CITY OF MONTEBELLO CITY COUNCIL
REGULAR MEETING AGENDA

WEDNESDAY, SEPTEMBER 8, 2021 AT 5:30 P.M.

CITY HALL COUNCIL CHAMBERS
1600 WEST BEVERLY BOULEVARD
MONTEBELLO, CALIFORNIA

CITY COUNCIL

Kimberly A. Cobos-Cawthorne, Mayor
David N. Torres, Mayor Pro Tem
Angie M. Jimenez, Councilmember
Scarlet Peralta, Councilmember
Salvador Melendez, Councilmember

CITY MANAGER	CITY TREASURER	CITY ATTORNEY
René Bobadilla, City Manager	Rafael Gutierrez	Arnold M. Alvarez-Glasman

CITY CLERK
Christopher Jimenez

DEPARTMENT HEADS

Assistant City Manager	Arlene Salazar
Fire Chief	Fernando Pelaez
Police Chief	Brad Keller
Director of Finance	Michael Solorza
Director of Human Resources	Nicholas Razo
Director of Planning/Community Development	Joseph Palombi
Director of Public Works	James Enriquez
Director of Recreation and Community Services	David Sosnowski
Acting Director of Transportation	Adrianna Hendricks

NOTICES

COVID-19 NOTICE: Pursuant to the Executive Order N-29-20 and No. N-35-20 from the Executive Department of the State of California and the County of Los Angeles Department of Public Health Safer at Home Order, Council Members may attend City Council meetings via teleconferencing and make public meetings accessible telephonically or electronically to all members of the public seeking to observe and address the City Council. The City Council and Staff will begin to meet in person at the Council Chambers effective Wednesday, August 11, 2021. **Due to the increased transmission from the Delta Variant and to ensure the health and safety of the public, the Council Chambers will be closed to the public and all public participation will continue to occur telephonically until further notice**. Consistent with the Executive Order, the City Council meeting will continue to be live streamed and can be watched on the City's website at: www.cityofmontebello.com under the "City Council AGENDAS" tab and clicking the "Live Stream" tab, and may also be viewed on Spectrum Public Access Channel 3 for all Spectrum cable subscribers.

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) 887-1363 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 24 hours before this meeting.

STATEMENT OF PUBLIC COMMENTS AND PARTICIPATION: Members of the public may address the City Council on any items listed on the Agenda. Anyone wishing to address the City Council on an item not listed on the Agenda (Non-Agenda Items) may do so during the "Public Comments" period. State Law prohibits the City Council from taking action or entertaining extended discussion on a topic not listed on the agenda. In order to conduct a timely meeting, the maximum time allotted for members of the public to speak shall not exceed three (3) minutes per person. "Public Comments" may be limited to 30-minutes, those not accommodated during that time may have an opportunity to speak under "Oral Communications – Continued" after all scheduled matters have been considered. Please show courtesy to others and direct all of your comments to the Mayor.

For those interested in making public comments, you may call up until the day of the meeting, **Wednesday, September 8, 2021 between 7:30 a.m. – 3:30 p.m. at (323) 887-1359**. Staff will complete the speaker cards and the public will be called during the City Council meeting – Closed Session begins at 5:30 p.m. and Regular Session begins at 6:30 p.m. The exact call back time is not predictable due to the nature of the City Council agenda. As a result, you must be available until the end of the meeting to receive a live call from staff during the meeting. The City has also created an email address, ccpubliccomment@cityofmontebello.com, where the public can submit public comments up until the day of the meeting, **Wednesday, September 8, 2021 between 7:30 a.m. – 3:30 p.m.** These comments will be read out loud and submitted for the record. Any requests to provide public comment which is submitted after the deadlines indicated above will not be addressed at the council meeting, with the exception of non-agenda item comments which will be held over to the next regularly scheduled meeting.

AGENDA MATERIALS: The agenda and agenda packet related to items on this agenda are available for public inspection at City's website at: www.cityofmontebello.com under the "City Council AGENDAS" tab and clicking the "Council Agenda" tab. Copies of the agenda cover sheets will be available for pickup at the front and west entrance of City Hall, as well as the north side of the building on Masser Place. Please note that only 10 copies will be distributed between the three locations and will be available for pick up on a first-come, first-served basis. 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 FOR CLOSED SESSION ITEMS

At this time, the general public may address the City Council on Closed Session Items. Please be aware that the maximum time allotted for members of the public to speak on Closed Session Items 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 – 5:30 P.M.

The City Attorney shall provide a briefing on the item listed for Closed Session as follows:

1. **THREAT TO PUBLIC SERVICES OR FACILITIES**
   Government Code Section 54957
   Consultation with City Manager, Police Chief, City Attorney and other related City officials.

2. **CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION**
   Government Code Section 54956.9(d)(2)
   Threat of litigation – One matter related to the CVRA

3. **CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**
   Government Code Section 54956.9 (d)(1)
   Workers' Compensation Claim Number: ADJ11069640 WCAB
   Name of Case: Romo vs. City of Montebello

REGULAR SESSION – 6:30 P.M.

INVOCATION

FLAG SALUTE

CORRECTIONS TO THE AGENDA – CITY MANAGER

PRESENTATIONS

4. **RECOGNITION OF CITIZEN OF THE MONTH – PAMALA SAKAMOTO**

5. PROCLAMATION FOR AMERICAN LEGION DAY

6. RECOGNITION OF SO CAL DIRTBAGS YOUTH WORLD SERIES NATIONAL CHAMPIONS

7. RECOGNITION OF NATIONAL HISPANIC HERITAGE MONTH, SEPTEMBER 15, 2021 – OCTOBER 15, 2021

8. RECOGNITION OF NATIONAL EMERGENCY PREPARDENESS MONTH

9. GENERAL PLAN UPDATE STATUS REPORT AND REVIEW OF PRELIMINARY DRAFT HOUSING ELEMENT UPDATE (2021-2029)

PUBLIC COMMENTS ON NON-AGENDA ITEMS (30 MINUTES)

At this time, the general public may address the City Council on non-agenda items. Please be aware that the maximum time allotted for members of the public to speak shall not exceed three (3) minutes per speaker. 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.

STAFF COMMUNICATIONS ON ITEMS OF COMMUNITY INTEREST

PUBLIC HEARING

10. ADOPT A RESOLUTION APPROVING THE FISCAL YEAR 2020-21 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

RECOMMENDATION: It is recommended that the City Council:

1) Adopt a Resolution approving the Fiscal Year 2020-21 draft Consolidated Annual Performance and Evaluation Report (CAPER); and
2) Take such other additional, related, action that may be desirable.

OLD BUSINESS

11. FURTHER REVIEW OF A ZONE CODE AMENDMENT TO AMEND THE MONTEBELLO MUNICIPAL CODE TO ESTABLISH AN ART IN PUBLIC PLACES PROGRAM AND ADVISORY COMMITTEE, MODIFY SECTION 17.62.050 OF THE MONTEBELLO MUNICIPAL CODE TO REMOVE "MURALS" FROM THE LIST OF PROHIBITED SIGNS; ADOPT A CEQA EXEMPTION UNDER § 15061(B)(3) – INTRODUCTION AND WAIVING FIRST READING OF ORDINANCE NO. 2441

NOTE: This matter will be continued to the City Council Meeting of October 13, 2021 or at a date thereafter as determined by the City Council.

REGULAR BUSINESS

12. AUTHORIZATION TO HOST A HEALTH FAIR AND 5K RUN

RECOMMENDATION: It is recommended that the City Council:

1) Authorize staff to schedule and host a Health Fair and 5K Run; 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, with the exception of an item upon which a member of the public or City Council has requested to speak on, may be approved in a single motion. Such approval will also waive the reading of any ordinance.

13. AUTHORIZATION TO ISSUE A REQUEST FOR PROPOSALS (RFP NO. 21-19) FOR ENGINEERING SERVICES TO ASSIST WITH THE DEVELOPMENT OF A SYSTEMIC SAFETY ANALYSIS REPORT PROGRAM (SSARP)

RECOMMENDATION: It is recommended that the City Council:

1) Authorize City Staff to issue a Request for Proposals (RFP No. 21-19) for engineering services to assist with the development of a Systemic Safety Analysis Report Program (SSARP); and
2) Take such additional, related, action that may be desirable.

14. BEACH STREET PAVEMENT AND STORM DRAIN REHABILITATION PROJECT - PHASE 1 (FROM VAIL AVENUE TO 5TH STREET), CP NO. 883 – AUTHORIZATION TO ADVERTISE FOR CONSTRUCTION

RECOMMENDATION: It is recommended that the City Council:

1) Approve the Plans, Specifications, and Estimate (PS&E) for the Beach Street Pavement Rehabilitation Project Phase 1 (Vail Avenue to 5th Street), CP No. 883); and
2) Authorize the City Clerk to publish the Notice Inviting Bids (Attachment A); and
3) Approve the Notice of Exemption (Attachment B) for the subject project and authorize the City Clerk to file the Notice of Exemption with Los Angeles Registrar-Recorder; and
4) Approve the Total Project Budget of $1,450,000 (Attachment C); and
5) Take such additional, related, action that may be desirable.

15. APPROVE AMENDMENT NO. 1 TO AGREEMENT NO. 3399, WITH SAFE USA, INC. FOR ANNUAL STREET STRIPING, LEGENDS, AND ROAD MARKINGS SERVICES

RECOMMENDATION: It is recommended that the City Council:

1) Approve Amendment No. 1 to Agreement No. 3399, with Safe USA, Inc. for Annual Street Striping, Legends, and Road Markings Services exercising the 2-year extension at an additional cost not-to-exceed $265,700; and
2) Authorize the City Manager to Execute Amendment No.1 on behalf of the City; and
3) Take such additional, related, action that may be desirable.

16. UTILITY BOX BEAUTIFICATION PROGRAM ARTWORK APPROVAL

RECOMMENDATION: It is recommended that the City Council:

1) Approve artwork recommendations made by the Parks and Recreation Commission; and
2) Amend the Fiscal Year 2021-22 budget by increasing appropriations by $6,400 in Account No. 100-70-710-6040.10 (General Fund, Recreation, Other Contract Services); and
3) Take such additional, related, action that may be desirable.

17. AUTHORIZING THE SUBMISSION OF AN APPLICATION TO THE NATIONAL FITNESS CAMPAIGN AND THE INSTALLATION OF A FITNESS COURT

RECOMMENDATION: It is recommended that the City Council:

1) Authorize the submission of an application to the National Fitness Campaign Grant Program; and
2) Take such additional, related, action that may be desirable.

18. APPROVE AN AGREEMENT WITH NEW FLYER OF AMERICA, INC., TO PURCHASE NINE, FORTY-FOOT COMPRESSED NATURAL GAS TRANSIT BUSES

RECOMMENDATION: It is recommended that the City Council:

1) Approve an Agreement with New Flyer of America, Inc. (New Flyer), to purchase nine (9), forty-foot (40') Compressed Natural Gas (CNG) transit buses; and
2) Authorize the Acting Director of Transportation to approve change orders up to two percent of the contract amount; and
3) Take such additional, related action that may be desirable.

19. PAYMENT OF BILLS: RESOLUTION NO. 21-79 APPROVING THE CITY WARRANT REGISTER OF DEMANDS DATED SEPTEMBER 8, 2021

RECOMMENDATION: Adopt Resolution No. 21-79 approving the Warrant Register dated September 8, 2021.

ORAL COMMUNICATIONS - CONTINUED IF NECESSARY

AB 1234 TRAVEL REPORTS

Members of the City Council will provide a brief report on meetings attended at the expense of the local agency as required by Government Code Section 53232.3(d).

COUNCIL ORALS

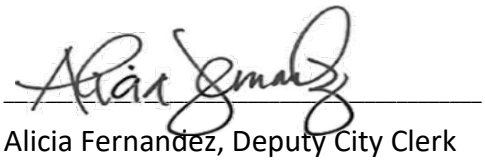
Council member announcements; requests for future agenda items; conference/meetings reports.

1. **Councilmember Jimenez**
   a. Hispanic Heritage Month
   b. Run Montebello Run
   c. Day of the Dead Community Altar
2. **Councilmember Peralta**
3. **Councilmember Melendez**
4. **Mayor Pro Tem Torres**
5. **Mayor Cobos-Cawthorne**
   a. ICA Conference update
   b. Personal devices on dais
   c. City sponsored events vs. Councilmember events/activities

ADJOURNMENT

The City of Montebello will adjourn to the next **Regular Meeting on October 13, 2021 at 5:30 p.m.** which can be live streamed at www.cityofmontebello.com (Click on Live Stream).

I, Alicia Fernandez, Deputy City Clerk for the City of Montebello hereby certify that a copy of this agenda has been posted on or before Sunday, September 5, 2021 at 5:30 p.m.



Alicia Fernandez, Deputy City Clerk

ITEM #____

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

FROM: René Bobadilla, City Manager

BY: Joseph Palombi, Director of Planning and Community Development

SUBJECT: **Adopt Resolution No. 21-78 approving the Fiscal Year 2020-21 Consolidated Annual Performance and Evaluation Report (CAPER)**

DATE: September 8, 2021

RECOMMENDATION

It is recommended that the City Council conduct a public hearing and consider the following:

1) Adopt a Resolution approving the Fiscal Year 2020-21 draft Consolidated Annual Performance and Evaluation Report (CAPER); and

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

BACKGROUND

Annually, the United States Department of Housing and Urban Development ("HUD") provides funding for Housing and Community Development Programs to the City of Montebello, specifically Community Development Block Grant ("CDBG") and Home Investment Partnerships ("HOME") Program funds. The City is required to prepare a Five-Year Consolidated Plan (or "Consolidated Plan") which identifies the City's housing and community development needs and goals over the next five (5) years.

In addition to the Consolidated Plan, an Annual Action Plan is completed outlining the planned use of CDBG and HOME funds. At the conclusion of the fiscal year, the City must prepare a year-end performance report known as the Consolidated Annual Performance and Evaluation Report ("CAPER"). The Fiscal Year 2020-21 CAPER covers the period beginning July 1, 2020, through June 30, 2021, and provides a summary of activities undertaken with CDBG and HOME funds during the report period.

As required by HUD, the draft CAPER was publicly noticed and made available for public review and comment on the City's website from August 25, 2021, through September 8, 2021, at the following link https://www.cityofmontebello.com/. A printed copy was also available for review at the reception area located at City Hall, 1600 W. Beverly Blvd, Montebello, California 90640.

FISCAL IMPACT

The submission of the CAPER is a condition imposed by HUD that allows the City to continue to receive federal funds. There is not fiscal impact related to the recommended actions.

ANALYSIS

CDBG: All activities funded by the City through the CDBG Program must meet one (1) of the following three (3) national objectives:

1. Benefit low- and moderate-income persons as defined by federal statutes;
2. Prevent or eliminate slums or blight; or
3. Address a community development urgent need posing a severe and immediate threat to the health or welfare of the community.

The federal statutes for the various grant programs covered by the CAPER include several basic goals. These goals relate to HUD's major commitments and priorities, as set by Congress, covering the following three (3) major areas:

1. Provide decent housing by assisting the homeless in obtaining appropriate housing; preserve the affordable housing stock; increase the availability of permanent housing that is affordable for low-income households without discrimination, and increase the supply of supportive housing for those with special needs;

2. Provide suitable living environment by improving the safety and livability of neighborhoods; reduce the isolation of income groups within an area through decentralization of housing opportunities and revitalization of deteriorating neighborhoods; restore and preserve properties of special architectural, historical, or aesthetic value; and conserve energy resources; and

3. Expand economic opportunities by creating jobs accessible to low-income persons; provide access for low-income households to mortgage financing and credit for development activities that promote long-term community viability and empower low-income persons to achieve self-sufficiency to reduce poverty in federally assisted and public housing.

Accomplishments:

The CAPER reports the accomplishments of the CDBG and HOME funded programs. Summarized below is a list of accomplishments from July 1, 2020, to June 30, 2021, accomplishment data includes public services funded with the supplemental CDBG-Coronavirus (CDBG-CV) funding the City has received.

- **158** tenant/landlord issues were addressed via the Fair Housing program
- **336** persons were assisted via public services with CDBG-CV funds, thus far
- **2** Home Rehabilitation Projects are currently in progress
- **3** Capital Improvement Projects are in progress

NEXT STEPS/RECOMMENDATION

It is recommended that the City Council conduct a public hearing to allow members of the public to provide comment on the FY 2020-21 CAPER; and subsequently adopt the resolution authorizing the City Manager, or designee, to submit to HUD the City's FY 2020-21 CAPER.

ATTACHMENT (S):

A. Attachment A – Proposed Resolution No. 21-78
B. Attachment B – Draft CAPER
C. Attachment C – Proof of Publication

ATTACHMENT A

RESOLUTION NO. 21-78

A RESOLUTION OF THE CITY COUNCIL OF MONTEBELLO, APPROVING AND AUTHORIZING THE CITY MANAGER, OR HIS DESIGNEE, TO SUBMIT TO HUD THE CITY'S FISCAL YEAR (FY) 2020-2021 CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER)

WHEREAS, the City of Montebello ("City") has applied and received Community Development Block Grant (CDBG) and HOME Investment Partnership funds from the Government of the United States under Title I of the Housing and Community Development Act of 1974; and

WHEREAS, the U.S. Department of Housing and Urban Development (HUD) is the federal agency that promulgates regulations and oversees the administration of the CDBG and HOME program; and

WHEREAS, HUD requires that entitlement jurisdictions, including the City, complete an annual evaluation of their grants programs through a report known as the Consolidated Annual Performance and Evaluation Report (CAPER); and

WHEREAS, City staff published a public notice announcing the availability of the CAPER in the Whittier Daily News on August 12, 2021, triggering a 15-day public comment period of the report; and

WHEREAS, on September 8, 2021, the City Council held a duly noticed public hearing to consider the program year 2020-2021 CAPER.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MONTEBELLO DOES HEREBY FIND, DETERMINE, AND RESOLVE AS FOLLOWS:

SECTION 1. The City Council does hereby declare that the above recitals are true and correct and are incorporated herein by reference.

