantaged community (DAC): a community disproportionately affected by environmental pollution and other hazards and areas with concentrations of people that are low income, high unemployment, low levels of home ownerships, high rent burden, sensitive populations, or low levels of educational attainment; and/or a community with a median household income less than 80% of the statewide average.

Enhancement: to modify current conditions and may be used to describe a project that would result in a natural resource, habitat, cultural or historic site, recreational area, or existing facility achieving a desired level of improvements while considering the protection of the natural environment. It is distinguishable from "restoration" in that it does not imply merely a return to historic natural conditions but may include the provision of recreation or other aspects that were not original features.

Environmental Justice: the fair treatment and meaningful involvement of all people – regardless of race, ethnicity, and income or education level – in environmental decision-making. Environmental justice programs promote the protection of human health and the environment, empowerment via public participation, and the dissemination of relevant information to inform and educate affected communities.

Federally Recognized California Indian Tribe: any California Indian tribe, band, nation, or other organized group or community certified by the Secretary of the Interior as eligible for special programs and services provided by the Secretary of the Interior.

Generally Accepted Accounting Principles (GAAP): the conventions, rules, and procedures that serve as the norm for the fair presentation of financial statements. GAAP provides both authoritative standards and commonly accepted ways of recording and reporting accounting information. GAAP's objective is to improve clarity, consistency, and comparability of financial data.

Grantee: an applicant that has an agreement for grant funding with the State

Greenhouse Gases: atmospheric gases that contribute to the greenhouse effect. Gases include, but are not limited to, carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

Greenhouse Gas (GHG) Reductions: the sum of the GHG emission reductions and sequestration, minus any GHG emissions resulting from project implementation.

Habitat linkage: connections between otherwise isolated areas of habitat that may (1) provide for daily and seasonal movements of animals; (2) facilitate dispersal, gene flow, and rescue effects (for animals or plants); (3) allow for range shifts of species; and (4) maintain flows of ecological processes (e.g., fire, wind, sediments, water).

Habitat creation: the formation or increase of at least one of the following: terrestrial, avian, or aquatic habitats or creates new linkages or corridors.

Habitat preservation: keeping threatened natural habitat and protects native floral and faunal biodiversity that may be lost to a planned urban development.

Habitat restoration: to return the site's hydrology, topography, and natural vegetative communities to historic pre-disturbance conditions so that the site provides food and shelter for wildlife, and performs natural processes including reducing the volume and velocity of runoff, and increasing the water infiltration rates.

Historical Resource: includes, but is not limited to, any building, structure, site area, place, artifact, or collection of artifacts that is historically or archaeologically significant in the cultural annals of California.

Indirect/Overhead Costs: expenses of doing business that are of a general nature and are incurred to benefit at least two or more functions within an organization. These expenses are not usually identified specifically with a grant, grant agreement, project, or activity, but are necessary for the general operation of the organization. Examples of indirect expenses include salaries and benefits of employees not directly assigned to a project; functions such as personnel,

business services, information technology, janitorial, and salaries of supervisors and managers not directly related to the project and supported with timesheets; and overhead such as rent, utilities, supplies, etc.

In-Kind: non-cash donations from governmental or private sources, and includes volunteer labor, materials, and services

Joint Powers Authority (JPA): any entity formed pursuant to Chapter 5 (commencing with Section 6500) of Division 7 of the Government code, if at least one of the parties to the joint powers agreement qualifies as an eligible applicant as described on page 8 of these guidelines.

Local Conservation Corps: the local division of the California Conservation Corps, a state administered organization for youth volunteers to protect and enhance California's environment and communities and provide assistance in emergencies.

Low Impact Recreation: any development, rehabilitation, or enhancement of resource-based facilities and the associated visitor activities that result in minimized impacts on natural areas and natural systems. Low impact activities are generally human powered and may include walking, picnicking, hiking, cycling, non-motorized boating or equestrian use, bird watching, fishing, stargazing or photography; and organized events such as interpretive tours, nature walks or educational programs.

Management Plan: a plan that identifies responsibility for future management of a given area to preserve, protect, and enhance natural resource values, and where appropriate, provides for multiple objectives, and identifies funds for that management.

Match: funds or equivalent in-kind contributions in addition to RMC Grant Funds. Increased consideration will be given to projects that provide matching funds or equivalent in-kind contributions.

Monitoring and Assessment: an assessment process to evaluate the success of the proposed action or improvement, and monitoring progress towards meeting project goals. The standards for monitoring each project approved for funding will be developed in concert with RMC.

Multi-jurisdictional: projects that provide shared solutions for multiple communities, for example a community that lacks safe, affordable drinking water and is served by a small community water system, state small water system, or a private well when improved can service more than one community. Projects that create, preserve, restore open space that will benefit a regional territory. As another example, a watershed management plan update that serves an entire watershed.

Multiple Benefit or Multi-Benefit: projects that involve more than one public benefit objective including habitat enhancement or protection, water quality improvement, historic resource protection or improvement, public access development, environmental education, or any combination of such objectives.

Natural habitat: relatively undisturbed lands and vegetation communities that provide food and shelter for wildlife and also perform natural functions such as, reducing the volume and velocity of storm runoff, and enabling water infiltration.

Nature-based Solutions: describes actions that work with and enhance nature to help address societal challenges. This term is an umbrella concept being used across the world to describe a range of ecosystem-related approaches that protect and restore nature to deliver multiple outcomes, including addressing climate change, protecting public health, increasing equity, and protecting biodiversity. Examples include community greening, which can cool communities facing extreme heat, reduce energy costs, allow soils to better absorb water, expand access to nature, enhance biodiversity, reduce the impacts of pollution, and increase quality of life; wetlands and riparian areas which (when restored and functioning) sequester carbon, reduce flood risk, filter pollution, and protect habitat; and agricultural

hedgerows which support pollinators, improve habitat, conserve water, enhance our food supply, and contribute to our economic prosperity.

NEPA: the National Environmental Policy Act of 1969, as amended Public Law 91-190, Title 42 United States Code Sections 4321-433347, January 1, 1970, as amended by Public Law 94-52, July 3, 1975, Public Law 94-83, August 9, 1975, and Public Law 97-258, Section 4 (b), September 13, 1982). NEPA requires federal agencies to assess the possible environmental consequences of projects, which they propose to undertake, fund, or approve.

Nonprofit Organization: any private, nonprofit organization, existing under Section 501(c)(3) of the United States Internal Revenue Code and has among its principal charitable purposes the preservation or enhancement of land for scientific, historic, educational, recreational, scenic, or open-space values, the protection of the natural environment, or the preservation and enhancement of fisheries and wildlife or their habitat.

"Notice of Completion and Acceptance of Work" means the notice completed by the grantee and filed with the county recorder in the county where the property is located, upon completion and acceptance of any and all construction work related to a project.

Open Space: any area that can potentially serve as wildlife habitat, facilitate natural processes, or allow for public access for passive forms of recreation.

Planning Expenses: expenses associated with specific preparations necessary to execute eligible RMC-funded projects. Planning includes conceptual designs, preschematic work, such as initial architectural and engineering plans prepared during the preliminary project phase; schematic documents; technical consulting; construction design; preparation of construction bidding documents; permits or appraisals. Planning expenses are distinct from "hard" project expenses of actual construction or acquisition.

Project: the acquisition, development, (rehabilitation and restoration), or interpretation activities to be accomplished with grant funds and other funds if necessary, that meets the intent of the program and statutory conditions.

Project Development Plan: the plan required by the RMC prior to grant award which describes how the project meets the RMC policies and criteria.

Project Management Plan: the overall plan used to describe how the completed project would be operated and maintained on a long-term basis. This document could include habitat, landscape, park, and other facility/resource long term management plans.

Project Performance Period: the period of time between the beginning and ending dates (inclusively) of the grant agreement. Eligible expenses incurred during this period may be funded from the grant.

Project Scope: the description or activity of work to be accomplished by the project.

Property: the land, including all structures attached to such land, upon which the project is located.

Property Owner: the person or entity that holds the fee simple interest of the Property.

Public access: access generally with full right of way from a public thoroughfare or public transportation. It could also mean the provision for visitor support facilities, including public parking, trails, bikeways, restrooms, picnic areas and campgrounds and other recreational facilities.

Restoration: the process of reproducing, re-establishing, or rehabilitating a natural area or a cultural or historical site or feature that has otherwise deteriorated so that it emulates the site's historic condition before degradation.

Riparian: locations and associated vegetative communities related to or on the banks of rivers, streams, wetlands, marshes, or other freshwater bodies.

Severely Disadvantaged Community (SDAC): a community with the meaning set forth in subdivision (a) of Section 116760.20 of the Health and Safety Code, as a community with a median household income of less than 60 percent of the statewide average.

Stewardship: the development, implementation, and long-term management of important resources and typically involving the protection, preservation, rehabilitation, restoration, improvement of natural systems and/or outstanding features, and historical and cultural resources.

State: the San Gabriel & Lower Los Angeles Rivers and Mountains Conservancy, the California Natural Resources Agency, or its representative.

Sustainable/Sustainability: the ability to meet current needs without compromising the ability of future generations to do the same. Also, the goal of life, liberty, and social well-being within the means of nature.

Threatened Natural Habitats: any areas that contain natural habitat that will be destroyed or degraded by a proposed urban development plan which, at the least, has already been submitted to the governing jurisdiction or planning commission.