SECTION 2. The City Council does hereby authorize the City Manager, or designee, to submit the City's FY 2020-2021 CAPER to HUD.

SECTION 3. The City Council hereby allows staff to make minor technical and clerical modifications, and/or necessary corrections to the CAPER as required by HUD.

SECTION 4. The City Clerk shall certify to the adoption of this Resolution which shall be effective upon its adoption.

[SIGNATURE PAGE TO FOLLOW]

APPROVED AND ADOPTED this 8TH day of September 2021.

_____
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. 21-78 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 8th day of September 2021 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

ATTACHMENT B

CITY OF MONTEBELLO

CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) DRAFT

July 1, 2020 – June 30, 2021

Planning and Community Development Department
1600 West Beverly Blvd.
Montebello, CA 90640

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DRAFT

CR-05 - Goals and Outcomes

Progress the jurisdiction has made in carrying out its strategic plan and its action plan. 91.520(a)

This could be an overview that includes major initiatives and highlights that were proposed and executed throughout the program year.

As part of the application and allocation process for these federal funds, the City must prepare and submit the Consolidated Annual Performance and Evaluation Report (CAPER). This report presents a summary of resources made available during the program year, accomplishments based on priorities established by the Consolidated Plan and documented in the 2020-2021 Annual Action Plan, and an assessment of the City's annual performance toward meeting its five-year goals. This document represents the first year of reporting of the 2020-2025 Five-Year Consolidated Plan.

The City's mission is to enhance the quality of life for all its residents by maximizing the use of available resources to assure the availability of safe, decent, and affordable housing. This report reviews how the goals set by the City for public service programs were met. All CDBG funds except for Planning/Administration, were used for activities that benefited low-and-moderate-income persons.

Comparison of the proposed versus actual outcomes for each outcome measure submitted with the consolidated plan and explain, if applicable, why progress was not made toward meeting goals and objectives. 91.520(g)

Categories, priority levels, funding sources and amounts, outcomes/objectives, goal outcome indicators, units of measure, targets, actual outcomes/outputs, and percentage completed for each of the grantee's program year goals.

Goal	Program Indicator	Expected Program Year	Actual Program	Percent Complete
Increase Affordable Housing Opportunities	Rental Units Rehabilitated	1	0	0%
Maintain Decent And Energy Efficient Housing Stock	Homeowner Housing Rehabilitation	2	0	0%
Expand Fair Housing Choice And Access	Other	100	158	158%
Create Sustainable Neighborhoods	Public Facility or Infrastructure Activities other than Low/Moderate Income Housing Benefit	124		

Provide Vital Public Services	Public Service Activities Other than Low/Moderate Income housing Benefit	35	336	960%
Increase earning capacity for LMI families	Public Service Activities Other than Low/Moderate Income housing Benefit	2	0	0%
Expanding economic opportunities	Other	N/A	N/A	N/A
Planning and Administration	Other	N/A	N/A	N/A

Table 1 - Accomplishments – Program Year & Strategic Plan to Date

Assess how the jurisdiction's use of funds, particularly CDBG, addresses the priorities and specific objectives identified in the plan, giving special attention to the highest priority activities identified.

The City continued to address its underserved populations' needs by promoting its housing and public service programs. The Priority Needs Summary Table, contained in the 2020-2025 Consolidated Plan, prioritized the preservation of the supply of affordable housing, equal access to housing opportunities, providing public services for low-income residents, improvement of infrastructure and public facilities, commercial rehabilitation, and economic development. Additionally, City Council assesses high needs in the City and makes recommendations, with consideration given to available resources, objectives outlined in the Consolidated Plan.

The 2020-2021 Action Plan was reflective of the 2020-2025 Consolidated Plan, representing incremental steps toward accomplishing the Five-Year Consolidated Plan goals. Program Year 2020-2021 was the first year of the 2020-2025 Consolidated Plan. The CDBG and HOME funded Programs continued to meet the needs of the Montebello community of seniors, youth, homeless, and low- to moderate-income families, and other special needs populations. In addition to CDBG funds, the City also received supplemental CDBG Coronavirus (CDBG-CV) funding which was programmed into the 2020-2021 Annual Action Plan. All CDBG funds except for planning/administration were used to benefit low- and moderate-income persons. All the City's CDBG funds were used exclusively for one or more of the three national objectives.

Montebello received a total of a total of $910,151 of supplemental CDBG-Coronavirus (CDBG-CV) funds to use to prepare, prevent, and respond to the Coronavirus pandemic (COVID-19). The City chose to amend their 2019-2020 Annual Action Plan to program their CDBG-CV funds. CDBG-CV activities are currently in progress and funds are expected to be fully expended by the Year 2022.

DRAFT

CR-10 - Racial and Ethnic composition of families assisted

Describe the families assisted (including the racial and ethnic status of families assisted). 91.520(a)

	CDBG	HOME
White	80	0
Black or African American	2	0
Asian	53	0
American Indian or American Native	3	0
Native Hawaiian or Other Pacific Islander	1	0
Mix: Asian & White	1	0
Mix: Black/African American & White	1	0
Other Multi-Racial	179	0
Decline to State	152	0
Total	494	**0**
Hispanic	283	0
Not Hispanic		0

Table 2 – Table of assistance to racial and ethnic populations by source of funds

Narrative

CDBG

For FY 2020-2021, the City's Public Service programs comprised of various nonprofits and programs that provided public service activities to low- and moderate- income-eligible households.

Housing Rights Center – Assisted a total of **158** Montebello resident with fair housing services, including outreach, education, and discrimination counseling.

YMCA - Assisted **19** Montebello seniors with emergency relief services related to CVOID-19 such as food distribution.

Heart of Compassion – Assisted **280** Montebello residents with groceries.

Mexican American Opportunity Foundation – Assisted **37** Montebello residents with weekly groceries.

DRAFT

HOME

Homeowner Housing Rehabilitation Program- During FY 20-21, the city qualified two homeowners for the program. These rehabs are expected to be completed in FY 21-22.

DRAFT

CR-15 - Resources and Investments 91.520(a)

Identify the resources made available

Source of Funds	Source	Resources Made Available	Amount Expended During Program Year
CDBG	public - federal	$1,559,441	$625,638.26
CDBG-CV	public - federal	$910,151	$115,420.82
HOME	public - federal	$402,108	0

Table 3 - Resources Made Available

Narrative

A total of $258,255 was received in HOME funds during the 20/21 fiscal year. An additional $143,853 from program income was receipted and made available from HOME loan repayments. During this program year, the City has not yet expended any HOME funds. The City is in progress of rehabilitating two homes in the City. These project will be completed in FY 21/22.

A total of $665,245 was received in CDBG funds during the 20/21 fiscal year. An additional $400,411 was available as carryover funds and an additional $493,785 from program income was receipted and made available from CDBG home loan repayments. The largest expenditure under the CDBG Program is the City's repayment of the Section 108 Economic Development Loan. The remaining expenditures are currently in progress as Capital Improvement Projects such as Street, Fire Station and Senior Center Improvements. A total of $625,638.26 of CDBG funds have been expended thus far.

The City also received $910,151 in CDBG-CV funding to help prepare, prevent, and respond to the COVID 19 pandemic. The City provided funding to multiple public service activities in the City including the YMCA, Heart of Compassion, and the Mexican American Opportunity Foundation to provide residents with emergency food and groceries. In addition to these public services, the City established the Montebello Community Assistance Program (MCAP), which outreached and engaged the City's homeless population to support with emergency motel vouchers, PPE's and hygiene kits. The MCAP program also provided rental, utility, and mortgage relief assistance. A total of $115,420.82 of CDBG-CV funds have been expended thus far.

Identify the geographic distribution and location of investments

Target Area	Planned Percentage of Allocation	Actual Percentage of Allocation	Narrative Description
Citywide	70	100	

Table 4 – Identify the geographic distribution and location of investments

DRAFT

Narrative

Affordable housing is needed throughout the community and therefore use of public funds for housing assistance is available citywide.

The City generally does not allocate funds on a geographic basis. On an annual basis, the City prioritizes the use of its CDBG funding for citywide housing and community development activities including housing, public services, fair housing, and public facilities. Activities identified under the public services category and targeted to special needs populations are offered on a citywide basis and/or where resources can be coordinated with existing facilities or services. Public improvements and public facilities are qualified as benefitting low- and moderate-income persons.

Public facilities and improvements funded by the CDBG program are focused in priority areas. These Enhancement Areas are based on 2010 Census data according to household income levels. To determine project eligibility, the HUD standard is that at least 51 percent of low-moderate income residents must occupy the area where public facility improvements are being performed. Keeping the national objectives of the CDBG and HOME programs in mind, project eligibility review is based upon the type of activity and the clientele served. A project is evaluated either on the 51 percent low-moderate income population for facilities and services located within the broader community.

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Leveraging

Explain how federal funds leveraged additional resources (private, state and local funds), including a description of how matching requirements were satisfied, as well as how any publicly owned land or property located within the jurisdiction that were used to address the needs identified in the plan.

The following other Federal and Non-Federal funding sources were used to leverage funds allocated to activities: General Funds; Gas Tax; Metropolitan Transit Authority Funds; and Measure R Funds.

The City uses general fund, gas tax, water funds, and other resources to address public infrastructure needs. In addition to these sources, public services subrecipients used private and other funds to leverage the City's CDBG Program funds.

As a recipient of HOME funds, the City is required to make non-Federal financial contributions to projects that qualify as affordable housing under the HOME Program. Annually, the match contributions must total a minimum of 25% of the HOME funds expended from the City's HOME entitlement amount. (less administration costs), unless the City has received a reduction in the match requirement. However, for FY 2020-2021, HUD allowed for grantees to submit a Reduction of Matching Contribution waiver. This allowed for the City to receive a 100% match reduction for the reporting FY. Therefore, the City had a $0 Match Liability for FY 2020-2021.

During FY 20-21, no HOME funds were expended, therefore no other funds were used to leverage this activity.

Fiscal Year Summary – HOME Match	
1. Excess match from prior Federal fiscal year	0
2. Match contributed during current Federal fiscal year	0
3. Total match available for current Federal fiscal year (Line 1 plus Line 2)	0
4. Match liability for current Federal fiscal year	0
5. Excess match carried over to next Federal fiscal year (Line 3 minus Line 4)	0

Table 5 – Fiscal Year Summary - HOME Match Report

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Match Contribution for the Federal Fiscal Year								
Project No. or Other ID	**Date of Contribution**	**Cash (non-Federal sources)**	**Foregone Taxes, Fees, Charges**	**Appraised Land/Real Property**	**Required Infrastructure**	**Site Preparation, Construction Materials, Donated labor**	**Bond Financing**	**Total Match**
NONE								

Table 6 – Match Contribution for the Federal Fiscal Year

HOME MBE/WBE report

Program Income – Enter the program amounts for the reporting period				
Balance on hand at beginning of reporting period $	**Amount received during reporting period $**	**Total amount expended during reporting period $**	**Amount expended for TBRA $**	**Balance on hand at end of reporting period $**
0	$143,853	0	0	$143,853

Table 7 – Program Income

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Minority Business Enterprises and Women Business Enterprises – Indicate the number and dollar value of contracts for HOME projects completed during the reporting period						
	Total	**Minority Business Enterprises**				**White Non-Hispanic**
		Alaskan Native or American Indian	**Asian or Pacific Islander**	**Black Non-Hispanic**	**Hispanic**	
Contracts						
Dollar Amount	0	0	0	0	0	0
Number	0	0	0	0	0	0
Sub-Contracts						
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0

	Total	**Women Business Enterprises**	**Male**
Contracts			
Dollar Amount	0	0	0
Number	0	0	0
Sub-Contracts			
Number	0	0	0
Dollar Amount	0	0	0

Table 8 - Minority Business and Women Business Enterprises

Minority Owners of Rental Property – Indicate the number of HOME assisted rental property owners and the total amount of HOME funds in these rental properties assisted						
	Total	**Minority Property Owners**				**White Non-Hispanic**
		Alaskan Native or American Indian	**Asian or Pacific Islander**	**Black Non-Hispanic**	**Hispanic**	
Number	0	0	0	0	0	0
Dollar Amount	0	0	0	0	0	0

Table 9 – Minority Owners of Rental Property

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Relocation and Real Property Acquisition – Indicate the number of persons displaced, the cost of relocation payments, the number of parcels acquired, and the cost of acquisition		
Parcels Acquired	0	0
Businesses Displaced	0	0
Nonprofit Organizations Displaced	0	0
Households Temporarily Relocated, not Displaced	0	0

Households Displaced	**Total**	**Minority Property Enterprises**				**White Non-Hispanic**
		Alaskan Native or American Indian	**Asian or Pacific Islander**	**Black Non-Hispanic**	**Hispanic**	
Number	0	0	0	0	0	0
Cost	0	0	0	0	0	0

Table 10 – Relocation and Real Property Acquisition

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CR-20 - Affordable Housing 91.520(b)

Evaluation of the jurisdiction's progress in providing affordable housing, including the number and types of families served, the number of extremely low-income, low-income, moderate-income, and middle-income persons served.

	One-Year Goal	Actual
Number of Homeless households to be provided affordable housing units	75	0
Number of Non-Homeless households to be provided affordable housing units	300	0
Number of Special-Needs households to be provided affordable housing units	0	0
Total	**375**	**0**

Table 11 – Number of Households

	One-Year Goal	Actual
Number of households supported through Rental Assistance	80	0
Number of households supported through The Production of New Units	0	0
Number of households supported through Rehab of Existing Units	3	0
Number of households supported through Acquisition of Existing Units	1	0
Total	**14**	**0**

Table 12 – Number of Households Supported

Discuss the difference between goals and outcomes and problems encountered in meeting these goals.

The following activities were assisted in meeting the affordable housing goals:

Section 8 Housing Choice Voucher (HCV) Program – The City of Montebello participates in the Los Angeles County Housing Authority administration of Housing Choice Voucher Program, which provides rental assistance to very low-income families, the disabled, and the elderly in order for them to access affordable decent, safe, and sanitary housing in the City of Montebello.

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Housing Rehabilitation and Preservation Program (HRPP) – Provide forgivable loans to eligible Montebello homeowners to rehabilitate their homes. The City is currently in progress with rehabilitating two homes.

The Housing Rights Center affirmatively furthers fair housing by testing, providing outreach, and enforcing in an effort to eliminate housing discrimination. During 2020 – 2021, 158 households were assisted with general housing and discrimination services.

Acquisition & New Construction – The City is currently setting funds aside in order to develop affordable housing in the future.

Discuss how these outcomes will impact future annual action plans.

The City will continue to support programs and activities that provide assistance to low- and moderate-income homeowners and renters. In addition, the City will continue to utilize HOME and CDBG funds to improve housing and supportive services. In program year 2020 – 2021, the City initiated and completed the following actions:

The City acknowledges that for-profit and nonprofit developers play a significant role in providing affordable housing in Montebello. The City will work with these developers and continue to provide financial incentives through HOME funds and the sale of City-owned parcels, as well as offer regulatory incentives, including but not limited to density bonuses and flexible development standards to private developers to increase the supply of affordable housing. To provide housing opportunities for extremely low-income households, the City will work with developers of single resident occupancy (SRO) housing, prioritize the use of Section 8 vouchers for this income group, aggressively utilize regulatory incentives, and encourage the development of second units as a means to provide housing for extremely low-income individuals or households.

The City continued to refer clients to the Los Angeles County Housing Authority as needs were identified for affordable housing. The City continues to be contacted by Montebello households that are in need of rental assistance through the Section 8 program.

Include the number of extremely low-income, low-income, and moderate-income persons served by each activity where information on income by family size is required to determine the eligibility of the activity.

Number of Households Served	CDBG Actual	HOME Actual
Extremely Low-income	276	0
Low-income	218	0
Moderate-income	0	0
Total	**494**	**0**

Table 13 – Number of Households Served

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Narrative Information

Through the City's CDBG and CDBG-CV funded programs, 494 persons were assisted. The City is currently in progress with assisting two homeowners with rehabilitation of their homes with HOME funds.

The City addressed the needs of persons affected by the Coronavirus Pandemic by providing CDBG-CV funds to Heart of Compassion, the YMCA, MAOF, and MCAP to provide much needed emergency services to Montebello residents.

The Los Angeles County Development Authority(LACDA) provides rental assistance through its Section 8 Housing Choice Voucher Program to address the worst case needs for affordable housing. Under the voucher program, eligible households with annual incomes below 50 percent of the HUD Area Median Income are assisted to find decent, safe and sanitary affordable housing. Participants are required to pay up to 30 percent of their adjusted gross monthly income for rent and the Housing Authority pays the balance of the monthly rent directly to the landlord.

LACDA also maintains a waiting list for the affordable housing developments constructed under the City's Affordable Housing Program. These projects are affordable to extremely low, very low, low and moderate income households. The Authority requires that preference be given to eligible households in the following order:

1. Households that have been displaced from their residences due to programs or projects implemented by the City;
2. Households that currently have a Section 8 Housing Choice Voucher;
3. Households that are listed on the Authority's Section 8 and Affordable Rental;
4. Households who live and/or work in Montebello.