Traditional Lands: lands that are synonymous with Aboriginal or Indigenous cultural territories or areas generally defined by natural boundaries containing static and transient habitation sites used for subsistence hunting, fishing, and gathering that may have fluctuated and overlapped over time and where religious practices were culturally significant to the Native American tribe or their ancestors

Urban Forest: native or introduced trees and related vegetation in the urban and near-urban areas including, but not limited to, urban watersheds, soils and related habitats, street trees, park trees, residential trees, natural riparian habitats, and trees on other private and public properties (reference PRC 4799.09).

Urban Forestry: the cultivation and management of trees in urban areas for their present and potential contribution to the economic, physiological, sociological, and ecological well-being of an urban society (reference PRC 4799.09).

Urban Greening: a community-based effort to plan, plant, care, and manage flora, structures, and spaces, which lead to increased forest canopy, reduced storm water runoff, improved air and water quality, energy conservation, open space and ultimately, more sustainable communities.

Urban Heat Island: a metropolitan area which is significantly warmer than its surrounding rural areas due to modification of the land surface by urban development.

Watershed: a region or area bound peripherally by a divide or ridge, all of which drains to a particular watercourse or body of water. Most urban sites are now mini watersheds, with the property line constituting the "ridge" and the storm drain system located in the street constituting the "watercourse" to which it discharges.

Willing seller: the project property owner(s) is/are willing participant(s) in the proposed real property transaction and at a purchase price not to exceed fair market value as verified by the State

End of Guidelines



CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, P.E., City Manager

BY: Fire Chief Fernando Pelaez, Fire Department

SUBJECT: Approval to Apply for the Permanent Local Housing Allocation Program Formula Funding

DATE: August 1, 2022

RECOMMENDATIONS:

It is recommended that the City Council:

- 1) Approve Application for the Permanent Local Housing Allocation Program Formula Funding; and
- 2) Take such additional, related, action that may be desirable.

FISCAL IMPACT

The City of Montebello could receive an estimated \$1,900,548 in grant funding from the Permanent Local Housing Allocation (PLHA) program formula funding component. The funding opportunity is available to local governments for eligible housing and homelessness activities. Should the City be successful in receiving this allocation, Staff will return to the City Council with a request to appropriate the funds and amend the adopted budget.

BACKGROUND

In 2017, Governor Jerry Brown signed a 15-bill housing package aimed at addressing the State's housing shortage and high housing costs. The Building Homes and Jobs Act (SB 2, 2017), established a \$75 recording fee on real estate documents to increase the supply of affordable homes. Seventy percent (70%) of the fees collected are utilized to fund the Permanent Local Housing Allocation (PLHA) Program, which is administered by the California Department of Housing and Community Development (HCD).

CITY COUNCIL AGENDA REPORT – SPECIAL MEETING OF AUGUST 1, 2022
Approval to Apply for the Permanent Local Housing Allocation Program Formula Funding
Page 2 of 3

PLHA is an ongoing formula grant that provides non-competitive funding to entitlement cities, as well as competitive grant funding to non-entitlement cities. The last PLHA Notice of Funding Availability (NOFA) was released in May 2021 by HCD.

The amount of PLHA funds allocated to each entitlement jurisdiction is directly proportionate to each jurisdiction's share of the total 2017 CDBG allocation in California. The State estimates the City will receive approximately \$1,900,548 over the program's first five years. The City will receive an allocation of \$316,758 in the first year and \$492,340 in the second. Future allocations may fluctuate from year to year depending on recording fees from the number of real estate transactions, which impacts the total amount of PLHA funding available.

In order to be eligible to apply for this formula funding, local jurisdictions must have a State certified and compliant Housing Element. On June 22, 2022 the City Council adopted Resolution No. 22-52 approving the Housing Element Update for the 2021-2029 Planning Period (6th Cycle Regional Housing Needs Allocation). The City is now eligible to apply for PLHA funds when the application period opens later this year. The program guidelines require that the grant application include an adopted City Council resolution authorizing the request and receipt of grant funds for the five-year period.

PLHA Eligible Activities

There are ten eligible activities under the PLHA grant, several of which are highlighted below:

- The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, rental housing that is affordable to extremely low-, very low-, low-, or moderate-income households, including necessary operating subsidies.
- Assisting persons who are experiencing or at risk of homelessness, including, but not limited to, providing rapid rehousing, rental assistance, supportive/case management services that allow people to obtain and retain housing, operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.
- Accessibility modifications in lower-income owner-occupied housing.
- Homeownership opportunities, including, but not limited to, down payment assistance.
- A maximum of 5% of the allocation can be used for administration.

DISCUSSION

The City outlined homeless prevention goals and objectives in the City's Homelessness Plan and the recently adopted Housing Element. The Homeless Prevention Program develops strategic preventative measures to support and engage higher risk members of the community from entering homelessness or connecting them with resources to exit homelessness quickly by either retaining their housing or using other housing strategies to ensure people move into permanent and stable accommodations that are affordable, safe, and appropriate with the support they need to thrive. Without a dedicated funding source to provide housing for the City's homeless households, the remaining goals and objectives of the strategy will be difficult to implement.

As mentioned previously, assisting persons who are at risk of homelessness is an eligible activity under PLHA. To support and address homeless prevention staff recommends that the Homeless Task Force bring funding activity recommendations for the submission of the PLHA application to the City Council for consideration. The City's grant application must include a five-year plan outlining how the \$1,900,548 will be utilized over the five-year period.

PLHA funding is time-sensitive, applications for the formula allocation must be submitted within 48-months of the budget appropriation. If a local government does not submit a complete application within that time frame, the allocation will revert to the Housing Rehabilitation Loan Fund for the Multifamily Housing Program or for State-administered technical assistance to local governments. The delays associated with an approved housing element by the State has prevented the City from meeting the eligibility criteria needed to apply for PLHA funding until now. Unfortunately, the City was left out of the last application period from May 6, 2021- December 31, 2021. Staff anticipates that the application period will open within the next few months.

SUMMARY

That the City Council authorize Staff to prepare the application for \$1.9 million in PLHA formula funding from the California Department of Housing and Community Development. Once the City is approved to receive this five-year funding amount, Staff will return to the City Council to appropriate the funds and amend the adopted budget.

ATTACHMENT:

- A. Attachment A - Notice of Funding Opportunity

**DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT
DIVISION OF STATE FINANCIAL ASSISTANCE**

2020 W. El Camino Avenue, Suite 670
Sacramento, CA 95833
(916) 263-2771
www.hcd.ca.gov



May 3, 2021

MEMORANDUM FOR: All Potential Applicants 
FROM: Jennifer Seeger, Deputy Director
Division of State Financial Assistance
SUBJECT: Permanent Local Housing Allocation Program
2021 Entitlement and Non-Entitlement Local government
Formula Component - Notice of Funding Availability

The California Department of Housing and Community Development (Department) is pleased to announce the release of the 2021 Entitlement and Non-Entitlement Local government formula component Notice of Funding Availability (NOFA) for approximately **\$304 million** in calendar year 2020 funds plus an additional **\$38.4 million** in remaining calendar year 2019 funds for the Permanent Local Housing Allocation (PLHA) program. This funding provides formula grants, as listed in Appendix A, to Entitlement and Non-Entitlement Local governments in California for housing-related projects and programs that assist in addressing unmet housing needs of their local communities.

Please note: As this is the second allocation year for funds collected pursuant to SB 2 (Chapter 364, Statutes 2017), jurisdictions that have previously applied and received an award of 2019 funds are not required to resubmit all threshold requirements, but rather must demonstrate all threshold requirements continue to be met as noted in Part II, Section G of this NOFA. Jurisdictions that have not previously applied, must meet all threshold requirements as outlined in Part II, Section F of the attached NOFA.

The submittal portal will be available and open for applications beginning **May 6, 2021**. Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, or walk-in application packages will be accepted. Applications will be accepted through **December 31, 2021** and must be submitted electronically through the Department's website. Requirements for uploading the Application Workbook and required supporting documentation, including naming conventions, are described in the application instructions available at <http://www.hcd.ca.gov/grants-funding/active-funding/plha.shtml>.

The PLHA application forms, workshop details, and Guidelines are posted on the Department's [website](#). To receive information on workshops and other updates, please subscribe to the PLHA listserv by clicking on "Email Sign up" on the Department's [website](#). If you have any further questions, please contact PLHA@hcd.ca.gov.

Attachment

Permanent Local Housing Allocation Program

2021 Formula Component Notice of Funding Availability for Entitlement and Non-Entitlement Local governments



**Gavin Newsom, Governor
State of California**

**Lourdes M. Castro Ramírez, Secretary
Business, Consumer Services and Housing Agency**

**Gustavo Velasquez, Director
California Department of Housing and Community Development**

2020 West El Camino Avenue, Suite 500, Sacramento, CA 95833

Telephone: (916) 263-2771

Website: <http://www.hcd.ca.gov/grants-funding/active-funding/plha.shtml>

Email: PLHA@hcd.ca.gov

May 3, 2021

Table of Contents

I.	Overview	1
A.	Notice of Funding Availability	1
B.	Timeline.....	2
C.	Authorizing Legislation and Regulations.....	2
II.	Program Requirements	2
A.	Eligible Applicants	2
B.	Eligible Activities.....	3
C.	Allocation of Funding and Award Limits.....	5
D.	Program Administrative and Activity Delivery Costs.....	6
E.	Application Review.....	6
F.	Threshold Requirements	6
G.	Administration and Reporting Requirements.....	10
III.	Application Submission and Review Procedures.....	10
A.	Application Submission Process.....	10
B.	Application Workshops	11
IV.	Appeals	11
A.	Basis of Appeals.....	11
B.	Appeal Process and Deadlines.....	11
C.	Decisions.....	11
D.	Award Announcements and Contracts.....	11
V.	Other State Requirements	12
A.	Pet Friendly Housing Act of 2017	12
B.	Accessibility and Non-Discrimination	12
VI.	Other Terms and Conditions.....	13
A.	Right to Modify or Suspend	13
B.	Disclosure of Application	13
C.	Conflicts.....	13
	APPENDICES	14

**Permanent Local Housing Allocation
2021 Entitlement and Non-Entitlement Local Government Formula Component
Notice of Funding Availability**

I. Overview

A. Notice of Funding Availability

The California Department of Housing and Community Development (Department) is announcing the release of the 2021 Permanent Local Housing Allocation (PLHA) program formula component Notice of Funding Availability (NOFA) for approximately **\$304 million** in calendar year 2020 funds and an additional **\$38.4 million** in calendar year 2019 funds for Entitlement and Non-Entitlement Local governments. This NOFA is funded from moneys deposited in the Building Homes and Jobs Trust Fund (Fund) in calendar year 2020 and includes any remaining unawarded funds not requested for calendar year 2019.

Funding for this NOFA is provided pursuant to Senate Bill 2 (SB 2) (Chapter 364, Statutes of 2017). SB 2 established the Fund and authorizes the Department to allocate 70 percent of moneys collected and deposited in the Fund, beginning in calendar year 2019, to Local governments for eligible housing and homelessness activities. The intent of the bill is to provide a permanent, on-going source of funding to Local governments for housing-related projects and programs that assist in addressing the unmet housing needs of their local communities.

This NOFA outlines threshold and application requirements for Entitlement Local governments and Non-Entitlement Local governments as defined in Guidelines Section 101. Entitlement Local governments are metropolitan cities and urban counties that received a Community Development Block Grant (CDBG) grant for fiscal year 2017 pursuant to the federal formula specified in 42 U.S. Code, Section 5306.

Please note that this NOFA has two separate threshold requirements sections:

- Local Governments that received an award under the 2020 Formula Component NOFA are subject to the threshold requirements outlined in **Part II, Section F**
- Local Governments that have not previously applied for and received a PLHA award must meet the threshold requirements outlined in **Part II, Section G**

In 2021, the Department will issue two separate NOFAs to award the PLHA funds:

1. Formula Component NOFA for Entitlement and Non-Entitlement Local governments; and
2. Non-Entitlement Local government Competitive NOFA (anticipated in May 2021).

B. Timeline

NOFA Release Date	May 3, 2021
Application Submittal	May 6, 2021 - December 31, 2021
Award Announcement	Ongoing through February 2022

C. Authorizing Legislation and Regulations

SB 2 (Chapter 364, Statutes of 2017) established the PLHA program. The program operates under the requirements of Health and Safety Code (HSC), Part 2 of Division 31, Chapter 2.5 (commencing with Section 50470).

Section 50470 (b)(2)(B)(i) of the HSC authorizes the Department to allocate 70 percent of the moneys collected and deposited in the Fund, beginning in calendar year 2019, for the PLHA program.

Section 50470 (b)(2)(B)(i)(I) of the HSC requires the Department to allocate 90 percent of PLHA funds based on the federal CDBG formula specified in 42 U.S. Code, Section 5306, except that the portion allocated to Non-Entitlement Local governments is required to be distributed through a competitive grant program for Non-Entitlement Local governments.

Section 50470 (b)(2)(B)(i)(II) of the HSC requires the Department to allocate the remaining 10 percent of PLHA funds equitably to Non-Entitlement Local governments.

Section 50470 (d) authorizes the Department to adopt Guidelines to implement the PLHA program, not subject to the rulemaking provisions of the California Administrative Procedure Act.

This NOFA governs the administration of funding from the Fund (created by Section 50470, subdivision (a)(1) and appropriated by item 2240-103-3317 in the Budget Act of 2019) and made available under the PLHA program.

Capitalized terms not otherwise defined in this NOFA shall have the meanings set forth in Guidelines Section 101.

II. Program requirements

The following is provided as a summary for the allocation of the PLHA funds to Entitlement and Non-Entitlement Local governments and is not to be considered a complete representation of the eligibility, threshold, or other requirements, terms and conditions.

A. Eligible Applicants

1. An Applicant must be an Entitlement Local government, a Non-Entitlement Local government, or a Local or Regional Housing Trust Fund delegated by the Local government pursuant to Guidelines Section 300. **Appendix A** contains the list of eligible Applicants.

2. **Delegation.** An eligible Applicant may delegate their entire formula allocation to either another Local government or to a Local or Regional Housing Trust Fund. A Local government that delegates their formula allocation to another Local government or to a Housing Trust Fund must enter into a legally binding agreement with the other Local government or Housing Trust Fund. The delegate must submit the PLHA application on behalf of the delegator and wholly administer the entire formula component of PLHA funds on behalf of the delegator for the full term of the PLHA Plan, as set forth in Guidelines Section 300(c).

Upon delegating its entire formula allocation to another Local government or to a Local or Regional Housing Trust Fund, the Local government that delegated their allocation is no longer involved in the PLHA application or administration of the PLHA grant for the full term of the PLHA Plan, which extends through 2023. The delegated Local government or Trust Fund assumes full responsibility for compliance with statute and for meeting all of the Department's requirements, including any penalties for non-compliance.

A partial funding delegation is not permitted under the delegation authority. However, a Local government can subgrant a **portion** of its allocation to another entity, as permitted by Guidelines Section 302(c)(3). When a Local government subgrants a portion of its allocation to another entity, the Local government remains fully accountable and responsible for compliance with statute and for meeting all of the Department's requirements, including any penalties for non-compliance.

B. Eligible Activities

Pursuant to Guidelines Section 301(a), the PLHA funds allocated to eligible Applicants must be used to carry out one or more of the eligible activities listed below. All services must be provided within the county containing the Local government recipient.

1. The predevelopment, development, acquisition, rehabilitation, and preservation of multifamily, residential live-work, or rental housing that is affordable to extremely low-, very low-, low-, or moderate-income households (up to 120 percent of Area Median Income (AMI), or 150 percent of AMI in High-cost areas, see appendix B for a list of High-cost areas), including necessary Operating subsidies.

Note: Predevelopment and/or acquisition must result in the development, rehabilitation, or preservation of housing, as otherwise there is no actual housing outcome of the predevelopment or acquisition assistance.

2. The predevelopment, development, acquisition, rehabilitation, and preservation of Affordable rental and ownership housing, including Accessory Dwelling Units (ADUs), that meets the needs of a growing workforce earning up to 120 percent of Area Median Income (AMI), or 150 percent of AMI in High-cost areas. ADUs shall be available for occupancy for a term of no less than 30 days. See Appendix B for a list of High-cost areas in California.

Note: Predevelopment and/or acquisition must result in the development, rehabilitation, or preservation of Affordable rental and ownership housing, as

otherwise there is no actual housing outcome of the predevelopment or acquisition assistance.

3. Matching portions of funds placed into Local or Regional Housing Trust Funds. Matching funds must be utilized as required by PLHA guidelines Section 301(a).
4. Matching portions of funds available through the Low- and Moderate-Income Housing Asset Fund pursuant to subdivision (d) of HSC Section 34176. Matching funds must be utilized as required by PLHA guidelines Section 301(a).
5. Capitalized Reserves for Services connected to the preservation and creation of new Permanent Supportive Housing.
6. Assisting persons who are experiencing or At risk of homelessness in conformance with [24 Code of Federal Regulations \(CFR Section 578.3\)](#), including
 - Rapid rehousing in conformance with federal rules contained in 24 CFR Section 576.104, except for legal services;
 - Rental assistance with a term of at least six (6) months (rental arrears is not eligible);
 - Street outreach, and other Supportive/case management services in conformance with federal rules contained in 24 CFR Section 576.101 that allow people to obtain and retain housing;
 - Operating and capital costs for navigation centers and emergency shelters, and the new construction, rehabilitation, and preservation of permanent and transitional housing.
 - a. This Activity may include subawards to Administrative Entities as defined in HSC Section 50490(a)(1-3) that were awarded California Emergency Solutions and Housing (CESH) Program or Homeless Emergency Aid Program (HEAP) funds for rental assistance to continue assistance to these households.
 - b. Applicants must provide rapid rehousing, rental assistance, navigation centers, emergency shelter, and transitional housing activities in a manner consistent with the Housing First practices described in 25 CCR, Section 8409, subdivision (b)(1)-(6) and in compliance with Welfare Institutions Code (WIC) Section 8255(b)(8). An Applicant allocated funds for the new construction, rehabilitation, and preservation of Permanent supportive housing shall incorporate the core components of Housing First, as provided in WIC Section 8255(b).
7. Accessibility modifications in Lower-income (up to 80 percent of AMI) Owner-occupied housing.
8. Efforts to acquire and rehabilitate foreclosed or vacant homes and apartments.
9. Homeownership opportunities, including, but not limited to, down payment assistance.