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CR-25 - Homeless and Other Special Needs 91.220(d, e); 91.320(d, e); 91.520(c)

Evaluate the jurisdiction's progress in meeting its specific objectives for reducing and ending homelessness through:

Reaching out to homeless persons (especially unsheltered persons) and assessing their individual needs

HUD's Continuum of Care Program recognizes that all homeless persons are not at the same level of stability, and thus addresses a variety of needs. Recognized components of the Continuum of Care include outreach, access center/drop-in center, safe haven, supportive services, overnight shelter (year-round shelter and winter shelter), emergency shelter, transitional housing, permanent housing and permanent supportive housing, and prevention.

The City of Montebello is part of the Los Angeles Continuum of Care (LACoC) which includes all areas of the county except for the cities of Long Beach, Glendale, and Pasadena, and includes an estimated 55,188 homeless people. At 4,083 square miles, the County of Los Angeles is the largest urban county in the nation. While average incomes are amongst the highest in the country in some areas, there is also incredible poverty.

The City also established a homeless outreach program during the fiscal year which focused on engaging the City's homeless population. The program provides emergency motel vouchers, PPE's and hygiene kits, as well as help with accessing social service needs.

Addressing the emergency shelter and transitional housing needs of homeless persons

The City of Montebello recognizes that homelessness is a regional problem, and will continue to address homeless needs through its CDBG funds. For many years, the City has supported several homeless service providers in the community that provide homeless prevention services, supportive services, and emergency and transitional shelter.

The City actively works with Heart of Compassion and the newly established MCAP to provide a number of important services for homeless clients including emergency shelter services, food, counseling, and transportation vouchers.

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Helping low-income individuals and families avoid becoming homeless, especially extremely low-income individuals and families and those who are: likely to become homeless after being discharged from publicly funded institutions and systems of care (such as health care facilities, mental health facilities, foster care and other youth facilities, and corrections programs and institutions); and, receiving assistance from public or private agencies that address housing, health, social services, employment, education, or youth needs

The City will continue to coordinate the operation of housing programs with county and local social service agencies, including the Los Angeles County Department of Public Social Services, the United Way of Greater Los Angeles, the Housing Rights Center, and other nonprofit and public service agencies. The City will also established a homeless outreach program called Montebello Community Assistance Program (MCAP) in FY 2020-2021 to help combat homelessness in the community. In addition, MCAP, with CDBG-CV funding, is currently providing rental and utility assistance to Montebello residents that have been impacted by COVID-19.

Helping homeless persons (especially chronically homeless individuals and families, families with children, veterans and their families, and unaccompanied youth) make the transition to permanent housing and independent living, including shortening the period of time that individuals and families experience homelessness, facilitating access for homeless individuals and families to affordable housing units, and preventing individuals and families who were recently homeless from becoming homeless again

The City of Montebello is established its own homeless program to meet the needs of the homeless population in the City. The MCAP program provided outreach services, motel vouchers, food, and showers for homeless person in the community. In addition, the City continues to coordinate with County agencies including the Los Angeles Homeless Services Agency, Los Angeles County Housing Authority, and the Los Angeles County Community Development Commission.

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CR-30 - Public Housing 91.220(h); 91.320(j)

Actions taken to address the needs of public housing

The City of Montebello has no conventional public housing sites and no resident-based initiative programs.

Actions taken to encourage public housing residents to become more involved in management and participate in homeownership

The City of Montebello has no conventional public housing sites and no resident-based initiative programs.

Actions taken to provide assistance to troubled PHAs

The City supports the efforts of the Housing Authority in making available rental assistance to low-income households through the Section 8 program, but the City has no direct involvement in the ownership or management of public housing.

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CR-35 - Other Actions 91.220(j)-(k); 91.320(i)-(j)

Actions taken to remove or ameliorate the negative effects of public policies that serve as barriers to affordable housing such as land use controls, tax policies affecting land, zoning ordinances, building codes, fees and charges, growth limitations, and policies affecting the return on residential investment. 91.220 (j); 91.320 (i)

In FY 2019-2020, the City of Montebello updated its Housing Element to remove barriers to affordable housing. The City continues to:

- Maintain dialogue with developers, residents, and nonprofit organizations involved in housing projects to assist Montebello in making the best planning, infrastructure, and development decisions.
- Continue to work toward increasing public awareness and acceptance of the need for affordable housing throughout the city.
- Research housing programs and determine feasibility with consideration of the current housing market and funding for programs.

The City of Montebello, through the LA County Housing Authority, offered the following programs during the 2020 – 2021 program year:

- Section 8 Housing Choice Voucher (HCV) Program – The Los Angeles County Housing Authority administers the City of Montebello's Housing Choice Voucher Program, which provides rental assistance to very low-income families, the disabled, and the elderly in order for them to access affordable decent, safe, and sanitary housing in the City of Montebello.
- Housing Rehabilitation and Preservation Program (HRPP) – Provide forgivable loans to eligible Montebello homeowners to rehabilitate their homes. The City is currently in progress with rehabilitating two homes.
- Acquisition & New Construction – The City is currently setting funds aside in order to develop affordable housing in the future.

Actions taken to address obstacles to meeting underserved needs. 91.220(k); 91.320(j)

Like most cities, funding is a major obstacle in meeting the needs of the community. Over the years, community partnerships with county, state, and federal agencies have been integral to meeting the needs of the underserved community. During the 2020 program year, the City provided CDBG funds to improve the City's Senior Center, Fire Department, and streets in eligible CDBG areas. In additional, CDBG-CV funds were provided to several social service organizations to address the needs of those persons that are homeless and those at risk of becoming homeless. Services included emergency housing, food, hygiene and PEE kits.

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During the 2020-2021 fiscal year, the City is implemented an in-house homeless outreach program, known as MCAP. The City of Montebello maintains communication with all registered social service providers located in the city that provide services to the residents. City staff utilizes the list as a method of disseminating information on a timely and equitable basis. The City of Montebello will continue to promote its existing relationships as well as continue to foster new ones to ensure that all the needs of the community are adequately fulfilled.

To address the continuing needs of the underserved community, the City uses the Chamber of Commerce, local newspapers, the City website, and community events to promote all housing and community services and programs citywide to low-income residents of Montebello.

Actions taken to reduce lead-based paint hazards. 91.220(k); 91.320(j)

The City of Montebello provides to the public educational resources related to lead-based paint hazards through the Annual Action Plan, brochures distributed and public announcements. All CDBG- and HOME-funded housing programs and projects have incorporated lead-based paint hazard reduction efforts.

In FY 2020– 2021, actions to evaluate and reduce the number of housing units containing lead-based paint hazards continued to be in place. These efforts will ultimately increase the inventory of lead-safe housing available to extremely low-income, low-income, and moderate-income families.

Actions taken to reduce the number of poverty-level families. 91.220(k); 91.320(j)

Many factors can contribute to persons living at or below the poverty level. Factors such as lack of higher education opportunities, lack of marketable skills, unemployment or underemployment, lack of affordable child care, lack of effective transportation, and lack of affordable housing all contribute to homelessness or persons living in poverty. All of these factors must be addressed to reduce the number of persons living in poverty.

The City provides a listing of public services agencies and homeless resources, and links to social service agencies. In addition, the City supports other government agencies, private developers, and nonprofit agencies that are involved in creating affordable housing and economic opportunities for low- and moderate-income residents. Additionally, using CDBG and most recently, CDBG-CV funds, the City supports local non-profits such as YMCA, Mexican American Opportunity Foundation, Heart of Compassion, and the newly established Montebello Community Assistance Program which strive to address the needs of underserved persons in the community.

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Actions taken to develop institutional structure. 91.220(k); 91.320(j)

The City of Montebello's effort to eliminate institutional gaps and enhance coordination of programs includes the City and nonprofits working closely with other governmental entities to determine the critical needs of households based on limited resources and expanding demand for services. The City continues its outreach efforts through public meetings and public hearings to solicit public and nonprofit agency comments on how the City of Montebello allocates its CDBG funds.

CDBG-CV funds were used during the 2020 – 2021 program year to support a number of city-sponsored and nonprofit public service programs. As part of its grant administration, the City has established a monitoring program to assess its subrecipients' performance in meeting both client needs and in having the capacity to comply with regulatory requirements. During the 2020 – 2021 program year, four public service agencies were monitored, and the City worked closely with subrecipients to ensure complete financial and performance documentation were maintained in the project files.

The City will continue to fund fair housing activities to promote, educate, and enforce fair housing in the community. The city will also continue to coordinate and make referrals to residents regarding affordable housing providers, other local government services, and social service agencies to maximize the effectiveness of planned activities.

Through its federal entitlement and other resources, Montebello interacts with various nonprofit agencies and public service groups in the delivery of programs. These agencies and groups include the following:

- Housing Rights Center
- YMCA
- Heart of Compassion
- Montebello Community Assistance Program
- Mexican American Opportunity Foundation
- Summer Youth Employment Program

Actions taken to enhance coordination between public and private housing and social service agencies. 91.220(k); 91.320(j)

The City of Montebello addresses the homeless need as a participant of the Los Angeles Continuum of Care and by having an active contract with the East San Gabriel Valley Coalition for the Homeless (which provides a variety of services to homeless and at risk for homelessness, including transitional shelter, motel vouchers, food, and counseling).

The City worked to provide shelter and homeless assistance services and through the continued coordination of housing programs with county and local public service agencies, including the Los

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Angeles County Department of Public Social Services, the Housing Rights Center, MCAP and other nonprofit and public service agencies. During the 2020 – 2021 Program year, the city served 457 persons thus far.

Identify actions taken to overcome the effects of any impediments identified in the jurisdictions analysis of impediments to fair housing choice. 91.520(a)

In 2020 the City of Montebello updated its Analysis of Impediments (AI) to Fair Housing Choice. The analysis in the AI demonstrates that residents in Montebello experience housing discrimination often occurs on the bases of disability and familial status. Also, potential discriminatory advertising occurs because some ads discourage disabled people from applying because they state "No Pets" allowed. Disabled people, under the law, may request a reasonable accommodation because they need a service or companion animal.

Actions to remedy these impediments include the following:

1. The City will continue to retain the Housing Rights Center to process housing discrimination complaints.
2. The City's website will post background information on fair housing and how to contact the Housing Rights Center.
3. Educational and outreach materials will be disseminated to residents, local real estate agents, and the on-site apartment managers of the larger apartment communities.
4. The City will amend its agreement with the Housing Rights Center to include a periodic review of newspaper and online advertising. When discriminatory advertising is found, the Housing Rights Center will then contact the on-site manager of the apartment community placing the ad.
5. The City will amend its agreement with the Housing Rights Center to include coordinating with local newspapers to include a statement that disabled people have a right to request a reasonable accommodation for a service or companion animal.

Currently, the City promotes fair housing through its contract with the Housing Rights Center. The Housing Rights Center was founded in 1968 as a nonprofit, non-partisan educational agency dedicated to promoting the enforcement of fair housing laws and encouraging an atmosphere of open housing through education, enforcement activities, counseling services, and outreach programs. The Housing Rights Center is funded as part of the City's CDBG Administration activities. The amount funded for the Fair Housing Program in 2020– 2021 was $20,000.

During FY 2020 – 2021, the Housing Rights Center conducted fair housing workshops via Zoom, distributed outreach materials to publicize events, distributed educational materials, and completed surveys to determine the extent of unfair housing conditions in the city. These efforts were aimed at tenants, homeowners, and landlords. In the instances that complaints are received, the City is referring these individuals to the Housing Rights Center.

CR-40 - Monitoring 91.220 and 91.230

Describe the standards and procedures used to monitor activities carried out in furtherance of the plan and used to ensure long-term compliance with requirements of the programs involved, including minority business outreach and the comprehensive planning requirements

During 2020-2021, City staff and program consultants updated program policies and procedures as well as discussed ways to improve on monitoring and working with subrecipients to ensure compliance with applicable local and federal regulations. New procedures were adopted in September of 2020 for monitoring subrecipient agencies. At the beginning of each program year, City staff met with all CDBG-funded project managers to discuss the reporting requirements and the monitoring plan. Program providers are required, on a quarterly basis, to provide progress reports, which are reviewed for compliance.

During the course of the year, site monitoring reviews are usually held with program providers utilizing the following model.

- A formal monitoring notification letter submitted to subrecipient agencies prior to monitoring.
- An entrance interview being held with key representatives for clarification of the program's purpose, scope, objectives, and goals.
- The review ends with an exit conference to present preliminary results of the monitoring, provide an opportunity to discuss program compliance and reporting concerns, and provide an opportunity for the program provider to report on steps being taken to address areas of non-compliance or non-performance.
- Documentation of the monitoring includes completed monitoring check sheets, supporting documentation, and a final results letter.
- Formal notification of the results of the monitoring review are sent to the program provider, which creates a permanent written record and an outline of any concerns and/or findings, and set a deadline for written response and corrective actions.
- It is the monitor's responsibility to provide the technical assistance needed to ensure that the programs are productive and in compliance with federal regulations.

During the 2020 – 2021 program year, all public service activities are being carried out with CDBG-CV funds. These activities are currently in progress and funds are expected to be fully expended by the 2022. Monitoring will be done during the upcoming year.

Citizen Participation Plan 91.105(d); 91.115(d)

Describe the efforts to provide citizens with reasonable notice and an opportunity to

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comment on performance reports.

The City of Montebello undertook all reporting and planning program requirements in compliance with CDBG and HOME program regulations and citizen participation requirements. Specifically, the City of Montebello:

- City staff attended and participated in City Council meetings and other pertinent meetings.
- City staff attended, when available, HUD workshops and trainings for staff development and capacity building

Public participation related to the year-end CAPER report has been encouraged in compliance with the citizen participation requirements of the City of Montebello Citizen Participation Plan. A notice was published on August 12, 2021, announcing the availability of the CAPER for public review for a 15-day comment period from August 25, 2012 to September 8, 2021. The report was made available for review at the City of Montebello lobby and the City website at, https://www.CityOfMontebello.com. Comments received will be incorporated into the final document.

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CR-45 - CDBG 91.520(c)

Specify the nature of, and reasons for, any changes in the jurisdiction's program objectives and indications of how the jurisdiction would change its programs as a result of its experiences.

There were no changes in program objectives.

Does this Jurisdiction have any open Brownfields Economic Development Initiative (BEDI) grants?

No

[BEDI grantees] Describe accomplishments and program outcomes during the last year.

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CR-50 - HOME 91.520(d)

Include the results of on-site inspections of affordable rental housing assisted under the program to determine compliance with housing codes and other applicable regulations

Please list those projects that should have been inspected on-site this program year based upon the schedule in §92.504(d). Indicate which of these were inspected and a summary of issues that were detected during the inspection. For those that were not inspected, please indicate the reason and how you will remedy the situation.

The city is in the process of re-certifying the tenant at 2917 Via Campo. The recertification will consist of an on-site property inspection and income qualification.

Provide an assessment of the jurisdiction's affirmative marketing actions for HOME units. 92.351(b)

According to HOME Regulations, HOME funded rental housing projects consisting of five or more assisted units must include and adhere to affirmative marketing procedures and requirements. For each HOME project the City undertakes, the requirement is triggered and an affirmative marketing plan is developed. Each Affirmative Marketing Plan includes the following:

- List of methods to inform the public, owners and potential tenants about fair housing laws and City's marketing policy:

- Description of the efforts that will be made to conduct affirmative market housing units assisted with HOME funds. Owners and leasing agents will place advertisements to market HOME assisted units through local sources, public agencies and social service organizations;

- Description of outreach efforts to people not likely to apply for housing without special outreach. These efforts will include the distribution of marketing materials to organizations that likely have contact with these populations;

- Maintenance of records to document actions taken to affirmatively market HOME assisted units and to assess marketing effectiveness; and

- Description of actions that will be taken if requirements are not met.

During site visits, overall performance related to fair housing and non-discrimination is monitored to ensure fair housing compliance.

The City did not complete any HOME projects during FY 20-21. There is no information to report in this section.

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Refer to IDIS reports to describe the amount and use of program income for projects, including the number of projects and owner and tenant characteristics

The City of Montebello received $143,853 in HOME Program Income during the reporting fiscal year.

Describe other actions taken to foster and maintain affordable housing. 91.220(k) (STATES ONLY: Including the coordination of LIHTC with the development of affordable housing). 91.320(j)

The City of Montebello implements the following actions to foster and maintain affordable housing:

- Coordination with all housing authorities to allow Section 8 Housing Choice Voucher portability
- Updated the Housing Element
- Began the General Plan Update
- Infrastructure improvements
- Fair Housing programs

The City continued to refer clients to the Los Angeles County Housing Authority as needs were identified for affordable housing. The City continues to be contacted by Montebello households that are in need of rental assistance through the Section 8 program.

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Attachments

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Public Notice

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COPY OF NOTICE

Notice Type: HRG NOTICE OF HEARING

Ad Description: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR THE PERIOD

To the right is a copy of the notice you sent to us for publication in the WHITTIER DAILY NEWS. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

08/12/2021

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CITY OF MONTEBELLO CITY COUNCIL
NOTICE OF PUBLIC COMMENT PERIOD AND OF A PUBLIC HEARING REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR THE PERIOD JULY 1, 2020 TO JUNE 30, 2021

PUBLIC HEARING INFORMATION:
Date: Wednesday, September 8, 2021
Time: 6:30 p.m. or as soon thereafter as the matter may be heard
Place: City Hall Council Chambers, 1600 W. Beverly Blvd., Montebello, CA 90640

PROJECT DESCRIPTION: The City of Montebello is a recipient of Community Development Block Grant (CDBG) and Home Investment Partnership Program (HOME) funds. These funds are awarded to the City by the United States Department of Housing and Urban Development (HUD). For the City to receive these funds, the City is required to prepare a Five-Year Consolidated Plan as well as an Annual Action Plan outlining the planned use of CDBG and HOME funds. At the conclusion of the fiscal year, the city must prepare a year-end performance report known as the CAPER. The 2020-2021 CAPER covers the period of July 1, 2020, through June 30, 2021, and provides a summary of activities undertaken within CDBG and HOME funds during the report period.