10. Fiscal incentives made by a county to a city within the county to incentivize approval of one or more Affordable housing projects, or matching funds invested by a county in an Affordable housing development project in a city within the county, provided that the city has made an equal or greater investment in the project. The county fiscal incentives shall be in the form of a grant or low-interest loan to an Affordable housing project. Matching funds investments by both the county and the city also shall be a grant or low-interest deferred loan to the Affordable housing project.

Twenty percent of the moneys in the Fund are required by statute to be expended for Affordable Owner-Occupied Workforce Housing (AOWH). If funding proposed in Local government Plans for AOWH activities is lower than 20 percent of the moneys available in the Fund, the Department may require Local governments to use a specific percentage of their annual formula allocations in some future year for AOWH activities as part of the annual funding process.

C. Allocation of funding and award limits

Appendix A lists the dollar amount of the allocation of PLHA funds. If a Local government applied in 2020 for their 2019 allocation, there is a blank in the 2019 column. If a Local government did not apply before this NOFA, there is an amount listed in both the 2019 and 2020 columns.

The PLHA funds allocated to each Entitlement Local government is directly proportionate to each Entitlement Local government's share of total 2017 CDBG allocation in California.

The PLHA funds allocated to each Non-Entitlement Local government is based on the sum of:

1. Fifty percent of the funding available for the Non-Entitlement formula component divided by the number of Local governments eligible for the Non-Entitlement formula component; and
2. Fifty percent of the funding available for the Non-Entitlement formula component allocated in proportion to each Non-Entitlement Local government's share of the total most severe housing need in California's Non-Entitlement Local governments, based upon the most recent U.S. Department of Housing and Urban Development (HUD) Comprehensive Housing Affordability Strategy (CHAS) data.

Two or more Local governments may expend PLHA funds on an eligible jointly funded project, provided the project is an eligible Activity pursuant to Guidelines Section 301(a), and will be located within the boundaries of one of the Local governments.

An Applicant eligible for an allocation of PLHA funds must comply with the Deadline and Funding Requirements set forth in Guidelines Section 304.

In order to avoid amending the Department Standard Agreement each year, and to expedite the disbursement of PLHA funds, the Department Standard Agreement and the Applicant's PLHA resolution shall include a five-year estimate of PLHA formula

allocations, as stated in Appendix C, as the maximum funding amount. The actual amounts may be lower, and the disbursements will be based on the actual allocation amounts.

Please be advised that no funding from any subsequent year will be disbursed if the Local government is not in compliance with the Housing Element requirement and the Housing Element Annual Progress Report requirement stated in Guidelines Section 302(a) and (b), or in the event that the Local government has not submitted its annual PLHA report, as required by Guidelines Section 503. For a list of jurisdictions currently ineligible for PLHA funds due to the Housing Element and/or Annual Progress Report requirement, please refer to Appendix D. In addition, the grantee must be in compliance with commitment requirements stated in Guidelines Sections 300(e) and must not incur penalties stated in Guidelines Section 502.

D. Program Administrative, Activity Delivery Costs, and Reimbursement of Costs

A Local government that receives an award under this NOFA shall not use more than five percent of the award for administrative costs related to the execution of eligible activities.

Staff and overhead costs directly related to carrying out the eligible activities described in Guidelines Section 301(a) are “activity costs” and not subject to the cap on “administrative costs.” A Local government may share any funds available for administrative costs with entities to which it provides funding.

Predevelopment expenses for construction projects funded by PLHA funds, and costs to develop and prepare the PLHA application and Plan may be paid from the PLHA funds regardless of when the costs were incurred. Reimbursement of expenses to prepare the PLHA application and Plan are subject to the cap on administrative costs. Other costs incurred more than one year prior to commitment by the Local government may not be paid from the PLHA funds.

E. Application review

An Applicant must submit a complete application and other documents by the deadline stated in this NOFA. Applications submitted in response to this NOFA must meet the threshold requirements set forth in in this section and in the Guidelines Section 302.

F. Threshold requirements for Previous Awardees

Applicants which received awards from the 2020 Formula Allocation NOFA must meet the following threshold requirements:

1. Housing Element Compliance: The Applicant must have a Housing Element that has been adopted by the jurisdiction’s governing body by the 2021 Formula Allocation NOFA application submittal date and subsequently determined to be in substantial compliance with state Housing Element Law pursuant to Government Code (GC) Section 65585.

2. The Applicant must have submitted to the Department the Annual Progress Report on the Housing Element for the current or prior year by the 2021 Formula Allocation NOFA application submittal date.
3. Applicant must have submitted to the Department the Annual PLHA Report if the application is submitted on or after July 31, 2021, which is the deadline for the Annual Report.
4. Applicant must have met the commitment requirements stated in PLHA Guidelines Section 300(e).
5. The Application must request an allocation pursuant to Section 200 of the PLHA Guidelines. Previous awardees have already received Department approval for their five-year PLHA Plan, which lists the activities that the Local government plans to provide using the five years of funding contained in the Standard Agreement. The PLHA Plan continues in force and effect unless the Local government amends the Plan to provide different activities that are eligible under PLHA statute and Guidelines. If the Plan is amended so that more than 10 percent of funds are moved to a different activity, the Plan must be formally amended, including discussion and approval at a publicly noticed meeting of the Local government's governing board, and the Plan must be submitted to the Department for approval. Activities must be carried out in the jurisdiction of the Applicant's Local government. Jointly funded projects may be carried out as described in Section 301(c).
6. Submission of the application must be authorized by the governing board of the Applicant by Resolution, and this Resolution must be submitted as part of the application. The Resolution should use the five-year estimate of funding, as listed in Appendix C.
7. If the Local government proposes to allocate funds for any Activity to another entity, the Resolution must certify that the Local government's selection process shall avoid conflicts of interest and shall be accessible to the public. See PLHA Guidelines Section 302 (c)(3).
8. If the Local government proposes to use funds for the acquisition, construction, or rehabilitation of for-sale housing projects or units within for-sale housing projects, the Resolution must certify that the grantee shall record a deed restriction against the property that will ensure compliance with one of the requirements stated in Guidelines Section 302(c)(6)(A),(B) or (C).
9. The resolution shall certify that, if funds are used for the development of an Affordable Rental Housing Development, the Local government shall make the PLHA assistance in the form of a low-interest, deferred loan to the Sponsor of the Project. The loan shall be evidenced through a Promissory Note secured by a Deed of Trust, and a Regulatory Agreement shall restrict occupancy and rents in accordance with the Local government-approved underwriting of the Project for a term of at least 55 years.

10. If any activity in the five-year Plan consists of loans being made to a homebuyer, homeowner, developer, or owner of a project, a Program income reuse plan describing how repaid loans will be used for eligible activities specified in Section 301 must be included in the application. This reuse plan must also describe how interest earned from PLHA funds deposited in a Local government interest-bearing account will be used for eligible PLHA activities.

G. Threshold requirements for First-Time Applicants

First-time Applicants which have not previously received an award under a prior formula Allocation NOFA must meet the following threshold requirements:

1. Housing Element Compliance: The Applicant and Delegating Local Government, if applicable, must have a Housing Element that has been adopted by the jurisdiction's governing body by the application submittal date and subsequently determined to be in substantial compliance with state Housing Element Law pursuant to GC Section 65585.
2. The Applicant must have submitted to the Department the Annual Progress Report on the Housing Element for the current or prior year by the application submittal date.
3. Application requests an allocation pursuant to Section 200, of the PLHA Guidelines, and identifies the eligible activities to be undertaken. Activities must be carried out in the jurisdiction of the Applicant's Local government. Jointly funded projects may be carried out as described in Section 301(c).
4. Submission of the application must be authorized by the governing board of the Applicant by Resolution, and this Resolution must be submitted as part of the application. The Resolution should use the five-year estimate of funding, as listed in Appendix C.
5. If the Local government proposes to allocate funds for any Activity to another entity, the resolution must certify that the Local government's selection process shall avoid conflicts of interest and shall be accessible to the public. See PLHA Guidelines Section 302 (c)(3).
6. If the Local government proposes to use funds for the acquisition, construction, or rehabilitation of for-sale housing projects, or units within for-sale housing projects, the Resolution must certify that the grantee shall record a deed restriction against the property that will ensure compliance with one of the requirements stated in Guidelines Section 302(c)(6)(A),(B) or (C).
7. The Resolution shall certify that, if funds are used for the development of an Affordable Rental Housing Development, the Local government shall make the PLHA assistance in the form of a low-interest, deferred loan to the Sponsor of the Project. The loan shall be evidenced through a Promissory Note secured by a Deed of Trust, and a Regulatory Agreement shall restrict occupancy and rents in

accordance with the Local government-approved underwriting of the Project for a term of at least 55 years.