Public Review and Comment Period: The draft 2020-2021 CAPER will be available for public review and comment for fifteen (15) days beginning on August 25th. This document will be available for public review on the City of Montebello's website at **https://www.CityOfMontebello.com.**

Members of the public wishing to make public comments may do so via email to the City Clerk at the following email: ccpubliccomment@cityofmontebello.com.

For more information, you can contact the Housing Division at 323-887-1424.

GENERAL INFORMATION: As authorized by the Governor's Executive Order No. N- 29-20, those interested in making public comments at the City Council meeting, may call up until the day of the meeting, on Wednesday, September 8, 2021, between 7:30 a.m. – 3:30 p.m. at (323)

* A 0 0 0 0 0 5 7 9 3 0 9 9 *

PR-26 Reports

DRAFT

PART I: SUMMARY OF CDBG RESOURCES	
01 UNEXPENDED CDBG FUNDS AT END OF PREVIOUS PROGRAM YEAR	0.00
02 ENTITLEMENT GRANT	665,245.00
03 SURPLUS URBAN RENEWAL	0.00
04 SECTION 108 GUARANTEED LOAN FUNDS	0.00
05 CURRENT YEAR PROGRAM INCOME	493,785.06
05a CURRENT YEAR SECTION 108 PROGRAM INCOME (FOR SI TYPE)	0.00
06 FUNDS RETURNED TO THE LINE-OF-CREDIT	26,028.29
06a FUNDS RETURNED TO THE LOCAL CDBG ACCOUNT	0.00
07 ADJUSTMENT TO COMPUTE TOTAL AVAILABLE	0.00
08 TOTAL AVAILABLE (SUM, LINES 01-07)	1,185,058.35
PART II: SUMMARY OF CDBG EXPENDITURES	
09 DISBURSEMENTS OTHER THAN SECTION 108 REPAYMENTS AND PLANNING/ADMINISTRATION	38,995.03
10 ADJUSTMENT TO COMPUTE TOTAL AMOUNT SUBJECT TO LOW/MOD BENEFIT	0.00
11 AMOUNT SUBJECT TO LOW/MOD BENEFIT (LINE 09 + LINE 10)	38,995.03
12 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	227,741.85
13 DISBURSED IN IDIS FOR SECTION 108 REPAYMENTS	0.00
14 ADJUSTMENT TO COMPUTE TOTAL EXPENDITURES	0.00
15 TOTAL EXPENDITURES (SUM, LINES 11-14)	266,736.88
16 UNEXPENDED BALANCE (LINE 08 - LINE 15)	918,321.47
PART III: LOWMOD BENEFIT THIS REPORTING PERIOD	
17 EXPENDED FOR LOW/MOD HOUSING IN SPECIAL AREAS	0.00
18 EXPENDED FOR LOW/MOD MULTI-UNIT HOUSING	0.00
19 DISBURSED FOR OTHER LOW/MOD ACTIVITIES	38,995.03
20 ADJUSTMENT TO COMPUTE TOTAL LOW/MOD CREDIT	0.00
21 TOTAL LOW/MOD CREDIT (SUM, LINES 17-20)	38,995.03
22 PERCENT LOW/MOD CREDIT (LINE 21/LINE 11)	100.00%
LOW/MOD BENEFIT FOR MULTI-YEAR CERTIFICATIONS	
23 PROGRAM YEARS(PY) COVERED IN CERTIFICATION	PY: PY: PY:
24 CUMULATIVE NET EXPENDITURES SUBJECT TO LOW/MOD BENEFIT CALCULATION	0.00
25 CUMULATIVE EXPENDITURES BENEFITING LOW/MOD PERSONS	0.00
26 PERCENT BENEFIT TO LOW/MOD PERSONS (LINE 25/LINE 24)	0.00%
PART IV: PUBLIC SERVICE (PS) CAP CALCULATIONS	
27 DISBURSED IN IDIS FOR PUBLIC SERVICES	38,995.03
28 PS UNLIQUIDATED OBLIGATIONS AT END OF CURRENT PROGRAM YEAR	0.00
29 PS UNLIQUIDATED OBLIGATIONS AT END OF PREVIOUS PROGRAM YEAR	0.00
30 ADJUSTMENT TO COMPUTE TOTAL PS OBLIGATIONS	0.00
31 TOTAL PS OBLIGATIONS (LINE 27 + LINE 28 - LINE 29 + LINE 30)	38,995.03
32 ENTITLEMENT GRANT	665,245.00
33 PRIOR YEAR PROGRAM INCOME	0.00
34 ADJUSTMENT TO COMPUTE TOTAL SUBJECT TO PS CAP	0.00
35 TOTAL SUBJECT TO PS CAP (SUM, LINES 32-34)	665,245.00
36 PERCENT FUNDS OBLIGATED FOR PS ACTIVITIES (LINE 31/LINE 35)	5.86%
PART V: PLANNING AND ADMINISTRATION (PA) CAP	
37 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	227,741.85
38 PA UNLIQUIDATED OBLIGATIONS AT END OF CURRENT PROGRAM YEAR	0.00
39 PA UNLIQUIDATED OBLIGATIONS AT END OF PREVIOUS PROGRAM YEAR	0.00
40 ADJUSTMENT TO COMPUTE TOTAL PA OBLIGATIONS	0.00
41 TOTAL PA OBLIGATIONS (LINE 37 + LINE 38 - LINE 39 +LINE 40)	227,741.85
42 ENTITLEMENT GRANT	665,245.00
43 CURRENT YEAR PROGRAM INCOME	493,785.06
44 ADJUSTMENT TO COMPUTE TOTAL SUBJECT TO PA CAP	0.00
45 TOTAL SUBJECT TO PA CAP (SUM, LINES 42-44)	1,159,030.06
46 PERCENT FUNDS OBLIGATED FOR PA ACTIVITIES (LINE 41/LINE 45)	19.65%

LINE 17 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 17

Report returned no data.

LINE 18 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 18

Report returned no data.

LINE 19 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 19

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2019	8	469	6419630	Summer Youth Employment Program	05H	LMC	$15,456.39
					05H	Matrix Code	$15,456.39
2018	5	454	6418094	ESGV Coalition for the Homeless	05M	LMC	$9,288.66
2019	5	466	6418094	East San Gabriel Valley Coalition for the Homeless	05M	LMC	$4,341.98
2019	5	466	6419630	East San Gabriel Valley Coalition for the Homeless	05M	LMC	$1,408.00
2019	6	467	6418094	Heart of Compassion	05M	LMC	$2,125.00
2019	6	467	6419630	Heart of Compassion	05M	LMC	$4,250.00
2019	6	467	6432166	Heart of Compassion	05M	LMC	$2,125.00
					05M	Matrix Code	$23,538.64
Total							$38,995.03

LINE 27 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 27

Plan Year	IDIS Project	IDIS Activity	Voucher Number	**Activity to prevent, prepare for, and respond to Coronavirus**	Activity Name	**Grant Number**	**Fund Type**	Matrix Code	National Objective	**Drawn Amount**
2019	8	469	6419630	No	Summer Youth Employment Program	B19MC060555	EN	05H	LMC	$15,456.39
								05H	Matrix Code	$15,456.39
2018	5	454	6418094	No	ESGV Coalition for the Homeless	B18MC060555	EN	05M	LMC	$9,288.66
2019	5	466	6418094	No	East San Gabriel Valley Coalition for the Homeless	B19MC060555	EN	05M	LMC	$4,341.98
2019	5	466	6419630	No	East San Gabriel Valley Coalition for the Homeless	B19MC060555	EN	05M	LMC	$1,408.00
2019	6	467	6418094	No	Heart of Compassion	B19MC060555	EN	05M	LMC	$2,125.00
2019	6	467	6419630	No	Heart of Compassion	B19MC060555	EN	05M	LMC	$4,250.00
2019	6	467	6432166	No	Heart of Compassion	B19MC060555	EN	05M	LMC	$2,125.00
								05M	Matrix Code	$23,538.64
				No	Activity to prevent, prepare for, and respond to Coronavirus					$38,995.03
Total										$38,995.03

LINE 37 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 37

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	**Drawn Amount**
2018	2	451	6430439	General Program Administration - CDBG	21A		$87,721.00
2019	2	463	6418094	CDBG Planning & Administration	21A		$18,043.75
2019	2	463	6419630	CDBG Planning & Administration	21A		$81,977.10
					21A	Matrix Code	$187,741.85
2018	3	452	6418095	Fair Housing Program	21D		$20,000.00
2019	3	464	6418094	Southern California Housing Rights Center	21D		$20,000.00
					21D	Matrix Code	$40,000.00
Total							$227,741.85

PART I: SUMMARY OF CDBG-CV RESOURCES	
01 CDBG-CV GRANT	910,151.00
02 FUNDS RETURNED TO THE LINE-OF-CREDIT	0.00
03 FUNDS RETURNED TO THE LOCAL CDBG ACCOUNT	0.00
04 TOTAL AVAILABLE (SUM, LINES 01-03)	910,151.00
PART II: SUMMARY OF CDBG-CV EXPENDITURES	
05 DISBURSEMENTS OTHER THAN SECTION 108 REPAYMENTS AND PLANNING/ADMINISTRATION	96,201.28
06 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	19,219.54
07 DISBURSED IN IDIS FOR SECTION 108 REPAYMENTS	0.00
08 TOTAL EXPENDITURES (SUM, LINES 05 - 07)	115,420.82
09 UNEXPENDED BALANCE (LINE 04 - LINE8)	794,730.18
PART III: LOWMOD BENEFIT FOR THE CDBG-CV GRANT	
10 EXPENDED FOR LOW/MOD HOUSING IN SPECIAL AREAS	0.00
11 EXPENDED FOR LOW/MOD MULTI-UNIT HOUSING	0.00
12 DISBURSED FOR OTHER LOW/MOD ACTIVITIES	96,201.28
13 TOTAL LOW/MOD CREDIT (SUM, LINES 10 - 12)	96,201.28
14 AMOUNT SUBJECT TO LOW/MOD BENEFIT (LINE 05)	96,201.28
15 PERCENT LOW/MOD CREDIT (LINE 13/LINE 14)	100.00%
PART IV: PUBLIC SERVICE (PS) CALCULATIONS	
16 DISBURSED IN IDIS FOR PUBLIC SERVICES	96,201.28
17 CDBG-CV GRANT	910,151.00
18 PERCENT OF FUNDS DISBURSED FOR PS ACTIVITIES (LINE 16/LINE 17)	10.57%
PART V: PLANNING AND ADMINISTRATION (PA) CAP	
19 DISBURSED IN IDIS FOR PLANNING/ADMINISTRATION	19,219.54
20 CDBG-CV GRANT	910,151.00
21 PERCENT OF FUNDS DISBURSED FOR PA ACTIVITIES (LINE 19/LINE 20)	2.11%

LINE 10 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 10

Report returned no data.

LINE 11 DETAIL: ACTIVITIES TO CONSIDER IN DETERMINING THE AMOUNT TO ENTER ON LINE 11

Report returned no data.

LINE 12 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 12

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2020	9	475	6528665	CV - MONTEBELLO COMMUNITY ASSISTANCE PROGRAM (MCAP)	03T	LMC	$86,826.28
	16	478	6528665	CV- Hearts of Compassion (HOC	05Z	LMC	$9,375.00
Total							**$96,201.28**

LINE 16 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 16

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2020	9	475	6528665	CV - MONTEBELLO COMMUNITY ASSISTANCE PROGRAM (MCAP)	03T	LMC	$86,826.28
	16	478	6528665	CV- Hearts of Compassion (HOC	05Z	LMC	$9,375.00
Total							**$96,201.28**

LINE 19 DETAIL: ACTIVITIES INCLUDED IN THE COMPUTATION OF LINE 19

Plan Year	IDIS Project	IDIS Activity	Voucher Number	Activity Name	Matrix Code	National Objective	Drawn Amount
2020	10	482	6528665	CV- Planning and Administration (CDBG-CV)	21A		$19,219.54
Total							**$19,219.54**

PR26 - Activity Summary by Selected Grant
Date Generated: 08/19/2021
Grantee: MONTEBELLO
Grant Year: 2020
Formula and Competitive Grants only, CARES Act Grants only

Total Grant Amount for 2020 Grant year = $910,151.00														
State	Grantee Name	Grant Year	Grant Number	Activity Group	Matrix Code	National Objective	IDIS Activity	Activity to prevent, prepare for, and respond to Coronavirus	Activity Status	Amount Funded From Selected Grant	Amount Drawn From Selected Grant	% of CDBG Drawn From Selected Grant/Grant	Total CDBG Funded Amount (All Years All Sources)	Total CDBG Drawn Amount (All Years All Sources)
CA	MONTEBELLO	2020	B20MC060555	Administrative And Planning	21A		479	No	Open	$77,988.00	$0.00		$191,705.00	$70,422.43
CA	MONTEBELLO	2020	B20MC060555	Administrative And Planning	21D		472	No	Open	$0.00	$0.00		$20,000.00	$20,000.00
CA	MONTEBELLO	2020	B20MW060555	Administrative And Planning	21A		482	Yes	Open	$162,029.00	$19,219.54		$162,029.00	$19,219.54
				Total Administrative And Planning						$240,017.00	$19,219.54	2.11%	$373,734.00	$109,641.97
CA	MONTEBELLO	2020	B20MC060555	Public Improvements	03A	LMC	486	No	Open	$0.00	$0.00		$195,554.79	
CA	MONTEBELLO	2020	B20MC060555	Public Improvements	03K	LMA	484	No	Open	$152,194.48	$0.00		$224,876.21	$66,379.50
CA	MONTEBELLO	2020	B20MC060555	Public Improvements	03O	LMA	485	No	Open	$435,062.52	$0.00		$465,084.36	$6,616.00
				Total Public Improvements						$587,257.00	$0.00	0.00%	$885,515.36	$72,995.50
CA	MONTEBELLO	2020	B20MW060555	Public Services	03T	LMC	475	Yes	Open	$313,122.00	$86,826.28		$313,122.00	$86,826.28
CA	MONTEBELLO	2020	B20MW060555	Public Services	05Z	LMC	473	Yes	Open	$25,000.00	$0.00		$25,000.00	
CA	MONTEBELLO	2020	B20MW060555	Public Services	05Z	LMC	476	Yes	Open	$290,000.00	$0.00		$290,000.00	
CA	MONTEBELLO	2020	B20MW060555	Public Services	05Z	LMC	477	Yes	Open	$25,000.00	$0.00		$25,000.00	
CA	MONTEBELLO	2020	B20MW060555	Public Services	05Z	LMC	478	Yes	Open	$25,000.00	$9,375.00		$25,000.00	$9,375.00
CA	MONTEBELLO	2020	B20MW060555	Public Services	05Z	LMC	481	Yes	Open	$10,000.00	$0.00		$10,000.00	
				CARES Related Public Services						$688,122.00	$96,201.28	10.57%	$688,122.00	$96,201.28
CA	MONTEBELLO	2020	B20MC060555	Repayments Of Section 108 Loans	19F		474	No	Open	$0.00	$0.00		$462,221.00	$462,220.33
				Total Repayments Of Section 108 Loans						$0.00	$0.00	0.00%	$462,221.00	$462,220.33
				Total 2020						$1,515,396.00	$115,420.82	12.68%	$2,409,592.36	$741,059.08
				Grand Total						$1,515,396.00	$115,420.82	7.33%	$2,409,592.36	$741,059.08

ATTACHMENT C

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JOANN PANOSIAN
CITY OF MONTEBELLO/PLANNING
1600 W BEVERLY BLVD
MONTEBELLO, CA 90640

CNS 3499389

COPY OF NOTICE

Notice Type: HRG NOTICE OF HEARING

Ad Description: COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR THE PERIOD

To the right is a copy of the notice you sent to us for publication in the WHITTIER DAILY NEWS. Please read this notice carefully and call us with any corrections. The Proof of Publication will be filed with the County Clerk, if required, and mailed to you after the last date below. Publication date(s) for this notice is (are):

08/12/2021

An invoice will be sent after the last date of publication. If you prepaid this order in full, you will not receive an invoice.

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CITY OF MONTEBELLO CITY COUNCIL
NOTICE OF PUBLIC COMMENT PERIOD AND OF A PUBLIC HEARING REGARDING COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) CONSOLIDATED ANNUAL PERFORMANCE AND EVALUATION REPORT (CAPER) FOR THE PERIOD JULY 1, 2020 TO JUNE 30, 2021

PUBLIC HEARING INFORMATION:
Date: Wednesday, September 8, 2021
Time: 6:30 p.m. or as soon thereafter as the matter may be heard
Place: City Hall Council Chambers, 1600 W. Beverly Blvd., Montebello, CA 90640

PROJECT DESCRIPTION: The City of Montebello is a recipient of Community Development Block Grant (CDBG) and Home Investment Partnership Program (HOME) funds. These funds are awarded to the City by the United States Department of Housing and Urban Development (HUD). For the City to receive these funds, the City is required to prepare a Five-Year Consolidated Plan as well as an Annual Action Plan outlining the planned use of CDBG and HOME funds. At the conclusion of the fiscal year, the city must prepare a year-end performance report known as the CAPER. The 2020-2021 CAPER covers the period of July 1, 2020, through June 30, 2021, and provides a summary of activities undertaken within CDBG and HOME funds during the report period.

Public Review and Comment Period: The draft 2020-2021 CAPER will be available for public review and comment for fifteen (15) days beginning on August 25th. This document will be available for public review on the City of Montebello's website at **https://www.CityOfMontebello.com.**

Members of the public wishing to make public comments may do so via email to the City Clerk at the following email: ccpubliccomment@cityofmontebello.com.

For more information, you can contact the Housing Division at 323-887-1424.

GENERAL INFORMATION: As authorized by the Governor's Executive Order No. N- 29-20, those interested in making public comments at the City Council meeting, may call up until the day of the meeting, on Wednesday, September 8, 2021, between 7:30 a.m. – 3:30 p.m. at (323)

887-1359. Staff will complete public comment cards, and the public will be called during the City Council meeting – Closed Session begins at 5:30 p.m. and Regular Session begins at 6:30 p.m. The exact call-back time is not predictable due to the nature of the City Council agenda. As a result, you must be available until the end of the meeting to receive a live call from staff during the meeting. In addition, the City has created an email address, ccpubliccomment@cityofmontebello.com., where the public can submit public comments up until the day of the meeting, Wednesday, September 8, 2021, between 7:30 a.m.- 3:30 p.m.: These comments will be read out loud and submitted for the record. Any requests to provide public comment which is submitted after the deadlines indicated above will not be addressed at the council meeting, with the exception of non-agenda item comments which will be held over to the next regularly scheduled meeting. This notice is provided in accordance with Government Code Sections 65867, 65090 and 65091.
8/12/21
CNS-3499389#
WHITTIER DAILY NEWS

ITEM # 12

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and Members of the City Council

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

BY: David Sosnowski, Director of Recreation and Community Services

SUBJECT: Authorization to Host a Health Fair and 5K Run

DATE: September 8, 2021

RECOMMENDATION (S):

It is recommended that the City Council:

1) Authorize staff to schedule and host a Health Fair and 5K Run; and

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

FISCAL IMPACT

At the August 24, 2021 City Council meeting and as a part of City Council Oral Reports, Councilmember Peralta made reference to and offered support for the City to host a Health Fair and 5K Run in partnership with the Mexican American Opportunity Fund (MAOF).

In order to host the Health Fair and 5K Run, staff are estimating costs of Twenty Thousand Dollars ($20,000). This un-budgeted amount covers estimated costs for staffing including members of the Recreation and Community Services Department, Public Affairs Division, Public Works Department, Fire Department and Police Department. The cost would additionally cover street closures, portable restrooms, trash cans, generators, equipment rentals, traffic control plans, and various other costs related to the event.

The staffing costs will accrue to various departments based on the staff assisting (i.e., Parks and Recreation, Public Works, Police, etc.). Staff will review actual expenditures after the event and compare trends with the adopted Fiscal Year 2021-22 budget. If necessary, budget adjustments will be made to the appropriate Department's accounts at a future quarterly budget update.

BACKGROUND

At the August 24, 2021 City Council meeting and as a part of City Council Oral Reports, Councilmember Peralta made reference to and offered support for the City to host a Health Fair and 5K Run in partnership with the Mexican American Opportunity Fund (MAOF). MAOF has partnered with several cities to host similar events that promote wellness in the community.

The City's responsibility would include the 5K Run, set-up and clean-up assistance, event security costs, promotion of the event, street closures, fire inspections and fees, police personnel, and financial support for supplies and rental equipment. Staff is proposing for the event to take place at the Shops of Montebello on Saturday, November 20, 2021 from 8:00 a.m. to 1:00 p.m. This event has not been approved by mall leadership and an alternate site may be necessary in case the mall is not available. The event would begin with a 5K Run for registered participants and be followed by a Health Fair open to the public. The Health Fair is anticipated to include health screenings, health information, activities for children, vendors, and entertainment coordinated by MAOF.

SUMMARY

That the City Council authorize staff to proceed with scheduling and hosting a Health Fair and 5K Run and appropriate funding for the event in partnership with MAOF.

ATTACHMENT (S):

A. NONE

ITEM # 13

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: **Authorization to Issue a Request for Proposals (RFP No. 21-19) for Engineering Services to Assist with the Development of a Systemic Safety Analysis Report Program (SSARP)**

DATE: September 8, 2021

RECOMMENDATION

It is recommended that the City Council:

1) Authorize City Staff to issue a Request for Proposals (RFP No. 21-19) for engineering services to assist with the development of a Systemic Safety Analysis Report Program (SSARP); and

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

FISCAL IMPACT

As part of the Fiscal Year 2021-22 Capital Improvement Program (CIP) Budget, approved by the City Council at the June 23, 2021 meeting, a total amount of $250,000 was allocated for the development of a Systemic Safety Analysis Report Program. This consists of a State Grant in the amount of $225,000 (Fund 265) and Gas Tax (Fund 200) in the amount of $25,000. The Program is fully funded at this time and no additional appropriations are recommended.

BACKGROUND

In February 2018, the City of Montebello was awarded a SSARP State grant in the amount of $225,000 under the Highway Safety Improvement Program (HSIP). The intent of the program is to assist local agencies in performing a network collision analysis, identifying safety issues on their roadway networks, and developing a list of

systemic low-cost countermeasures that can be used to prepare future HSIP and other safety program applications for grant funding opportunities. The HSIP grant program encourages data driven approaches to identify effective approaches to address safety issues that are specific to an applicant's roadway system.

The goal of this SSARP is to proactively evaluate the City of Montebello's roadway network using a defined set of criteria as listed in the scope of work. The analysis includes review of crash history on an aggregate basis to identify high-risk roadway characteristics, rather than looking at only high-collision concentration locations.

The results documented in this SSARP will provide and identify high benefit-cost ratio safety projects that will be competitive for future HSIP grant cycles. The call-for-projects cycle for the HSIP program is typically a one to two year interval.

SUMMARY

Upon approval by the City Council of the recommended actions, staff will publish RFP No. 21-19 and administer the scoring and selection process. Staff will recommend the approval of the selected firm and recommend the award of a contract at a subsequent City Council meeting.

ATTACHMENT

A. Attachment A - Request for Proposals (RFP No. 21-19)

ATTACHMENT A

CITY OF MONTEBELLO

REQUEST FOR PROPOSAL (RFP)

SYSTEMIC SAFETY ANALYSIS REPORT (SSAR)

PROJECT #SSARPL-5247(027)

RFP No. 21-19

FOR

CITY OF MONTEBELLO, CALIFORNIA

Deadline for Submission: October 7, 2021 at 5:00 PM

City of Montebello

Public Works Department

Attn: Albert Mendoza, PE, Deputy Director of Public Works

Email: amendoza@cityofmontebello.com

City Website: https://cityofmontebello.com

REQUEST FOR PROPOSALS

SYSTEMIC SAFETY ANALYSIS REPORT (SSAR)

PROJECT #SSARPL-5247(027)

RFP No. 21-19

FOR

THE CITY OF MONTEBELLO

In order to be considered in the selection process, interested parties shall submit an electronic proposal and Fee thru PlanetBids no later than **5:00 PM, October 7, 2021**:

Attn: Albert Mendoza, PE,

Deputy Director of Public Works

City of Montebello

1600 West Beverly Boulevard

Montebello, CA 90640

E-mail: amendoza@cityofmontebello.com

INTRODUCTION

The City of Montebello, California (hereinafter referred to as "City") is seeking to enter into a professional services agreement with a qualified and experienced firm to provide services to develop a Systemic Safety Analysis Report (SSAR) in accordance with the policies and procedures of the Systemic Safety Analysis Report Program (SSARP) guidelines from Caltrans as listed in this RFP.

Proposals should include information demonstrating Consultant's expertise and past performance conducting similar analyses and/or submitting applications for funding to the State Highway Safety Improvement Program (HSIP).

Montebello is a city in Los Angeles County, located in the southwestern area of San Gabriel Valley and is approximately 8 miles east of downtown Los Angeles. Within its 8.33 Square mile radius, Montebello has approximately 80 traffic signals and a population of about 62,000.

PROJECT DESCRIPTION AND BACKGROUND

The City of Montebello applied for and was awarded SSAR state funding under the Highway Safety Improvement Program (HSIP) for this project. The intent of the program is to assist local agencies in performing a network collision analysis, identifying safety issues on their roadway networks, and developing a list of systemic low-cost countermeasures that can be used to prepare future HSIP and other safety program applications. The HSIP grant program encourages data driven approaches to identify effective approaches to address safety issues that are specific to their roadways.

The goal of this SSAR is to proactively evaluate the City's roadway networks using a define set of criteria as listed in the scope of work. The analysis includes review of crash history on an aggregate basis to identify high-risk roadway characteristics, rather than looking at only high-collision concentration locations.

The results documented in this SSAR will provide and identify high benefit-cost ratio safety project that will be competitive for future HSIP grant cycles.

GENERAL INFORMATION

ANTICIPATED SCHEDULE

▪ Release of RFP	September 15, 2021
▪ Deadline for Questions	September 29, 2021 at 12:00 PM
▪ Proposal due date	October 7, 2021 at 5:00 PM
▪ Conduct interview(s)	November 2021 (As-Needed)
▪ Anticipated award date	January 2022
▪ Anticipated start date	February 2022

QUESTIONS

This request is issued for the City by the Public Works Department. All questions regarding this Request for Proposals shall be submitted thru PlanetBids and are due before the indicated deadline.

No oral questions or inquires about this RFP shall be accepted. All questions and clarifications to this RFP will be answered together in an addendum.

The Request for Proposal and other contract documents may be examine and/or downloaded on https://www.cityofmontebello.com/rfp-bids/bid-opportunities.html for free.

Addenda - Any subsequent changes in the RFP from the date of issuance to the date of submittal will result in an addendum by the issuing office to those parties who have provided the proper notice of interest in responding to the RFP.

Any proposals received prior to the time and date specified above may be withdrawn or modified by written request of the Consultant. However, the City must be notified of an intent to withdraw or modify 72 hours in advance and a modified submittal must be received prior to the due date and time to be considered.

This RFP does not commit the City to award a contract, to pay any costs incurred in the preparation of a proposal for this request, or to procure or contract for services. The City reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified Consultant, or to modify or cancel in part or in its entirety the RFP if it is in the best interests of the City to do so. Furthermore, a contract award may not be made based solely on price.

The prospective Consultant is advised that should this RFP result in recommendation for award of a contract, the contract will not be in force until it is approved and fully executed by the City. All products used or developed in the execution of any contract resulting from this RFP will remain in the public domain at the completion of the contract.

SCOPE OF WORK

The Systemic Safety Analysis Report (SSAR) will provide the basis for systemic implementation of safety measures along primary corridors (major arterials and collectors) throughout the City. The SSAR should be a document that identifies several proactive safety measures based on current crash trends, which will improve the overall safety for all roadway users. The Consultant will develop a prioritized list of proposed safety improvements and activities for the street network based on high risk roadway characteristics.

The primary objectives of the completed SSAR are to:

A. Analyze crash data (at least 3 years) to determine crash patterns by location, type of crash, roadway/intersection types, roadway characteristics, types of road users, and any circumstance of the crash which would lead to potential countermeasure identification. In addition, analyze roadway characteristics to determine the risk factors associated with nominal safety design to aid in potential countermeasure identification and strategies.

    1. Crash trends and crash concentrations should be analyzed based on overall numbers, identifying the leading causes of fatalities and severe injuries. Data analysis results should be reported in numbers and rates and include trend information to determine patterns. The Local Roadway Safety Manual (LRSM) for California should be referenced.

    2. Analyze citywide crash data to determine the top 10 crash types responsible for fatalities and severe injuries, the top 10 high risk corridors and top 20 intersections responsible for fatalities and severe injuries.

B. Develop a listing of potential countermeasures based on safety issues through systemic analysis and discussions with City staff. Participants in these discussions should include, but not be limited to, representatives of 4 E's of roadway safety: Engineering, Education, Enforcement and Emergency Services and all possible treatments, including driver behavior modification should be considered. The LRSM should be referenced.

C. Develop the Systemic Safety Analysis Report. This document will summarize the existing conditions, list safety projects identified as having a high potential for crashes in a prioritized manner by location, and recommend strategies for improving safety throughout the City. Any non-engineering countermeasures should also be documented and included within the final report to provide a basis for should the City to pursue resources to support additional non-infrastructure programs at a later date.

D. Develop a prioritized list and detailed scope for top 3 priority projects (per the SSAR Guidelines) to apply for future HSIP Cycle funds. The scope will include vicinity/location map, preliminary engineering and design, countermeasures being applied, crash data and diagrams, benefits summary, Benefit/Cost ratio calculations and project narrative.

    To prepare for development of this list the following should be reviewed:

    a. California Strategic Highway Safety Plan (the most recent edition) to ensure recommendations and compliance.
    b. The City's five-year Capital Improvement Program and Budget to determine the feasibility of recommended projects and any corresponding timelines of current/proposed projects.

Specifically, the Consultant selected will be required to complete the following tasks listed. The Consultant should review the details associated with the specific tasks and propose their approach for delivering on each of these items. **The Consultant is encouraged to provide input on specific items they believe may be delivered more effectively than proposed in each Task.**

Task 1 – Project Management
Task 2 – Document Review and Data Collection
Task 3 – Safety Analysis and Countermeasures
Task 4 – Develop Priority Safety Projects
Task 5 – Draft Systemic Safety Analysis Report
Task 6 – Preliminary Engineering Design (30% Design Plans)
Task 7 – Final Systemic Safety Analysis Report
Task 8 – Assist with preparation of upcoming HSIP Application(s) – OPTIONAL

Task 1. Project Management

a) The Consultant shall designate a Project Manager to oversee all aspects and day-to-day operations of the project, including ensuring the scope of services are completed in a timely and professional manner; preparing and implementing a project schedule; oversee progress meetings; ensure the project meets all federal, state, and local design requirements; report directly to the City Project Manager; ensure all appropriate communications, correspondence, and reports are completed in a timely manner; arrange and participate in a detailed review of Project; coordinate and ensure all stakeholders are included where needed.

b) The Consultant should include any efforts to coordinate the project with City staff and attend project meetings. Project meetings are intended to assess the process being used and results being generated, and to identify opportunities for improvement prior to the next project task. A total of **four (4) project meetings** are anticipated. The Consultant will provide draft and final meeting agendas and minutes for the project meetings.

Task 2. Document Review and Data Collection

a) The Consultant will conduct a search and review of currently available documents regarding the transportation system, and traffic safety analysis within the City and adjacent jurisdictions, if applicable.

b) Review the City's Capital Improvement Program, Traffic Data, General Plan, applicable Engineering Design Standards, and any other documents which may impact the recommendations of the SSAR.

c) The Consultant shall analyze the last three to five years of the most current crash data from the California I-SWITRS database or the UC Berkeley Transportation Injury Mapping System (TIMS), and including and supplemental data from the City.
d) Analysis shall include details of the City's highest occurring crash types, high risk corridors and intersections and identified countermeasures with a prioritized list of projects. The analysis and results should be compiled into a report along with any necessary supporting documentation.

e) Consultant shall obtain roadway characteristic to include, but not be limited to, classification, types of users, pavement surface condition, travel lane, median and shoulder type and width, presence of driveways, intersection control, traffic volume, and degree of curve and location if needed to perform analysis of countermeasures. Existing roadway infrastructure should be evaluated for compliance with minimum safety standards for traffic control devices (signs, breakaway support, signals, pavement marking, protective barriers, etc.) using the latest version of the California Manual on Uniform Traffic Control Devices (CA-MUTCD), Caltrans Highway Design Manual, Caltrans Standard Plans and other applicable standards. Geometric standards should be evaluated as it relates to sight distance, curve radius, and intersection skew angle and roadway standards for lane width, shoulder width, clear recovery zone, and super-elevation, etc.

Task 3. Safety Analysis and Countermeasures

a) The Consultant will utilize crash data to identify locations and/or corridors that have a high potential for collisions, conduct an analysis that can produce predominant roadway crash types, and identify roadway features that may have caused collisions to occur.

b) Roadway characteristics will be analyzed to determine the risk factors associated with nominal safety design. Based upon the issues identified, a list of potential high-risk locations will be developed through the systemic safety approach. Several key challenges identified by the City should be included in the systemic analysis include:
   - Intersections, Roadway departure, Other Roadway Access
   - Speeding and Aggressive Driving
   - Bicyclists and Pedestrians

c) The Consultant will prepare a summary of the results from the analysis and review them with City staff. Based on the types of crashes identified, roadway design, and conditions, Consultant will suggest appropriate low-cost countermeasures at identified locations with high potential for collisions. Consultants shall use the Crash Reduction Factors (CRM) and Countermeasures provided in the Local Roadway Safety Manual (LRSM) in the analysis.

d) Based on the analysis and feedback from City staff, the Consultant will submit a final recommendation of appropriate countermeasures. The primary focus of this task is the development of a prioritized list of engineering countermeasures that will be the basis for safety improvement projects developed within the final report.

Task 4 – Develop Priority Safety Projects

a) Based on the analysis and feedback from the City staff, Consultant will screen potential low-cost countermeasures by performing a Benefit/Cost analysis to develop three (3) high-priority safety improvement projects for implementation.

b) The methodology for calculating Benefit/Cost ratios for each project should be well-documented and included in the final report. It should clearly identify the location (beginning and ending points) of each project, types of safety improvements and Benefit/Cost ratio for each project. Additionally, the methodology for how the projects

were selected and prioritized should clearly be identified. This summary should be included in the final report, and supplemented with a table or similar method detailing the financial aspects of implementation, including, but not limited to, estimated total project cost, construction by year, expected funding sources and amount for each project.

c) Each project should include relevant maps and conceptual level plans to clearly show countermeasure improvements proposed.

Task 5 – Systemic Safety Analysis Report

The Consultant will prepare a Systemic Safety Analysis Report that will meet the requirement of the Caltrans SSARP Guidelines (Attachment A) to include the sections as listed below and the additional supporting documents noted. The Consultant will present a DRAFT copy of the report to the City for review before finalizing.