8. The application must include a Plan which details:
 - a. The manner in which the allocated funds will be used for eligible Activities.
 - b. A detailed description of the way the Local government will prioritize investments that increase the supply of housing for household with incomes at or below 60 percent of the AMI.
 - c. A detailed description of how the Plan is consistent with the programs set forth in the Local government's Housing Element.
 - d. Evidence that the Plan was authorized and adopted by Resolution by the Local government and that the public had an adequate opportunity to review and comment on the Plan's contents prior to the Plan Resolution adoption. The plan must be provided to the public for a public comment period, culminating with a public hearing at which the governing board may approve it. The draft Plan should be published for public review on the applicant's website.
 - e. The Resolution adopting the Plan should specifically identify the activities the Local government plans to engage in. The Resolution is required to be submitted as part of the application. The Resolution must specifically state the eligible activities from the Plan application.
 - f. The following information is required for each proposed Activity:
 - i. A detailed description of each Activity, pursuant to Section 301 and the percentage of funding being allocated to it. The description must include the percentage, if any, directed to Affordable Owner-Occupied Workforce Housing (AOWH).
 - ii. The projected number of households to be served at each income level and a comparison to the unmet share of the Regional Housing Needs Allocation at each income level.
 - iii. A description of major steps/actions and a proposed schedule required for the implementation and completion of the Activity.
 - iv. The period of affordability for each Activity. Rental Projects are required to have an affordability period of at least 55 years.
9. The Plan shall be for a term of five years, illustrating how the allocations from 2019, 2020, 2021, 2022, and 2023 will be used. Refer to instructions in the Plan tab of the PLHA Application form.
10. If funds are used for acquisition, construction, or rehabilitation of for-sale housing projects or units within for-sale housing projects, then a deed restriction shall be recorded against the property as described in Section 302(c)(6)(A-C).
11. If funds are proposed to be used for development of an Affordable Rental Housing Development, a certification is required that the Local government shall make the

PLHA assistance in the form of a low-interest, deferred loan to the Sponsor of the Project. The loan must be evidenced through a Promissory Note secured by a Deed of Trust, and a Regulatory Agreement is required to restrict occupancy and rents in accordance with the Local government's approved underwriting of the Project for a term of at least 55 years.

12. If any activity in the five-year Plan consists of loans being made to a homebuyer, homeowner, developer or owner of a project, a Program income reuse plan describing how repaid PLHA loans will be used for eligible activities specified in Section 301 must be included in the application. This reuse plan must also describe how interest earned from PLHA funds deposited in a Local government interest-bearing account will be used for eligible PLHA activities.

H. Administration and reporting requirements

A grantee of the PLHA funds must meet the administration requirements set forth in Guidelines Sections 500 and 501, and reporting requirements in Section 503.

III. Application submission and review procedures

Applications must be on the Department's forms and cannot be altered or modified by the Applicant. Excel forms must be in Excel format and 'saved as' .xls or .xlsx. Do not 'save as' .xlm or .pdf format. Applications that do not meet the program requirements stated in this NOFA will not be eligible for funding. Application forms are available for download on the [PLHA webpage](#).

A. Application submission process

Applications must be submitted electronically to the Department's website. Requirements for uploading the Application Workbook and required supporting documentation, including naming conventions, are described in the application instructions available at <https://www.hcd.ca.gov/grants-funding/active-funding/plha.shtml>. The submittal portal will be available beginning May 6, 2021.

Applicants must upload all application materials to the Department's website. The application portal is open beginning on **May 6, 2021 through 11:59 p.m. Pacific Standard Time on December 31, 2021**. Please note that the on-line support and technical assistance closes at 5:00 p.m. Pacific Standard Time on December 31, 2021.

Personal deliveries will not be accepted. No facsimiles, incomplete applications, application revisions, or walk-in application packages will be accepted. Applications that do not meet the filing deadline requirements will not be eligible for funding.

It is the Applicant's responsibility to ensure that the application is clear, complete, and accurate. The Department may request additional clarifying information and/or inquire as to where in the application specific information is located. However, missing and/or forgotten application information or documentation may cause the application not to pass threshold.

Those Applicants that are notified they did not pass threshold requirements will have the opportunity to submit the necessary documentation prior to the NOFA closing date.

B. Application Workshops

Applicants are strongly encouraged to attend a PLHA webinar to gain information critical for preparing the application, which will be discussed at the webinar. PLHA webinar dates and times, are located on the Department's [PLHA webpage](#).

IV. Appeals

A. Basis of appeals

1. Upon receipt of the Department's notice that an application has been determined to be incomplete, ineligible, or fail threshold review, Applicants may appeal such decision(s) to the Department pursuant to this section.
2. No Applicant shall have the right to appeal a decision of the Department relating to another Applicant's eligibility, point score, award, denial of award, or any other matter related thereto.
3. The appeal process provided herein applies solely to decisions of the Department made in this NOFA and does not apply to any decisions made with respect to any previously issued NOFAs or decisions to be made pursuant to future NOFAs.

B. Appeal process and deadlines

1. **Process.** In order to file an appeal, an Applicant must submit a written appeal to the Department, which states all relevant facts, arguments, and evidence upon which the appeal is based. Furthermore, the Applicant must provide a detailed description of how the application is complete, eligible or meets threshold requirements, as applicable, or provide additional information to resolve the Department's determination. Appeals are to be submitted to the Department at PLHA@hcd.ca.gov according to the deadline set forth in Department review letters.
2. **Filing deadline.** Appeals must be received by the Department no later than five (5) business days from the date of the Department's threshold review letter representing the Department's decision made in response to the application.

C. Decisions

Any request to appeal the Department's decision regarding an application shall be reviewed for compliance with the Guidelines and this NOFA. All decisions rendered shall be final, binding, and conclusive, and shall constitute the final action of the Department.

D. Award announcements and contracts

The Department will review applications as they are received and will make awards as follows:

- For local Governments that have previously received an award and are applying for a new allocation of calendar year 2020 funds, awards will be made within 60 days of receipt.
- For Local Governments that have not previously received an award, those applications will be reviewed, and awards made at the end of each quarter beginning in July 2021 with subsequent awards made in October 2021 and January 2021. Award recommendations will be posted on the [PLHA webpage](#).

V. Other state requirements

A. Pet Friendly Housing Act of 2017

Housing funded through this program is subject to the Pet Friendly Housing Act of 2017 (HSC Section 50466). Each awardee will be required to submit a signed and dated certification that residents of the program-funded Housing development will be authorized to own or otherwise maintain one or more common household pets as required by HSC Section 50466. Pursuant to this statute, "common household pet" means a domesticated animal, such as a dog or cat, commonly kept in the home for pleasure rather than for commercial purposes.

B. Accessibility and non-discrimination

All projects or programs shall adhere to the accessibility requirements set forth in California Building Code Chapter 11A and 11B and the Americans with Disabilities Act (ADA), Title II. In addition, projects or programs shall adhere to either the Uniform Federal Accessibility Standards, 24 CFR Part 8, or HUD's modified version of the 2010 ADA Standards for Accessible Design (Alternative 2010 ADAS), HUD-2014-0042-0001, 79 F.R. 29671 (5/27/14) (commonly referred to as "the Alternative Standards" or "HUD Deeming Memo"). Accessible units shall, to the maximum extent feasible and subject to reasonable health and safety requirements, be distributed throughout the project and be available in a sufficient range of sizes and amenities consistent with 24 CFR Section 8.26.

Recipients shall adopt a written non-discrimination policy requiring that no person shall, on the grounds of race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status (except where explicitly prohibited by federal law), arbitrary characteristics, and all other classes of individuals protected from discrimination under state or federal fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any program or activity funded in whole or in part with program funds made available pursuant to this NOFA.

Recipients shall comply with the requirements contained in the ADA, the Fair Housing Amendments Act, the California Fair Employment and Housing Act, the Unruh Act, GC Section 11135, Section 504 of the Rehabilitation Act, and regulations promulgated

pursuant to those statutes, including 24 CFR Part 100, 24 CFR Part 8, and 28 CFR Part 35, in all of the Sponsor's activities.

VI. Other terms and conditions

A. Right to modify or suspend

The Department reserves the right, at its sole discretion, to suspend, amend, or modify the provisions of this NOFA at any time, including, without limitation, the amount of funds available hereunder. If such an action occurs, the Department will notify all interested parties and will post the revisions to the Department's website.

B. Disclosure of application

Information provided in the application will become a public record and available for review by the public, pursuant to the California Public Records Act (GC Section 6250 et seq.). As such, any materials provided will be disclosed to any person making a request under this Act. The Department cautions Applicants to use discretion in providing information not specifically requested, including, but not limited to, bank account numbers, personal phone numbers, and home addresses. By providing this information to the Department, the Applicant is waiving any claim of confidentiality and consents to the disclosure of submitted material upon request.

C. Conflicts

In the event of any conflict between the terms of this NOFA and either applicable state or federal law or regulation, the terms of the applicable state or federal law or regulation shall control. Applicants are deemed to have fully read and understand all applicable state and federal laws, and regulations pertaining to PLHA, and understand and agree that the Department shall not be responsible for any errors or omissions in the preparation of this NOFA.

APPENDICES

Appendix A Entitlement and Non-Entitlement Local Government Formula Allocation for Calendar years 2019 and 2020.

Please refer to Section II.A. Eligible Applicants for a discussion of the definition of Non-Entitlement Local government.

Entitlement Local government			Non-Entitlement Local government		
Local government	Funding Amount 2019	Funding Amount 2020	Local government	Funding Amount 2019	Funding Amount 2020
Alameda		\$868,493	Alpine County	\$68,065	\$106,216
Alameda County		\$1,451,516	Alturas	\$79,305	\$123,577
Alhambra		\$723,731	Amador City	\$65,861	\$100,869
Aliso Viejo	\$119,177	\$185,238	Amador County	\$134,185	\$203,299
Anaheim		\$3,349,981	American Canyon	\$117,435	\$178,785
Antioch		\$612,764	Anderson	\$103,770	\$163,160
Apple Valley		\$446,959	Angels	\$81,289	\$127,049
Bakersfield		\$2,690,358	Arcata	\$176,062	\$284,687
Baldwin Park		\$758,781	Artesia	\$135,728	\$204,479
Bellflower		\$798,332	Arvin		\$220,799
Berkeley		\$2,010,631	Atwater	\$158,209	\$247,535
Buena Park		\$573,917	Auburn	\$119,859	\$185,382
Burbank		\$741,688	Avenal	\$104,652	\$168,021
Camarillo		\$210,382	Benicia	\$141,459	\$222,187
Carlsbad	\$272,582	\$423,678	Biggs	\$70,710	\$109,341
Carson	\$414,730	\$644,619	Bishop	\$83,713	\$132,952
Cathedral City		\$440,217	Blue Lake	\$68,285	\$105,521
Cerritos	\$109,213	\$169,751	Brawley	\$151,156	\$240,243
Chico	\$390,348	\$606,721	Butte County	\$333,428	\$494,061
Chino	\$249,365	\$387,590	Calaveras County	\$206,477	\$332,604
Chino Hills		\$275,556	Calexico	\$203,832	\$307,951
Chula Vista		\$1,646,765	Calimesa	\$88,783	\$138,507
Citrus Heights		\$486,125	Calipatria	\$77,101	\$120,452
Clovis City	\$365,609	\$568,270	Calistoga	\$85,256	\$133,646
Compton	\$769,720	\$1,196,383	Capitola	\$105,092	\$180,868
Concord	\$488,785	\$759,724	Carmel-by-the-Sea	\$81,950	\$130,174
Contra Costa County	\$2,170,178	\$3,373,129	Chowchilla		\$164,202
Corona		\$904,613	Clearlake	\$145,867	\$208,993
Costa Mesa		\$821,579	Coalinga		\$165,243
Cupertino City	\$165,510	\$257,254	Colfax	\$72,032	\$113,855

Entitlement Local government			Non-Entitlement Local government		
Local government	Funding Amount 2019	Funding Amount 2020	Local government	Funding Amount 2019	Funding Amount 2020
Daly City		\$795,529	Colusa	\$85,917	\$135,035
Davis		\$470,837	Colusa County	\$83,493	\$136,077
Delano City		\$505,344	Corcoran	\$113,908	\$178,438
Downey	\$520,279	\$808,676	Corning	\$92,529	\$143,368
El Cajon	\$645,382	\$1,003,123	Crescent City	\$80,848	\$125,660
El Centro	\$245,998	\$382,358	Del Norte County	\$140,797	\$210,729
El Monte		\$1,316,954	Dinuba		\$224,965
Elk Grove	\$439,787	\$683,565	Dixon	\$115,451	\$189,896
Encinitas	\$156,044	\$242,541	Dorris	\$66,522	\$103,785
Escondido	\$842,911	\$1,310,146	Dos Palos	\$82,832	\$120,799
Fairfield		\$607,595	Dunsmuir	\$72,032	\$111,424
Fontana		\$1,524,968	El Centro (Colonia Only)	\$216,175	\$311,076
Fountain Valley	\$144,608	\$224,766	El Dorado County		\$729,477
Fremont		\$996,561	Etna	\$67,183	\$105,521
Fresno		\$5,296,470	Eureka	\$187,522	\$299,270
Fresno County		\$2,554,272	Exeter		\$149,966
Fullerton		\$1,070,068	Farmersville		\$154,827
Garden Grove		\$1,545,517	Ferndale	\$71,150	\$108,994
Gardena	\$329,877	\$512,732	Firebaugh	\$95,395	\$144,410
Gilroy City	\$244,259	\$379,654	Fort Bragg	\$106,856	\$163,507
Glendale	\$867,025	\$1,347,626	Fort Jones	\$69,167	\$106,910
Glendora City	\$130,258	\$202,461	Fortuna	\$108,619	\$171,840
Goleta		\$146,129	Fowler	\$81,069	\$126,355
Hanford		\$459,249	Glenn County		\$164,549
Hawthorne		\$952,511	Grass Valley		\$221,146
Hayward		\$1,012,998	Greenfield	\$139,916	\$211,076
Hemet		\$625,665	Gridley	\$92,529	\$144,410
Hesperia	\$505,777	\$786,135	Grover Beach		\$199,271
Huntington Beach		\$852,531	Guadalupe	\$101,125	\$160,035
Huntington Park	\$651,678	\$1,012,910	Gustine	\$73,575	\$118,021
Indio City		\$708,706	Hidden Hills	\$71,371	\$111,077
Inglewood	\$735,776	\$1,143,625	Hollister	\$180,249	\$280,173
Irvine		\$1,178,131	Holtville	\$82,611	\$131,563
Kern County		\$3,357,845	Humboldt County		\$520,797
La Habra		\$604,420	Huron		\$153,438
La Mesa		\$293,468	Imperial	\$91,427	\$147,535
Laguna Niguel	\$153,414	\$238,454	Imperial County	\$173,858	\$260,034
Lake Elsinore		\$386,288	Indian Wells	\$88,783	\$135,730
Lake Forest	\$221,070	\$343,611	Industry	\$65,596	\$101,632

Entitlement Local government			Non-Entitlement Local government		
Local government	Funding Amount 2019	Funding Amount 2020	Local government	Funding Amount 2019	Funding Amount 2020
Lakewood	\$270,847	\$420,981	Inyo County	\$103,770	\$166,285
Lancaster		\$1,080,020	lone	\$75,338	\$118,716
Livermore		\$324,137	Jackson	\$87,460	\$133,299
Lodi		\$522,660	King City		\$205,868
Lompoc	\$227,027	\$352,871	Kings County	\$163,499	\$249,965
Long Beach		\$4,549,129	Lake County	\$241,741	\$360,728
Los Angeles		\$40,753,337	Lakeport	\$79,305	\$126,702
Los Angeles County		\$17,136,461	Lassen County	\$102,007	\$155,868
Lynwood		\$981,371	Lemoore	\$145,205	\$217,326
Madera	\$422,319	\$656,414	Lincoln	\$203,171	\$314,201
Marin County		\$1,127,763	Lindsay		\$189,201
Menifee		\$391,071	Live Oak	\$89,664	\$132,952
Merced	\$518,719	\$806,250	Livingston	\$108,839	\$172,882
Milpitas City	\$238,595	\$370,850	Loomis	\$81,730	\$123,577
Mission Viejo		\$321,250	Los Banos	\$188,184	\$292,326
Modesto		\$1,507,287	Loyalton	\$67,624	\$105,521
Montebello	\$316,758	\$492,340	Madera County	\$273,920	\$429,131
Monterey		\$180,952	Mammoth Lakes	\$81,730	\$123,924
Monterey County		\$1,007,784	Maricopa	\$66,742	\$105,869
Monterey Park	\$318,871	\$495,625	Marina	\$157,548	\$235,382
Moreno Valley		\$1,600,642	Mariposa County		\$197,882
Mountain View	\$256,551	\$398,761	Marysville		\$169,063
Napa City		\$494,597	McFarland	\$112,806	\$174,618
National City		\$611,141	Mendocino County	\$349,958	\$527,394
Newport Beach	\$169,613	\$263,631	Merced County		\$508,297
Norwalk	\$592,762	\$921,336	Modoc County	\$76,440	\$120,105
Oakland		\$5,757,902	Mono County	\$77,101	\$113,855
Oceanside		\$1,008,982	Montague	\$68,726	\$105,174
Ontario		\$1,429,994	Mount Shasta	\$89,885	\$141,285
Orange		\$944,217	Napa County		\$220,451
Orange County		\$1,977,337	Nevada City		\$129,480
Oxnard		\$1,800,557	Nevada County		\$465,936
Palm Desert		\$266,263	Orange Cove	\$101,345	\$156,563
Palm Springs		\$298,796	Orland		\$141,285
Palmdale		\$1,210,906	Oroville		\$213,160
Palo Alto	\$231,496	\$359,817	Pacific Grove		\$198,924
Paradise	\$93,596	\$145,477	Palos Verdes Estates	\$96,717	\$157,257
Paramount City	\$438,197	\$681,094	Parlier		\$199,965

Entitlement Local government			Non-Entitlement Local government		
Local government	Funding Amount 2019	Funding Amount 2020	Local government	Funding Amount 2019	Funding Amount 2020
Pasadena		\$1,454,952	Pismo Beach	\$99,582	\$157,604
Perris City		\$725,136	Placer County		\$695,449
Petaluma	\$184,357	\$286,548	Placerville	\$110,823	\$173,924
Pico Rivera	\$338,973	\$526,870	Plumas County		\$187,118
Pittsburg	\$317,683	\$493,778	Plymouth	\$67,404	\$104,757
Placentia		\$333,825	Point Arena	\$67,404	\$103,785
Pleasanton City	\$151,089	\$234,839	Portola	\$75,338	\$119,757
Pomona		\$1,660,695	Rancho Mirage	\$172,094	\$282,257
Porterville		\$532,745	Red Bluff	\$124,047	\$189,201
Rancho Cordova City	\$285,366	\$443,548	Rio Dell	\$79,085	\$118,716
Rancho Cucamonga	\$450,476	\$700,179	Rio Vista	\$96,276	\$149,271
Rancho Santa Margarita		\$157,602	Riverbank		\$193,021
Redding		\$523,513	San Benito County	\$121,182	\$175,313
Redondo Beach	\$130,830	\$203,351	San Joaquin	\$78,644	\$123,924
Redwood City		\$540,463	San Juan Bautista	\$75,999	\$114,549
Rialto	\$597,786	\$929,145	San Juan Capistrano	\$236,452	\$359,687
Riverside		\$2,521,285	Sand City	\$67,139	\$104,063
Riverside County		\$6,211,287	Santa Cruz County		\$895,101
Rocklin City		\$209,270	Scotts Valley	\$103,770	\$166,979
Rosemead	\$343,238	\$533,498	Shasta County	\$286,924	\$481,214
Roseville		\$487,069	Shasta Lake	\$102,227	\$161,424
Sacramento		\$3,663,612	Sierra County	\$67,624	\$110,382
Sacramento County		\$4,229,006	Siskiyou County		\$212,812
Salinas		\$1,564,952	Solano County		\$201,701
San Bernardino		\$2,521,132	Soledad	\$120,961	\$188,160
San Bernardino County		\$5,376,577	Sonora	\$91,427	\$138,507
San Buenaventura		\$555,571	South Lake Tahoe		\$264,548
San Clemente	\$189,040	\$293,827	St. Helena	\$89,003	\$137,118
San Diego		\$8,999,738	Suisun City	\$154,683	\$222,187
San Diego County		\$3,077,481	Susanville	\$93,191	\$141,632
San Francisco		\$13,550,527	Sutter County		\$181,910
San Joaquin County		\$2,036,447	Sutter Creek	\$78,644	\$121,841
San Jose		\$6,759,142	Taft	\$90,546	\$140,591