1. Executive Summary
2. Engineer's Seal
3. Statement of Protection of Data from Discovery and Admissions
4. Safety Data Utilized (Crash, Volume, Roadway)
5. Data Analysis Techniques and Results
6. Highest Occurring Crash Types
7. High-Risk Corridors and Intersections (Crash History and Roadway Characteristics)
8. Countermeasures Identified to Address the Safety Issues
9. Viable Project Scopes and Prioritized List of Safety Projects
10. Attachments and Supporting Documentation

The Consultant is encouraged to propose additional tasks and activities if they will improve the results of the project.

A draft report shall be submitted to the City for review, a final report will not be accepted until the following items are completed by both the Consultant and City staff as applicable.

- The Final SSAR will include and incorporate comments received from City staff.
- Chapter 7, Article 3, Section 6735 of the Professional Engineer's Act of the State of California requires engineering calculation(s) or report(s) be either prepared by or under the responsible charge of a licensed civil engineer. Analysis must be completed under this provision and the SSAR must be signed by the City of Montebello's City Engineer and signed/stamped by a licensed civil engineer (Consultant). The engineer's signature must be accompanied by a statement similar to the following:

  - By signing and stamping this Systemic Safety Analysis Report, the engineer is attesting to this report's technical information and engineering data upon which local agency's recommendations, conclusions, and decisions are made.

The following is required to be inserted in the final SSAR:

- Section 148 of Title 23, United State Code [23 U.S.C. §148(h) (4) *REPORTS DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION – Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a*

Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

The complete report will provide enough details for the City to apply for future HSIP grant funds or other similar funding programs. The Report should contain detail information for the 3 high priority projects: vicinity/location map, countermeasures being applied, crash data and collision diagrams, benefit summary, benefit/cost ratio calculations, project narrative that justifies the need and priority for the City, preliminary engineering design (approximately a 30% design plans and estimate).

PROPOSAL REQUIREMENTS

The proposal submission may not exceed thirty (30) pages total (8-1/2" x 11"), double-sided print. Minimum font size of 12 required. The page limit does not apply to the schedule, cover page, attachments and any forms required under this RFP. Each page should be numbered.

Proposals shall be submitted electronically to PlanetBids no later than 5:00 PM, October 7, 2021 addressed to:

Attn: Albert Mendoza, PE, amendoza@cityofmontebello.com, marked with "Proposals for SSARPL-5247(027) - RFP 21-19"

Submittals that arrive after the deadline, for any reason, will be disqualified.

Unsigned proposals or proposals signed by an individual not authorized to bind the prospective Consultant will be considered nonresponsive and rejected.

The City reserves the right to reject any or all proposals submitted, and is not liable for any pre-contractual expenses. Pre-contractual expenses are defined as expenses incurred by the offeror in: (a) preparing the proposal in response to this RFP; (b) submitting that proposal to the City; (c) negotiating with the City in any matter related to this proposal; (d) any other expenses incurred by offeror prior to date of award, if any, of the contract. Offeror shall not include any such expenses as part of the price as proposed in response to this RFP.

The contents of the proposal of the successful consultants shall become a contractual obligation if a contract ensues. Failure of a consultant to accept this obligation will result in the cancellation of any award. Any damage accruing to the City as a result of a failure to contract may be recovered from the consultant. A sample agreement is attached for reference (Attachment C).

To be considered, all submittals shall be completely responsive to the RFP and must contain the following:

1. **Cover Letter** shall be addressed to Albert Mendoza, P.E., Deputy Director of Public Works and must at a minimum, contain the following information:

    a) Brief summary of Consultant's profile, qualifications and capabilities
    b) Proposed sub-consultants (if applicable)
    c) Proposed Project manager, phone number and email address
    d) Acknowledgement of receipt of all addenda (if applicable)
    e) A statement attesting that all information submitted with the proposal is true and correct
    f) Signature of the official authorized to negotiate and contractually bind the firm with the City.

2. **Approach and Understanding:** Include your firm's approach to addressing the identified scope of work, your understanding of the project's scope, key issues and relevancy to the State of California's transportation system.

3. **Qualifications and Experience:** The Consultant shall summarize the qualifications and relevant experience for the consultant firm and any sub-consultants. The following items should be included:

    a) Project Team – Listing of the propose project personnel, their related experience and expertise relevant to this project scope of services. The proposed relationships among all key personnel and sub-consultants should be identified. Include short bio of key individuals and sub-consultants. Resumes of key staff can be added as an Appendix but not required.

    Proposed Project manager and identified key staff shall remain throughout the project unless approved otherwise by the City.

    c) Relevant Project Experience - Provide three (3) relevant projects within the last 5 years similar to the scope of work as outlined in this RFP that has been completed by the Consultant or Consultant's assigned Project Manager. Provide client name, contact person, and current phone number and e-mail address. Reference projects should include a brief description of what the Consultant's firm/project manager provided on the project, year of when services were completed and key personnel assigned to the project.

    d) Quality Assurance – Provide a description of the Consultants Quality Assurance and Quality Control process and procedures and explain how it will ensure quality work and on-time product delivery.

4. **Scope of Work Program:** A description of the task, subtask and deliverables that will be provided under the proposal. Describe any supplemental tasks deemed necessary or recommended, which will enhance the outcome, reduce cost or expedite delivery. List all deliverables, proposed meetings, and brief task description in a logical format that can be used as an attachment to the Agreement if awarded. Indicate the Consultant's understanding of the issues and challenges unique to the project and offer insight into how the Consultant will meet these situations

5. **Project Schedule:** The Consultant shall provide a schedule listing items of work/tasks as outlined in this RFP. The schedule should be detailed enough to provide information on milestones, critical paths, start dates, and end dates. A 11" x 17" size paper will be acceptable for the Schedule.

6. **Cost and Fees:** In a separate submittal thru PlanetBids, Consultant shall provide a Not-to-exceed fee broken down by Task for the work required under this RFP. The proposed cost shall include staff titles with corresponding hourly rates, estimated hours for each tasks, and other direct or indirect cost. Total cost shall be itemized for all other reimbursements and mark ups. Sub-consultant work should be identified.

    a) Cost shall be in a format as included in Attachment B Exhibit 10-H1, or equivalent and contain all of the cost components including direct, indirect, other direct and fee. The method of payment will be based on actual cost-plus fixed fee or Lump sum.

    b) ICR must be given for current fiscal year – See Exhibit 10-K and 10-A under

Attachment B. These forms are for reference only and do not need to be submitted with the Proposal. If the Consultant is selected, Form 10-K may be required.

7. **Statements:** The Consultant shall include the following:

a) A statement to the effect that the proposal shall remain valid for a period of no less than 120 calendar days from the date of submittal.

b) A statement to the effect that the Consultant has examined and is familiar with the RFP, its terms and conditions and accepts and will comply with the requirements, terms and conditions as outlined.

c) A statement outlining concurrence or concerns with any and all provisions of the Standard Contract Agreement (See Attachment C).

SELECTION CRITERIA

Emphasis should be placed upon providing information concerning your proposed project approach, similar projects your firm has recently performed and the availability and qualifications of your key staff. The proposal may include additional information, as deemed appropriate, subject to the overall length restriction established in Proposal Requirements.

A committee will review and evaluate the proposals submitted based on the following criteria and maximum points allotted.

Criteria	POINTS
Technical competence and expertise as demonstrated by the responder's expressed project understanding, proposed project approach and methodology. Overall responsiveness to the RFP requirements.	20
Project Team - expertise, capabilities and technical competence as demonstrated by the team's background and experience with similar work, ability and experience in handling projects with similar constraints.	30
Demonstrated ability to perform high quality work based on the Scope of Work Plan and Schedule proposed.	30
Relevant project experience performed by the Project Team	20

GENERAL TERMS AND CONDITIONS

Attachment C contains a copy of the anticipated contract the selected consultant will be required to sign for this project. Each prospective consultant is expected to review the general terms and conditions and acknowledge their acceptance of Attachment C (or their objections to specific parts of Attachment C as a mechanism to expedite the contract negotiation process.

ATACHMENT A – Caltrans SSARP Guidelines

Systemic Safety Analysis Report Program (SSARP) Guidelines

February 2016

Division of Local Assistance
California Department of Transportation

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1. INTRODUCTION

These guidelines describe the policy and procedures for implementing the Systemic Safety Analysis Report Program (SSARP). The guidelines were developed in consultation with the California Local Highway Safety Improvement Program (HSIP) Advisory Committee which includes representatives from:

- Federal Highway Administration (FHWA)
- California Department of Transportation (Caltrans)
- California Transportation Cooperative Committee
- California State Association of Counties
- League of California Cities
- Regional Transportation Planning Agency
- Metropolitan Planning Organization
- Rural County Task Force

1.1 BACKGROUND

Systemic analysis is a proactive safety approach that focuses on evaluating an entire roadway network using a defined set of criteria. It looks at crash history on an aggregate basis to identify high-risk roadway characteristics, rather than looking at high-collision concentration locations through site analysis. Systemic analysis acknowledges that crashes alone are not always sufficient to prioritize countermeasures across a system. This is particularly true for many local streets and highways in rural areas with low volumes where crash densities tend to be low and there are few high crash locations, and in urban areas where vehicles interact with vulnerable road users (pedestrians, bicyclists, and motorcycles).

The following are examples of infrastructure improvement countermeasures identified through the systemic analysis approach:

Signalized Intersection Countermeasures

- Improve signal hardware: lenses, retro-reflective back-plates, mounting, size, and number
- Provide protected left turn phase (left turn lane already exists)
- Install flashing beacons as advance warning
- Create directional median openings to allow (and restrict) left-turns and U-turns
- Install pedestrian countdown signal heads
- Install advance stop bar before crosswalk (Bicycle Box)

Non-Signalized Intersection Countermeasures

- Add intersection lighting
- Install/upgrade larger or additional stop signs or other intersection warning/regulatory signs
- Install flashing beacons as advance warning
- Create directional median openings to allow (and restrict) left-turns and U-turns
- Install raised medians/refuge islands (Pedestrian/Bike only)
- Install enhanced pedestrian crossing features, e.g. signs/markings, rapid rectangular flashing beacon or curb extensions, etc.

Roadway Segment Countermeasures

- Road diet (striping only)
- High friction surface treatment
- Upgrade signing through Roadway Safety Signing Audit
- Upgrade pavement markings through Roadway Safety Pavement Marking Audit
- Install delineators, reflectors and/or object markers
- Install guardrail and impact attenuators
- Install bike lanes
- Install centerline rumble strips/stripes
- Install edge line rumble strips/stripes

Additional information on the systemic approach for roadway safety analysis can be found on the Federal Highway Administration's "Systemic Approach to Safety" webpage.

1.2 Program Goal

The goal of the SSARP is to help local agencies identify safety projects to submit for HSIP funding consideration. Through the funding of Systemic Safety Analysis Reports (SSAR), local agencies will be encouraged to evaluate their roadway networks with an approach that has been effective for addressing safety issues.
Although not a prerequisite to applying for HSIP funds, the use of results documented in their SSAR will identify high benefit-cost ratio safety projects that have been found to be competitive in previous HSIP cycles.

1.3 Program Schedule

The SSARP will be implemented in two phases to facilitate outreach with the Strategic Highway Safety Plan (SHSP) Regional Summits. The following is a tentative schedule of major milestones for the SSARP:

Milestones	**Phase 1**	**Phase 2**
Call for Applications	February 2016	June 2016
Applications Due Date	March 2016	July 2016
Awarded Applications Posted	April 2016	August 2016

*Strategic Highway Safety Plan (SHSP) Regional Summits: February and April 2016.

2. Funding

2.1 Source

$10 million of the California HSIP was set-aside and exchanged for state funds from the State Highway Account to fund the SSARP. The use of state funds is to increase the participation of underserved local agencies unfamiliar with federal administrative requirements.

2.2 Matching Requirement
A local match of ten (10) percent of the total project cost is required for SSARP projects.

2.3 Reimbursement
The SSARP is a reimbursement program for eligible costs incurred. Reimbursement is requested through the invoice process detailed in Chapter 5, Invoicing, of the Local Assistance Procedures Manual (LAPM). Costs incurred prior to funding allocation are not eligible for reimbursement.

2.4 Timely Use of Funds
The project sponsor must complete the study and the SSAR report within thirty-six (36) months of the funding allocation. The Final Report of Expenditures and the final invoice must be submitted within six (6) months of the report completion. If these requirements are not met, the project sponsor must pay back the state funds expended.

3. Eligibility

3.1 Applicants
Cities and counties in California that are able to comply with all the laws, regulations, policies and procedures required to enter into a State-only Funds Master Agreement are eligible to apply for SSARP funding. Refer to Chapter 4, Agreements, of the LAPM for guidance and procedures on Master Agreements.

3.2 Location of Study Area
Funds are eligible for the systemic safety analysis of any roadways publically owned or on tribal lands.

4 Application and Selection Process

4.1 Project Application
Section 1.3 provides a tentative program schedule. Actual calls-for-applications will be announced online at the Division of Local Assistance (DLA) HSIP website. The Application Form, its instructions and other documents related to SSARP are also available at this website. The completed applications are submitted to the District Local Assistance Engineer (DLAE).
Funding for proposed study areas may only be requested once (i.e. funding requests for a study area cannot be requested in multiple applications).

4.1.1 Maximum Fund Request
Each local agency may submit only one application requesting a maximum of $250,000 SSARP funds, in either Phase 1 or Phase 2 call for applications. Alternatively two or more local agencies may choose to submit a joint application through partnership. A maximum of $500,000 of SSARP funds can be requested per joint application.

Additional funds beyond the maximum amount will need justification and approval by the Office of Bridge, Bond, and Safety Programs (OBBSP) in the DLA.

4.1.2 Award Phases

Funds will be awarded in two phases to facilitate outreach with the Strategic Highway Safety Plan (SHSP) Regional Summits. Refer to the Section 1.3, Program Schedule, for dates of award.

4.2 Selection Process

If requests exceed available SSARP funding, priority will be given to applications from local agencies that

- Have the highest numbers of fatality and severe injury (F+SI) (based on the most recent / available data from California Highway Patrol (CHP) Statewide Integrated Traffic Records System (SWITRS));
- Have the highest crash rates of F+SI per 100 Million Vehicle Miles Traveled (MVMT) ;
- Have never submitted applications in Cycle 5 through Cycle 7 HSIP calls-for-projects; or
- Have submitted applications but have had no projects selected for federal funding in Cycle 5 through Cycle 7 HSIP calls-for-projects.

There are no order or priority associated with the above selection criteria. When necessary, the Local HSIP Advisory Committee may review the priority ranking of the applications and approve for funding.

4.3 Application Award

The OBBSP will post the list of awarded applications on the DLA HSIP website. A notification letter will be sent to the sponsor of each successful application.

5 Implementation

In addition to the applicable provisions of the LAPM, local agencies will need to follow the implementation steps in this section. Any work done prior to the funding allocation is at the cost of the project sponsor and will not be eligible for reimbursement.

1. When ready to proceed with their study, the project sponsor submits the following documents to their DLAE to request an allocation of funds:
    a. A letter of request for SSARP Funding Allocation
    b. Finance Letter
    c. Copy of the SSARP Application
    d. Copy of the award notification letter from Caltrans DLA

Templates of the above (a) and (b) are available for downloading at the DLA HSIP website.

As an SSARP project utilizes state funds for a study only and no right-of-way or construction is involved, the allocation will be under Preliminary Engineering (PE) phase. No right-of-way or environmental documents are required for the allocation request.

The amount of state funds requested should not exceed the amount of funds awarded. Additional funds shall not be allocated without the written approval from the OBBSP.

2. The DLAE reviews the allocation request package for consistency with the application, assigns project numbers and Advantage IDs, and forwards the request to the DLA HQ Area Engineer for allocation. An allocation request will be rejected if the scope or request amount does not match the application. Any change to the scope of work needs to be approved by the OBBSP in advance of the allocation.
3. After receipt of a complete request package, the DLA HQ Area Engineer will:
    a. Prepare an allocation letter which will serve as the authorizing document for the project sponsor to begin reimbursable work. A copy of the allocation letter and Finance Letter will be distributed to the project sponsor, DLAE, the OBBSP, and Local Programs Accounting (LPA). Note that any work performed prior to the effective date of the allocation letter is not eligible for reimbursement.
    b. Prepare a Program Supplement Agreement (PSA) and send it to the local agency for execution. If a local agency does not have a "State-only Funds Master Agreement" on file with Caltrans, one will need to be executed in conjunction with the PSA.

4. The project sponsor invoices Caltrans (Refer to LAPM Chapter 5 and Exhibit 5-C). In order for the project to remain active, the project sponsor must submit invoices to Caltrans at least every six (6) months after funds are allocated.
5. The analysis and the SSAR report must be completed within thirty-six (36) months of allocation. The project sponsor must submit the final report (refer to Section 6, Reporting Requirements) to the DLAE. The DLAE reviews and verifies that the report has been completed in accordance with the approved scope and the program guidelines, and then forward a copy of the report to the DLA OBBSP.
6. The project sponsor must submit the Final Invoice (LAPM Exhibit 5-C) and the Final Report of Expenditures (LAPM Exhibit 17-M) to the DLAE within six (6) months of the report completion. The DLAE reviews the submittals for compliance and then forward the package to Local Programs Accounting (LPA) for processing.
7. The LPA and the DLA close out the project.

6 Reporting Requirements

To be eligible for final reimbursement, the SSAR must identify and prioritize future safety projects. If no safety projects are identified, reasons must be documented within the SSAR. The following sections and discussions must also be included in the final report.