Entitlement Local government			Non-Entitlement Local government		
Local government	Funding Amount 2019	Funding Amount 2020	Local government	Funding Amount 2019	Funding Amount 2020
San Leandro		\$543,946	Tehama	\$65,596	\$101,632
San Luis Obispo County		\$1,356,138	Tehama County	\$186,685	\$318,784
San Marcos City	\$319,178	\$496,102	Trinidad	\$66,081	\$101,702
San Mateo		\$531,409	Trinity County	\$121,622	\$186,424
San Mateo County		\$1,880,016	Truckee		\$162,466
Santa Ana		\$4,357,828	Tulare County		\$966,281
Santa Barbara		\$704,272	Tulelake	\$68,506	\$106,563
Santa Barbara County		\$885,625	Tuolumne County	\$242,182	\$368,367
Santa Clara	\$479,491	\$745,278	Ukiah	\$129,777	\$199,618
Santa Clara County	\$736,733	\$1,145,111	Vernon	\$65,376	\$100,591
Santa Clarita	\$588,259	\$914,338	Wasco	\$135,508	\$205,174
Santa Cruz		\$411,495	Weed	\$76,661	\$120,105
Santa Maria		\$1,140,042	Westmorland	\$72,693	\$113,507
Santa Monica		\$851,010	Wheatland	\$72,032	\$110,035
Santa Rosa		\$1,079,196	Williams	\$80,848	\$126,355
Santee	\$134,374	\$208,859	Willits	\$92,309	\$137,813
Seaside	\$193,124	\$300,175	Willows		\$140,243
Simi Valley		\$451,305	Winters		\$136,077
Sonoma County		\$1,397,936	Woodlake		\$136,424
South Gate		\$1,121,154	Yolo County		\$222,882
South San Francisco		\$338,809	Yountville	\$81,069	\$127,049
Stanislaus County		\$1,795,199	Yreka	\$102,007	\$154,827
Stockton		\$2,660,093	Yuba County		\$412,812
Sunnyvale	\$533,023	\$828,483			
Temecula		\$424,938			
Thousand Oaks		\$460,139			
Torrance	\$444,374	\$690,696			
Tulare		\$494,944			
Turlock	\$309,854	\$481,610			
Tustin		\$599,257			
Union City		\$394,694			
Upland		\$431,845			
Vacaville	\$240,500	\$373,812			
Vallejo		\$785,500			
Ventura County		\$1,336,317			
Victorville		\$983,520			
Visalia		\$980,482			

Entitlement Local government			Non-Entitlement Local government		
Local government	Funding Amount 2019	Funding Amount 2020	Local government	Funding Amount 2019	Funding Amount 2020
Vista		\$635,530			
Walnut Creek		\$215,193			
Watsonville	\$362,515	\$563,461			
West Covina	\$388,763	\$604,258			
West Sacramento	\$236,679	\$367,872			
Westminster		\$793,596			
Whittier		\$595,595			
Woodland		\$387,006			
Yorba Linda		\$165,580			
Yuba City		\$483,607			

Appendix B
List of High-cost Areas in California

High-cost Area by County	High-cost Area pursuant to Federal Housing Finance Agency's Maximum Loan Limits for Mortgages Acquired in Calendar Year 2020	High-cost Area pursuant to Department of Housing and Urban Development Very Low-Income Adjustments due to High-Housing Cost for Fiscal Year 2020-21
Alameda	x	
Contra Costa	x	
El Dorado	x	
Imperial		x
Los Angeles	x	
Madera		x
Marin	x	
Merced	x	
Monterey	x	
Napa	x	
Orange	x	
Placer	x	
Sacramento	x	
San Benito	x	
San Diego	x	
San Francisco	x	
San Luis Obispo	x	
San Mateo	x	
Santa Barbara	x	
Santa Clara	x	
Santa Cruz	x	
Solano	x	
Sonoma	x	
Tulare		x
Ventura	x	
Yolo	x	

Appendix C
Estimate of Five-Year PLHA Allocation for Entitlement and
Non-Entitlement Local government

Entitlement Local government		Non-Entitlement Local government	
Local government	Estimate 5-Year Funding Amount	Local government	Estimate 5-Year Funding Amount
Alameda	\$3,352,590	Alpine County	\$408,390
Alhambra	\$2,793,768	Alturas	\$475,835
Aliso Viejo	\$715,062	Amador City	\$395,168
Anaheim	\$12,931,710	Amador County	\$805,115
Antioch	\$2,365,410	American Canyon	\$704,612
Apple Valley	\$1,725,366	Anderson	\$622,622
Bakersfield	\$10,385,412	Angels	\$487,737
Baldwin Park	\$2,929,068	Arcata	\$1,056,372
Bellflower	\$3,081,744	Artesia	\$814,372
Berkeley	\$7,761,504	Arvin	\$831,563
Buena Park	\$2,215,452	Atwater	\$949,257
Burbank	\$2,863,092	Auburn	\$719,158
Camarillo	\$812,124	Avenal	\$627,912
Carlsbad	\$1,635,492	Benicia	\$848,754
Carson	\$2,488,380	Biggs	\$424,261
Cathedral City	\$1,699,338	Bishop	\$502,283
Cerritos	\$655,278	Blue Lake	\$409,715
Chico	\$2,342,088	Brawley	\$906,940
Chino	\$1,496,190	Butte County	\$2,000,572
Chino Hills	\$1,063,710	Calaveras County	\$1,238,865
Chula Vista	\$6,356,898	Calexico	\$1,222,996
Citrus Heights	\$1,876,554	Calimesa	\$532,699
Clovis City	\$2,193,654	Calipatria	\$462,611
Compton	\$4,618,320	Calistoga	\$511,540
Concord	\$2,932,710	Capitola	\$630,557
Corona	\$3,492,018	Carmel-by-the-Sea	\$491,704
Costa Mesa	\$3,171,486	Chowchilla	\$662,295
Cupertino City	\$993,060	Clearlake	\$875,203
Daly City	\$3,070,926	Coalinga	\$618,655
Davis	\$1,817,544	Colfax	\$432,196
Delano City	\$1,950,744	Colusa	\$515,507
Downey	\$3,121,674	Colusa County	\$500,961
El Cajon	\$3,872,292	Corcoran	\$683,453
El Centro	\$1,475,988	Corning	\$555,180
Elk Grove	\$2,638,722	Crescent City	\$485,092
El Monte	\$5,083,752	Del Norte County	\$844,787

Entitlement Local government		Non-Entitlement Local government	
Local government	Estimate 5-Year Funding Amount	Local government	Estimate 5-Year Funding Amount
Encinitas	\$936,264	Dinuba	\$889,749
Escondido	\$5,057,466	Dixon	\$692,710
Fairfield	\$2,345,460	Dorris	\$399,135
Fontana	\$5,886,732	Dos Palos	\$496,994
Fountain Valley	\$867,648	Dunsmuir	\$432,196
Fremont	\$3,846,960	El Centro	\$1,297,051
Fresno	\$20,445,618	El Dorado County	\$2,879,974
Fullerton	\$4,130,712	Etna	\$403,103
Gardena	\$1,979,262	Eureka	\$1,125,138
Garden Grove	\$5,966,058	Exeter	\$586,917
Gilroy City	\$1,465,554	Farmersville	\$589,562
Glendale	\$5,202,150	Ferndale	\$426,906
Glendora City	\$781,548	Firebaugh	\$572,371
Goleta	\$564,090	Fort Bragg	\$641,136
Hanford	\$1,772,808	Fort Jones	\$415,004
Hawthorne	\$3,676,914	Fortuna	\$651,715
Hayward	\$3,910,410	Fowler	\$486,414
Hemet	\$2,415,216	Glenn County	\$641,136
Hesperia	\$3,034,662	Grass Valley	\$813,049
Huntington Beach	\$3,290,970	Greenfield	\$839,497
Huntington Park	\$3,910,068	Gridley	\$555,180
Indio City	\$2,735,772	Grover Beach	\$727,093
Inglewood	\$4,414,656	Guadalupe	\$606,754
Irvine	\$4,547,862	Gustine	\$441,452
Laguna Niguel	\$920,484	Hidden Hills	\$428,228
La Habra	\$2,333,202	Hollister	\$1,081,498
Lake Forest	\$1,326,420	Holtville	\$495,671
Lake Elsinore	\$1,491,162	Humboldt County	\$2,066,693
Lakewood	\$1,625,082	Huron	\$597,497
La Mesa	\$1,132,854	Imperial	\$548,568
Lancaster	\$4,169,130	Imperial County	\$1,043,148
Livermore	\$1,251,240	Indian Wells	\$532,699
Lodi	\$2,017,590	Industry	\$393,581
Lompoc	\$1,362,162	Inyo County	\$622,622
Long Beach	\$17,560,704	Ione	\$452,032
Los Angeles	\$157,317,438	Jackson	\$524,764
Lynwood	\$3,788,322	King City	\$805,115
Madera	\$2,533,914	Kings County	\$980,995
Menifee	\$1,509,624	Lake County	\$1,450,450
Merced	\$3,112,314	Lakeport	\$475,835
Milpitas City	\$1,431,570	Lassen County	\$612,043
Mission Viejo	\$1,240,098	Lemoore	\$871,235