6.1 Executive Summary

This section should include the applicant's objectives and focus for the SSAR and a brief summary of the major results. Include discussion on what methodologies were used to limit the data analysis and studies to stay within the funding limits. Other high-level discussions may include crash trends, corridors identified, countermeasures considered, conceptual projects identified, benefit-cost ratios for the projects, etc.

6.2 Engineer's Seal

Chapter 7; Article 3; Section 6735 of the Professional Engineer's Act of the State of California requires engineering calculation(s) or report(s) be either prepared by or under the responsible charge of a licensed civil engineer. Analysis must be completed under this provision and the SSAR must be signed by the local agency transportation manager and signed/stamped by a licensed civil engineer.

The engineer's signature must be accompanied by a statement similar to the following:

> *By signing and stamping this Systemic Safety Analysis Report, the engineer is attesting to this report's technical information and engineering data upon which local agency's recommendations, conclusions, and decisions are made.*

6.3 Statement of Protection of Data from Discovery and Admissions

It is recommended that applicants include the following language in the SSAR which is from Section 148 of Title 23, United States Code [23 U.S.C. §148(h) (4)] about reports prepared under State's Strategic Highway Safety Plan and HSIP:

REPORTS DISCOVERY AND ADMISSION INTO EVIDENCE OF CERTAIN REPORTS, SURVEYS, AND INFORMATION—Notwithstanding any other provision of law, reports, surveys, schedules, lists, or data compiled or collected for any purpose relating to this section, shall not be subject to discovery or admitted into evidence in a Federal or State court proceeding or considered for other purposes in any action for damages arising from any occurrence at a location identified or addressed in the reports, surveys, schedules, lists, or other data.

6.4 Safety Data Utilized (Crash, Volume, Roadway)

Applicants are required to analyze at least three (3) years of the most current crash data. Crash data from their own crash database, the California I-SWITRS database, or UC Berkeley Transportation Injury Mapping (TIMS) are recommended.

Applicants should consider the guidance in Section 2 of the Local Roadway Safety Manual (LRSM) to complete this section of the SSAR.

6.5 Data Analysis Techniques and Results

Crash trends and crash concentrations should be analyzed based on overall numbers, identifying the leading causes of fatalities and severe injuries. In addition, applicants are encouraged to identify crashes on a 'rate' basis and compare the results of numbers vs. rates.

Applicants are not expected to analyze all of the individual crashes, crash locations, and/or crash types. The following are examples of how local agencies can focus the scope of the SSAR:

- Counties with a large percentage of High Risk Rural Road (HR3) eligible roadways may choose to focus on identifying and prioritizing future HR3 eligible safety projects.
- Cities and counties with primarily urban roadways may choose to identify and prioritize future urban Highway Safety Improvement Program projects for motorized and/or non-motorized users.
- Cities and counties with a wide mixture of roadways may choose to focus on only rural or urban roadways or a mix of roadway and user types at a limited number of locations.

Applicants should consider the guidance in Section 3 of the LRSM to complete this section of the SSAR.

6.6 Highest Occurring Crash Types

Applicants can focus on their top 3 to 10 crash types responsible for the fatalities and severe injuries occurring on their roadway network. If an applicant chooses to focus on specific "high-risk corridors and intersections," they are still expected to briefly review and discuss their top crash types occurring on the overall network.

Applicants should consider the guidance in Section 3 of the LRSM to complete this portion of the SSAR.

6.7 High-risk Corridors and Intersections (Crash History and Roadway Characteristics)

Applicants can choose to focus on their top 3 to 10 high-risk corridors and top 5 to 20 intersections responsible for fatalities and severe injuries occurring on their roadway network. If an applicant chooses to focus on specific crash types, they are still expected to briefly review and discuss their high-risk corridors and intersections on the overall network.

Applicants should consider the guidance in Section 3 of the LRSM to complete this portion of the SSAR.

6.8 Countermeasures Identified to Address the Safety Issues

Applicants are required to use crash reduction factors provided in the LRSM to identify potential low-cost systemic countermeasures that mitigate the local agencies' primary crash type trends. In addition, applicants should use their crash concentrations (system-wide, corridors, and spot locations) to identify the countermeasures with a high likelihood of addressing the crashes that are appropriate for the characteristics of the roadway.

Applicants should consider the guidance in Section 4 of the LRSM to complete this section of the SSAR.

6.9 Viable Project Scopes and Prioritized List of Safety Projects

Once the crash areas, trends, and corresponding systemic countermeasures have been identified, local agencies need to create preliminary safety project scopes. It is recommended that the applicant focus on finding the ideal balance between collision analyses on a systemic basis while also addressing high-crash locations. For the lowest cost improvements, like signing and striping, it may be an appropriate goal to have the entire roadway network eventually upgraded to a minimum level.

In contrast, the costlier systemic countermeasures may only be feasible to install at higher crash locations/characteristics on a corridor-by-corridor basis. Estimating total-project costs and calculating Benefit/Cost (B/C) ratio are the next steps in prioritizing the list of safety projects. Cost estimates may be based on individual construction items or lump sum project costs per mile or per location. For calculating the B/C ratio of a project, the TIMS B/C Calculation Tool from the University of California, Berkeley Safe Transportation Research and Education Center website should be used. This tool relies on existing crashes to calculate a project's expected benefit. *Applicants should consider the guidance in Section 5 of the LRSM to complete this section of the SSAR.*

6.10 Attachments and Supporting Documentation

Attach and reference supporting documents as appropriate to meet their long-term intended use for the report.

7 Resources

SSARP Funding Application: http://www.dot.ca.gov/hq/LocalPrograms/HSIP/apply_now.htm
Caltrans Local Roadway Safety Manual (LRSM): http://www.dot.ca.gov/hq/LocalPrograms/HSIP/CA-LRSM.pdf
Local Assistance Procedures Manual (LAPM): http://www.dot.ca.gov/hq/LocalPrograms/lam/lapm.htm
California Strategic Highway Safety Plan (SHSP): http://www.dot.ca.gov/hq/traffops/shsp/
California I-SWITRS: http://iswitrs.chp.ca.gov/Reports/jsp/CollisionReports.jsp
UC Berkeley Transportation Mapping (TIMS): http://tims.berkeley.edu
FHWA – A Systemic Approach to Safety: http://safety.fhwa.dot.gov/systemic/index.htm
FHWA Local and Rural Road Safety Program: http://safety.fhwa.dot.gov/local_rural/
FHWA Systemic Project Selection Tool: http://safety.fhwa.dot.gov/systemic/fhwasa13019/
FHWA Road Diets Informational Guide: http://safety.fhwa.dot.gov/road_diets/info_guide/

ATTACHMENT B – Cost Proposal Forms

Exhibit 10H-1, 10-H2, & 10-H3
(Submit with Proposal)

Exhibit 10-A & 10-K
(Reference Only, submittal may be required if Consultant is selected)

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

(DESIGN, ENGINEERING AND ENVIRONMENTAL STUDIES)

Note: Mark-ups are Not Allowed ☐ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

DIRECT LABOR

Classification/Title	Name	Hours	Actual Hourly Rate	Total
(Project Manager)*	_____	_____	$_____	$ _____
(Sr. Civil Engineer)	_____	_____	$_____	$ _____
(Envir. Scientist)	_____	_____	$_____	$ _____
(Inspector)**	_____	_____	$_____	$ _____

LABOR COSTS

a) Subtotal Direct Labor Costs $ _____

b) Anticipated Salary Increases (see page 2 for calculation) $ _____

c) **TOTAL DIRECT LABOR COSTS** [(a) + (b)] **$ _____**

INDIRECT COSTS

d) Fringe Benefits (Rate: _____%) e) Total Fringe Benefits [(c) x (d)] $ _____

f) Overhead (Rate: _____%) g) Overhead [(c) x (f)] $ _____

h) General and Administrative (Rate: _____%) i) Gen & Admin [(c) x (h)] $ _____

j) **TOTAL INDIRECT COSTS** [(e) + (g) + (i)] **$ _____**

FIXED FEE k) **TOTAL FIXED FEE** [(c) + (j)] x fixed fee _____%] **$ _____**

l) **CONSULTANT'S OTHER DIRECT COSTS (ODC) – ITEMIZE (Add additional pages if necessary)**

Description of Item	Quantity	Unit	Unit Cost	Total
Mileage Costs			$	$
Equipment Rental and Supplies			$	$
Permit Fees			$	$
Plan Sheets			$	$
Test			$	$

l) **TOTAL OTHER DIRECT COSTS** $ _____

m) **SUBCONSULTANTS' COSTS (Add additional pages if necessary)**

Subconsultant 1: $ _____

Subconsultant 2: $ _____

Subconsultant 3: $ _____

Subconsultant 4: $ _____

m) **TOTAL SUBCONSULTANTS' COSTS** $ _____

n) **TOTAL OTHER DIRECT COSTS INCLUDING SUBCONSULTANTS** [(l)+(m)] $ _____

TOTAL COST [(c) + (j) + (k) + (n)] $ _____

NOTES:

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended. Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans.
3. Anticipated salary increases calculation (page 2) must accompany.

EXHIBIT 10-H1 COST PROPOSAL

COST-PLUS-FIXED FEE OR LUMP SUM OR FIRM FIXED PRICE CONTRACTS

(CALCULATIONS FOR ANTICIPATED SALARY INCREASES)

1. Calculate Average Hourly Rate for 1st year of the contract (Direct Labor Subtotal divided by total hours)

Direct Labor Subtotal per Cost Proposal		Total Hours per Cost Proposal		Avg Hourly Rate	**5 Year Contract Duration**
$250,000.00		5000	=	$50.00	Year 1 Avg Hourly Rate

2. Calculate hourly rate for all years (Increase the Average Hourly Rate for a year by proposed escalation %)

	Avg Hourly Rate		Proposed Escalation			
Year 1	$50.00	+	2%	=	$51.00	Year 2 Avg Hourly Rate
Year 2	$51.00	+	2%	=	$52.02	Year 3 Avg Hourly Rate
Year 3	$52.02	+	2%	=	$53.06	Year 4 Avg Hourly Rate
Year 4	$53.06	+	2%	=	$54.12	Year 5 Avg Hourly Rate

3. Calculate estimated hours per year (Multiply estimate % each year by total hours)

	Estimated % Completed Each Year		Total Hours per Cost Proposal		Total Hours per Year	
Year 1	20.0%	*	5000	=	1000	Estimated Hours Year 1
Year 2	40.0%	*	5000	=	2000	Estimated Hours Year 2
Year 3	15.0%	*	5000	=	750	Estimated Hours Year 3
Year 4	15.0%	*	5000	=	750	Estimated Hours Year 4
Year 5	10.0%	*	5000	=	500	Estimated Hours Year 5
Total	100%		Total	=	5000	

4. Calculate Total Costs including Escalation (Multiply Average Hourly Rate by the number of hours)

Avg Hourly Rate (calculated above)	Estimated hours (calculated above)	Cost per Year

Year 1	$50.00	*	1000	=	$50,000.00	Estimated Hours Year 1
Year 2	$51.00	*	2000	=	$102,000.00	Estimated Hours Year 2
Year 3	$52.02	*	750	=	$39,015.00	Estimated Hours Year 3
Year 4	$53.06	*	750	=	$39,795.30	Estimated Hours Year 4
Year 5	$54.12	*	500	=	$27,060.80	Estimated Hours Year 5
			Total Direct Labor Cost with Escalation	=	$257,871.10	
			Direct Labor Subtotal before Escalation	=	$250,000.00	
			Estimated total of Direct Labor Salary Increase	=	**$7,871.10**	Transfer to Page 1

NOTES:

1. This is not the only way to estimate salary increases. Other methods will be accepted if they clearly indicate the % increase, the # of years of the contract, and a breakdown of the labor to be performed each year.
2. An estimation that is based on direct labor multiplied by salary increase % multiplied by the # of years is not acceptable. (i.e. $250,000 x 2% x 5 yrs = $25,000 is not an acceptable methodology)
3. This assumes that one year will be worked at the rate on the cost proposal before salary increases are granted.
4. Calculations for anticipated salary escalation must be provided.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

1. Generally Accepted Accounting Principles (GAAP)
2. Terms and conditions of the contract
3. Title 23 United States Code Section 112 - Letting of Contracts
4. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
5. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
6. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.
Local governments are responsible for applying only cognizant agency approved or Caltrans accepted Indirect Cost Rate(s).

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *:_____

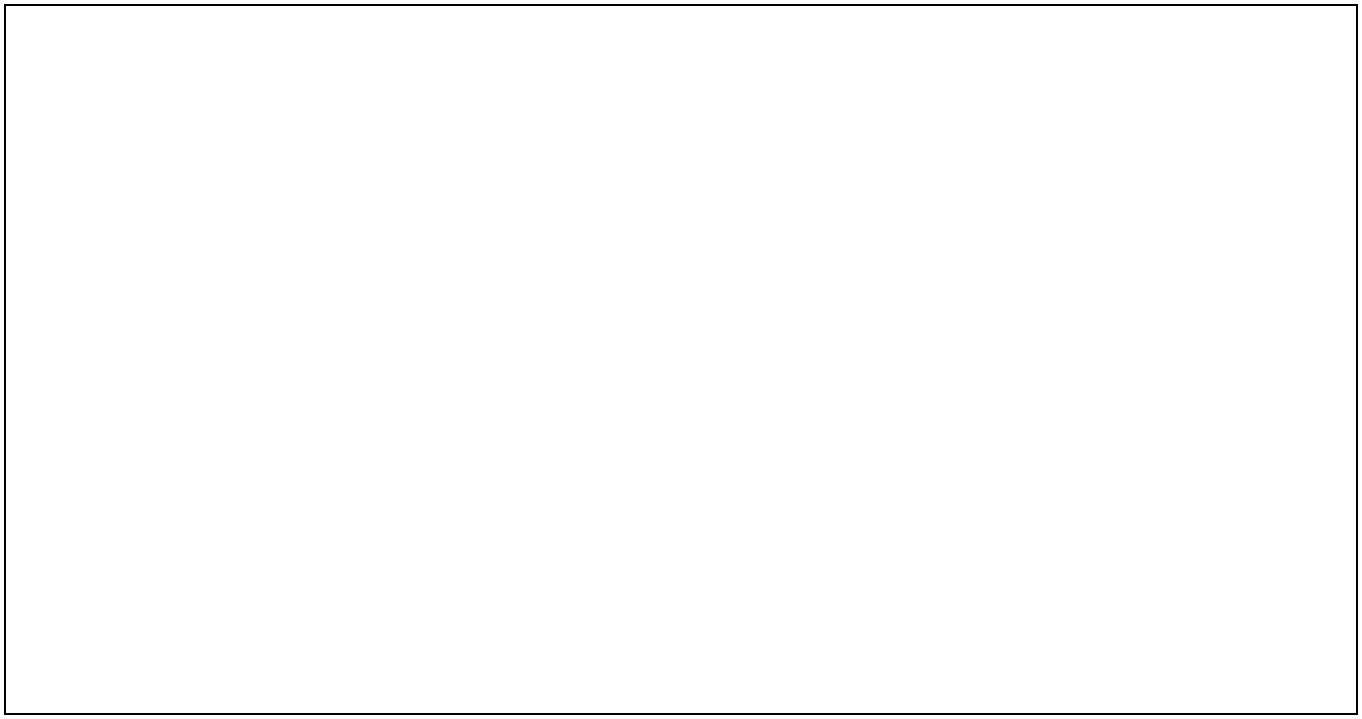
Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

*An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:



SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)

(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Note: Mark-ups are Not Allowed ☐ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Consultant _____ Project No. _____ Contract No. _____

Participation Amount $_____ Date _____

For Combined Rate				
	Fringe Benefit %	+ General &Administrative %	=	Combined ICR%
OR				
For Home Office Rate				
	Fringe Benefit %	+ General &Administrative %	=	Home Office ICR%
For Field Office Rate				
	Fringe Benefit %	+ General &Administrative %	=	Field Office ICR%

Fee	=	%

BILLING INFORMATION / CALCULATION INFORMATION

Name/Job Title/Classification[1]	Hourly Billing Rates[2] Straight[3]	OT(1.5x)	OT(2x)	Effective Date of Hourly Rate From	To	Actual **or** Avg. Hourly Rate[4]	% or $ Increase	Hourly Range - for Classifications Only
John Doe – Project Manager *	$0.00	$0.00	$0.00	01/01/2016	12/31/2016	$0.00		Not Applicable
Civil Engineer II	$0.00	$0.00	$0.00	01/01/2017	12/31/2017	$0.00	0.0%	
	$0.00	$0.00	$0.00	01/01/2018	12/31/2018	$0.00	0.0%	
Sue Jones – Construction	$0.00	$0.00	$0.00	01/01/2016	12/31/2016	$0.00		Not Applicable
Engineer/Inspector	$0.00	$0.00	$0.00	01/01/2017	12/31/2017	$0.00	0.0%	
Engineer I	$0.00	$0.00	$0.00	01/01/2018	12/31/2018	$0.00	0.0%	
Buddy Black – Claims Engineer	$0.00	$0.00	$0.00	01/01/2016	12/31/2016	$0.00		Not Applicable
Engineer III	$0.00	$0.00	$0.00	01/01/2017	12/31/2017	$0.00	0.0%	
	$0.00	$0.00	$0.00	01/01/2018	12/31/2018	$0.00	0.0%	
Land Surveyor **	$0.00	$0.00	$0.00	01/01/2016	12/31/2016	$0.00		$00 - $00
	$0.00	$0.00	$0.00	01/01/2017	12/31/2017	$0.00	0.0%	$00 - $00
	$0.00	$0.00	$0.00	01/01/2018	12/31/2018	$0.00	0.0%	$00 - $00
Technician	$0.00	$0.00	$0.00	01/01/2016	12/31/2016	$0.00		$00 - $00
	$0.00	$0.00	$0.00	01/01/2017	12/31/2017	$0.00	0.0%	$00 - $00
	$0.00	$0.00	$0.00	01/01/2018	12/31/2018	$0.00	0.0%	$00 - $00

(Add pages as necessary)

NOTES:

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**).All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals.
2. The cost proposal format shall not be amended.
3. Billing rate = actual hourly rate * (1+ ICR) * (1+ Fee). Indirect cost rates shall be updated on an annual basis in accordance with the consultant's annual accounting period and established by a cognizant agency or accepted by Caltrans. All costs must comply with the Federal cost principles for reimbursement.
4. For named employees and key personnel enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.