Entitlement Local government		Non-Entitlement Local government	
Local government	Estimate 5-Year Funding Amount	Local government	Estimate 5-Year Funding Amount
Modesto	\$5,818,482	Lincoln	\$1,219,029
Montebello	\$1,900,548	Lindsay	\$703,289
Monterey	\$698,514	Live Oak	\$537,988
Monterey Park	\$1,913,226	Livingston	\$653,038
Moreno Valley	\$6,178,854	Loomis	\$490,382
Mountain View	\$1,539,306	Los Banos	\$1,129,105
Napa City	\$1,909,260	Loyalton	\$405,747
National City	\$2,359,146	Madera County	\$1,643,522
Newport Beach	\$1,017,678	Mammoth Lakes	\$490,382
Norwalk	\$3,556,572	Maricopa	\$400,458
Oakland	\$22,226,850	Marina	\$945,290
Oceanside	\$3,894,906	Mariposa County	\$770,732
Ontario	\$5,520,108	Marysville	\$662,295
Orange	\$3,644,898	McFarland	\$676,841
Oxnard	\$6,950,574	Mendocino County	\$2,099,753
Palmdale	\$4,674,384	Merced County	\$1,865,687
Palm Desert	\$1,027,836	Modoc County	\$458,644
Palm Springs	\$1,153,422	Mono County	\$462,611
Palo Alto	\$1,388,976	Montague	\$412,359
Paradise	\$561,576	Mount Shasta	\$539,311
Paramount City	\$2,629,182	Napa County	\$859,334
Pasadena	\$5,616,456	Nevada City	\$473,190
Perris City	\$2,799,192	Nevada County	\$1,837,916
Petaluma	\$1,106,142	Orange Cove	\$608,076
Pico Rivera	\$2,033,838	Orland	\$555,180
Pittsburg	\$1,906,098	Oroville	\$822,306
Placentia	\$1,288,644	Pacific Grove	\$712,546
Pleasanton City	\$906,534	Palos Verdes Estates	\$580,305
Pomona	\$6,410,670	Parlier	\$801,148
Porterville	\$2,056,524	Pismo Beach	\$597,497
Rancho Cordova City	\$1,712,196	Placer County	\$2,730,542
Rancho Cucamonga	\$2,702,856	Placerville	\$664,940
Rancho Santa Margarita	\$608,376	Plumas County	\$727,093
Redding	\$2,020,884	Plymouth	\$404,425
Redondo Beach	\$784,980	Point Arena	\$404,425
Redwood City	\$2,086,314	Portola	\$452,032
Rialto	\$3,586,716	Rancho Mirage	\$1,032,569
Riverside	\$9,732,750	Red Bluff	\$744,284
Rocklin City	\$807,828	Rio Dell	\$474,513
Rosemead	\$2,059,428	Rio Vista	\$577,661
Roseville	\$1,880,196	Riverbank	\$732,382
Sacramento	\$14,142,402	San Benito County	\$727,093

Entitlement Local government		Non-Entitlement Local government	
Local government	Estimate 5-Year Funding Amount	Local government	Estimate 5-Year Funding Amount
Salinas	\$6,041,082	San Joaquin	\$471,868
San Bernardino	\$9,732,162	San Juan Bautista	\$455,999
San Clemente	\$1,134,240	San Juan Capistrano	\$1,418,712
San Diego	\$34,741,098	Sand City	\$402,838
San Francisco	\$52,308,210	Santa Cruz County	\$3,395,713
San Jose	\$26,091,876	Scotts Valley	\$622,622
San Leandro	\$2,099,760	Shasta County	\$1,721,544
San Marcos City	\$1,915,068	Shasta Lake	\$613,366
San Mateo	\$2,051,364	Sierra County	\$405,747
Santa Ana	\$16,822,236	Siskiyou County	\$852,722
Santa Barbara	\$2,718,654	Solano County	\$769,410
Santa Clara	\$2,876,946	Soledad	\$725,770
Santa Clarita	\$3,529,554	Sonora	\$548,568
Santa Cruz	\$1,588,464	South Lake Tahoe	\$994,219
Santa Maria	\$4,400,826	St. Helena	\$534,021
Santa Monica	\$3,285,096	Suisun City	\$928,099
Santa Rosa	\$4,165,950	Susanville	\$559,147
Santee	\$806,244	Sutter County	\$698,000
Seaside	\$1,158,744	Sutter Creek	\$471,868
Simi Valley	\$1,742,142	Taft	\$543,278
South Gate	\$4,327,920	Tehama	\$393,581
South San Francisco	\$1,307,880	Tehama County	\$1,120,113
Stockton	\$10,268,580	Trinidad	\$396,491
Sunnyvale	\$3,198,138	Trinity County	\$729,738
Temecula	\$1,640,358	Truckee	\$627,912
Thousand Oaks	\$1,776,240	Tulare County	\$3,501,506
Torrance	\$2,666,244	Tulelake	\$411,037
Tulare	\$1,910,598	Tuolumne County	\$1,453,095
Turlock	\$1,859,124	Ukiah	\$778,667
Tustin	\$2,313,270	Vernon	\$392,259
Union City	\$1,523,610	Wasco	\$813,049
Upland	\$1,667,022	Weed	\$459,966
Vacaville	\$1,443,000	Westmorland	\$436,163
Vallejo	\$3,032,214	Wheatland	\$432,196
San Buenaventura	\$2,144,634	Williams	\$485,092
Victorville	\$3,796,620	Willits	\$553,857
Visalia	\$3,784,890	Willows	\$561,792
Vista	\$2,453,292	Winters	\$532,699
Walnut Creek	\$830,694	Woodlake	\$539,311
Watsonville	\$2,175,090	Yolo County	\$819,661
West Covina	\$2,332,578	Yountville	\$486,414
Westminster	\$3,063,462	Yreka	\$612,043

Entitlement Local government		Non-Entitlement Local government	
Local government	Estimate 5-Year Funding Amount	Local government	Estimate 5-Year Funding Amount
West Sacramento	\$1,420,074	Yuba County	\$1,634,265
Whittier	\$2,299,140		
Woodland	\$1,493,934		
Yorba Linda	\$639,174		
Yuba City	\$1,866,840		
Alameda County	\$5,603,190		
Contra Costa County	\$13,021,068		
Fresno County	\$9,860,088		
Kern County	\$12,962,064		
Los Angeles County	\$66,150,756		
Marin County	\$4,353,426		
Monterey County	\$3,890,280		
Orange County	\$7,632,984		
Riverside County	\$23,977,026		
Sacramento County	\$16,324,956		
San Bernardino County	\$20,754,846		
San Diego County	\$11,879,796		
San Joaquin County	\$7,861,158		
San Luis Obispo County	\$5,235,012		
San Mateo County	\$7,257,300		
Santa Barbara County	\$3,418,722		
Santa Clara County	\$4,420,398		
Sonoma County	\$5,396,358		
Stanislaus County	\$6,929,892		
Ventura County	\$5,158,494		

Appendix D
Ineligible Jurisdictions Due to Housing Element Requirement and/or Annual Progress Report (APR) Requirement stated in Guidelines Section 302(a) and (b)

As of the date of this notice, 11 jurisdictions are not in compliance with the Housing Element and/or Housing Element Annual Progress Report (APR) Requirements stated in Guidelines Section 302(a) and (b). PLHA is an over-the-counter program, so as these jurisdictions reach compliance with the Housing Element and APR requirements, they will be eligible for these funds. We acknowledge that many jurisdictions listed below are in process of obtaining compliance, and they will be eligible for this program once compliance is obtained during the application period.

Jurisdictions	Housing Element Compliance Status	APRs
Alpine County	Out	
Amador City	Out	Not Received
Blue Lake	Out	Not Received
Corning	Out (Review Pending)	
Dos Palos	Out	
Huntington Park	Out	OK
Loyalton	Out (Review Pending)	Not Received
Maricopa	Out	
Marina	Out	
Modoc County	Out (Review Pending)	
Westmorland	Out	OK

Please note – the information provided above is current as of March 16, 2021.

Please contact Paul McDougall, Housing Policy Manager, at paul.mcdougall@hcd.ca.gov with questions or to verify status of Housing Element Compliance.

For questions about APR compliance, please email APR@hcd.ca.gov.