SPECIFIC RATE OF COMPENSATION (USE FOR ON-CALL OR AS-NEEDED CONTRACTS)
(CONSTRUCTION ENGINEERING AND INSPECTION CONTRACTS)

Consultant _____ ☐ Prime Consultant ☐ Subconsultant

Project No. _____ Contract No. _____ Date _____

SCHEDULE OF OTHER DIRECT COST ITEMS (Add additional pages as necessary)				
Description of Item	**Quantity**	**Unit**	**Unit Cost**	**Total**
Mileage Costs			$	$
Equipment Rental and Supplies			$	$
Permit Fees			$	$
Plan Sheets			$	$
Test			$	$
Vehicle			$	$
Subconsultant 1:				$
Subconsultant 2:				$
Subconsultant 3:				$
Subconsultant 4:				$
Subconsultant 5:				$

Note: Add additional pages if necessary.

NOTES:

1. List other direct cost items with estimated costs. These costs should be competitive in their respective industries and supported with appropriate documentation.
2. Proposed ODC items should be consistently billed regardless of client and contract type.
3. Items when incurred for the same purpose, in like circumstance, should not be included in any indirect cost pool or in the overhead rate.
4. Items such as special tooling, will be reimbursed at actual cost with supporting documentation (invoice).
5. Items listed above that would be considered "tools of the trade" are not reimbursable as other direct cost.
6. Travel related costs should be pre-approved by the contracting agency and shall not exceed current State Department of Personnel Administration rules.
7. If mileage is claimed, the rate should be properly supported by the consultant's calculation of their actual costs for company vehicles. In addition, the miles claimed should be supported by mileage logs.

8. If a consultant proposes rental costs for a vehicle, the company must demonstrate that this is its standard procedure for all of their contracts and that they do not own any vehicles that could be used for the same purpose.
9. The cost proposal format shall not be amended. All costs must comply with the Federal cost principles.
10. Add additional pages if necessary.
11. Subconsultants must provide their own cost proposals.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

7. Generally Accepted Accounting Principles (GAAP)
8. Terms and conditions of the contract
9. Title 23 United States Code Section 112 - Letting of Contracts
10. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
11. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
12. 48 Code of Federal Regulations Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title *: _____

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

EXHIBIT 10-H3 COST PROPOSAL Page 1 of 2

COST PER UNIT OF WORK CONTRACTS

(GEOTECHNICAL AND MATERIAL TESTING)

Note: Mark-ups are Not Allowed ☐ Prime Consultant ☐ Subconsultant ☐ 2nd Tier Subconsultant

Consultant _____

Project No. _____ Contract No. _____ Date _____

Unit/Item of Work:
(Example: Log of Test Boring for Soils Report, or ADL Testing for Hazardous Waste Material Study)
Include as many Items as necessary.

DIRECT LABOR	Hours	Billing Hourly Rate ($)	Total ($)
Professional (Classification)*	_____	_____	_____
Sub-professional/Technical**	_____	_____	_____
EQUIPMENT 1 (with Operator)	_____	_____	_____
EQUIPMENT 2 (with Operator)	_____	_____	_____

Consultant's Other Direct Costs (ODC) – Itemize:

Description of Item	Quantity	Unit	Unit Cost	Total
ODC Example: Travel/Mileage Costs			$	$
ODC Example: Mobilization/De-mobilization			$	$
ODC Example: Supplies/Consumables			$	$
ODC Example: Report			$	$
ODC (List more ODCs as applicable)			$	$
Subconsultant 1:				$
Subconsultant 2:				$
Subconsultant 3:				$
Subconsultant 4:				$
Subconsultant 5:				$

Note: Attach additional pages if necessary.

TOTAL COST PER UNIT OF WORK **$_____**

NOTES:

1. Key personnel **must** be marked with an asterisk (*) and employees that are subject to prevailing wage requirements must be marked with two asterisks (**). All costs must comply with the Federal cost principles. Subconsultants will provide their own cost proposals. The cost proposal format shall not be amended.
2. Hourly billing rates should include prevailing wage rates and be consistent with publicly advertised rates charged to all clients (Commercial, Private or Public).
3. Mobilization/De-mobilization is based on site location and number and frequency of tests/items.
4. ODC items shall be based on actual costs and supported by historical data and other documentation.
5. ODC items that would be considered "tools of the trade" are not reimbursable.
6. Billing Hourly Rates must be actual, allowable, and reasonable.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are actual, reasonable, allowable, and allocable to the contract in accordance with the contract terms and the following requirements:

13. Generally Accepted Accounting Principles (GAAP)
14. Terms and conditions of the contract
15. Title 23 United States Code Section 112 - Letting of Contracts
16. 48 Code of Federal Regulations Part 31 - Contract Cost Principles and Procedures
17. 23 Code of Federal Regulations Part 172 - Procurement, Management, and Administration of Engineering and Design Related Service
18. 48 Code of Federal Regulation Part 9904 - Cost Accounting Standards Board (when applicable)

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files and be in compliance with applicable federal and state requirements. Costs that are noncompliant with the federal and state requirements are not eligible for reimbursement.

Prime Consultant or Subconsultant Certifying:

Name: _____ Title*: _____

Signature : _____ Date of Certification (mm/dd/yyyy): _____

Email: _____ Phone Number: _____

Address: _____

* An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President or a Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the cost proposal for the contract.

List services the consultant is providing under the proposed contract:

EXHIBIT 10-A

A&E CONSULTANT FINANCIAL DOCUMENT REVIEW REQUEST

Caltrans Division of Local Assistance

(Completed by Local Agencies, One per Contract)

(For New Proposed A&E Consultant Local Agency Contracts of $150,000 or Greater)

(For Amendments, use only when there are additional subconsultants or changes in ICR)

EMAIL TO:

California State Department of Transportation

Independent Office of Audits and Investigations

conformance.review@dot.ca.gov

Attention: Audit Manager, External Contracts-Local Agencies

Date: _____

Federal/State Project No.: _____

Please check one: ☐ New Contract ☐ Amendment ☐ Other _____

A&E Contract No.: _____

Total Contract or Amended amount of $ _____

Prime Consultant Full Legal Name: _____

The Project Description is: _____

_____

Complete below for Prime and all Sub-consultants on this contract.

Consultant's Name	Participation Amount	Category 1, 2, 3, 4, 5	Caltrans ICR Acceptance ID # (if available)

Note: Add pages if necessary.

I verify we received financial documents from the prime and sub-consultants based on the requirements specified in the Exhibit 10-A Checklist.

Name _____ Signature _____

Title _____

Name of Local Agency and Department: _____

Address: _____

Phone No.: _____

CALTRANS A&I FINANCIAL DOCUMENT REVIEW REQUIREMENTS FOR ARCHITECTURAL AND ENGINEERING (A&E) CONSULTANTS ON LOCAL GOVERNMENT AGENCY CONTRACTS

Requirements for total contract amount equal to or greater than $150,000.

Local Government Agency must provide the following:

1) A&E Consultant Financial Document Review Request Letter (Exhibit 10-A) *(a)*
2) Local Agency and Prime Consultant's Points of Contact

Prime and all sub-consultants must provide the following documents based on their applicable category.

Type of Financial Documents and Information for ICR FYE proposed *	CATEGORY 1: Firms with Cognizant Approval Letter for ICR FYE Proposed	CATEGORY 2: Firms with Caltrans Acceptance ID Number for ICR FYE Proposed **	CATEGORY 3: Firms Requesting Safe Harbor Rate (SHR)	APPLICABLE ONLY IF NOT CATEGORY 1, 2, or 3	
				CATEGORY 4: Consultant Participation Amount Less than $150K	CATEGORY 5: Consultant Participation Amount Equal to or Greater than $150K
Cost Proposals (Examples at Exhibit 10-H1 through 10-H4)	✓	✓	✓	✓	✓
Consultant Annual Certification of Indirect Costs and Financial Management System (Exhibit 10-K)	✓			✓	✓
Indirect Cost Rate (ICR) Schedule with FAR References for Disallowed Costs *(b)* **Note: Prime Consultant must have a CPA Audited ICR Schedule for contracts equal to or greater than $1M.**	✓			✓	✓
Cognizant Approval Letter for the ICR FYE proposed	✓				
Caltrans' ICR Acceptance ID #s for ICR FYE proposed **		✓			
AASHTO Internal Control Questionnaire (ICQ) Appendix B *(c)*					✓
Post Closing Trial Balance *(d)*					✓
Prevailing Wage (PW) Policy for PW work *(e)*	✓	✓	✓ ***	✓	✓
Safe Harbor Rate Documents:					
Consultant Certification of Eligibility of Contract Costs and Financial Management System (Attachment 1R)			✓		
When applicable, additional documents may be requested:					
Prior Year ICR Schedule					
Supplemental Reconciliation Schedule (to tie the proposed ICR Schedule to the Trial Balance) *(d)*					
Chart of Accounts					
Income Statement *(d)*					
Uncompensated Overtime Adjustments *(f)*					
Vacation/Sick Policy					
Bonus Policy					
Executive Compensation Analysis (ECA) *(d)*					
Related Party Rent Analysis *(d)*					
Vehicle, Equipment, and Other Direct Costs Schedules *(d)*					

* ICR FYE = Indirect Cost Rate Fiscal Year End. Items on this checklist may not be all inclusive. A&I reserves the right to request additional documentats as deemed necessary.

** Caltrans ICR Acceptance ID # is an identification number issued by Caltrans upon review and acceptance of consultant's indirect cost rate(s) schedule for a specific fiscal year. This ID # can be referenced for use on future contracts using the same FYE ICR.

*** Firms using SHR can be reimbursed for the prevailing wage deltas either as an Other Direct Cost or as an Overhead/Indirect
Cost - refer to A&I's PW Interpretive Guidance on
http://ig.dot.ca.gov/resources/gentrainmod.html

(a) Local Agencies are required to complete Exhibit 10-A and include all applicable required documents upon submission.

(b) See Table 8-1 of the AASHTO Audit Guide for a listing of common unallowable costs.

For financial document packages received between January 1, 2019 to June 30, 2019, the 2017 FYE ICR could be submitted if the FYE 2018 ICR is not available. For financial document packages received between July 1, 2019 to December 31, 2019, the 2018 ICR must be submitted.

(c) Go to AASHTO website @ audit.transportation.org, for Appendix B-Internal Control Questionnaire

(d) Accounts and balances must match costs proposed on the ICR schedule.

(e) Consultants performing Prevailing Wage (PW) work are required to provide written PW Policy. The policy must specify their accounting method for treatment of delta base and delta fringe. Refer to A&I's PW Interpretive Guidance on
http://ig.dot.ca.gov/resources/gentrainmod.html

EXHIBIT 10-K

CONSULTANT ANNUAL CERTIFICATION OF INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM

(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required.)

Consultant's Full Legal Name: _____

> **Important**: Consultant means the individual or consultant providing engineering and design related services as a party of a contract with a recipient or sub-recipient of Federal assistance. Therefore, the Indirect Cost Rate(s) shall not be combined with its parent company or subsidiaries.

Indirect Cost Rate:

Combined Rate _____ % **OR**
Home Office Rate _____% and Field Office Rate (if applicable) _____ %

Facilities Capital Cost of Money _____% (if applicable)

Fiscal period * _____

> * Fiscal period is annual one year applicable accounting period that the Indirect Cost Rate was developed (not the contract period). The Indirect Cost Rate is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an Indirect Cost Rate(s) for the **fiscal period** as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the indirect cost rate(s) are allowable in accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31);
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31;
- The accounting treatment and billing of prevailing wage delta costs are consistent with our prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federallyfunded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of this certification.

I am providing the required and applicable documents as instructed on Exhibit 10-A.

Financial Management System:

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in Title 23 United States Code (U.S.C.) Section 112(b)(2); 48 CFR Part 31.201-2(d); 23 CFR, Chapter 1, Part 172.11(a)(2); and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost accounts;
- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR;
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties - 23 CFR Part 172.11(c)(4)
- False Claims Act - Title 31 U.S.C. Sections 3729-3733
- Statements or entries generally - Title 18 U.S.C. Section 1001
- Major Fraud Act - Title 18 U.S.C. Section 1031

All A&E Contract Information:

- Total participation amount $_____ on all State and FAHP contracts for Architectural & Engineering services that the consultant received in the last three fiscal periods.
- The number of states in which the consultant does business is_____.
- Years of consultant's experience with 48 CFR Part 31 is_____.
- Audit history of the consultant's current and prior years (if applicable)

☐ Cognizant ICR Audit ☐ Local Gov't ICR Audit ☐ Caltrans ICR Audit

☐ CPA ICR Audit ☐ Federal Gov't ICR Audit

I, the undersigned, certify all of the above to the best of my knowledge and belief and that I have reviewed the Indirect Cost Rate Schedule to determine that any costs which are expressly unallowable under the Federal cost principles have been removed and comply with Title 23 U.S.C. Section 112(b)(2), 48 CFR Part 31, 23 CFR Part 172, and all applicable state and federal rules and regulations. I also certify that I understand that all documentation of compliance must be retained by the consultant. I hereby acknowledge that costs that are noncompliant with the federal and state requirements are not eligible for reimbursement and must be returned to Caltrans.

Name**:_____ Title**: _____-___

Signature: _____ Date of Certification (mm/dd/yyyy): _____

Email**: _____ Phone Number**: _____

**An individual executive or financial officer of the consultant's or subconsultant's organization at a level no lower than a Vice President, a Chief Financial Officer, or equivalent, who has authority to represent the financial information used to establish the indirect cost rate.

Note: ***Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K*** *forms. Caltrans will not process local agency's invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.*

Distribution: 1) Original - Local Agency Project File
2) Copy - Consultant
3) Copy - Caltrans Audits and Investigations

ATTACHMENT C

City Standard/Sample Professional Services Agreement

CITY OF MONTEBELLO

PROFESSIONAL SERVICES AGREEMENT NO. _____

WITH _____

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into on _____**, 2021** ("Effective Date"), by and between the CITY OF MONTEBELLO, a municipal corporation (the "CITY") and _____ (the "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 Professional services in the CITY; 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.

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

SECTION 1. SERVICES / COMPENSATION.

A. All terms, conditions, requirements, and provisions of the Request for Proposals, RFP ____ issued on _____, to _____in the City of Montebello Request for Proposals ("RFP") No. 21-19 ("RFP 21-19"), as such is set forth fully in **Exhibit "A**" hereto, are hereby incorporated fully herein by this reference and shall be binding on the Parties. To the extent of a conflict between the terms of this Agreement and that set forth in any exhibits or attachments hereto, the terms of this Agreement shall govern.

B. The CONTRACTOR shall provide to the CITY all labor, equipment, materials and incidental necessary to Develop a ADA Self-Evaluation and Transition Plan as set forth fully in RFP 21-19 (and any addendums thereto), as such is set forth fully in **Exhibit "A**" hereto and incorporated fully herein by this reference (hereinafter "Professional Services").

C. The CONTRACTOR shall be compensated for performance of the Professional Services as set forth in the Schedule of Compensation attached hereto as **Exhibit "B"** and incorporated fully herein by this reference ("Compensation"). The CONTRACTOR shall provide an itemized billing statement to the CITY each month for Professional Services performed. The CONTRACTOR shall no incur fees or costs which exceed the Compensation without the prior written consent of the CITY.

SECTION 2. TERM.

a. This Agreement shall commence upon issuance a written "Notice to Proceed" (as further defined below) by the City , and shall expire in One (1) Years from the Effective Date, unless terminated earlier as hereinafter provided. This Agreement may be extended for up to One (1) Year extension 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 CITY's applicable, department head.

SECTION 3. 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 the CITY ordinances, rules and regulations, standard operating procedures, and the supervisory chain of command.

d. The CONTRACTOR shall have the right to retain, subject to the CITY's approval, additional individuals, consultants or subcontractors to assist in the completion of services as herein defined. Compensation for additional individuals, consultants 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, 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.

SECTION 4. WORK PRODUCT.

a. The CONTRACTOR hereby agrees that all 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 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 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.

SECTION 5. 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 Manager.

SECTION 6. CITY SUPERVISION.

The City Manager shall have the right of general supervision of all work performed by the CONTRACTOR and shall be the CITY agent with respect to obtaining the CONTRACTOR's compliance hereunder.

SECTION 7. 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 Agreement. 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 (30) 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 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. The CONTRACTOR agrees to cease all work under this Agreement on or before the effective date of any notice of termination.

SECTION 8. EMPLOYMENT OF CITY EMPLOYEES.

No regular employee of the CITY shall be employed by the CONTRACTOR during the term of this Agreement.

SECTION 9. 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.

SECTION 10. 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 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 CONTRACTOR. The CITY shall have no responsibility to provide the CONTRACTOR, its employees or subcontractors with workers' compensation insurance or any other insurance.

SECTION 11. PERS ELIGIBILITY INDEMNITY.

a. If the CONSULTANT is a California Public Employees' Retirement System ("CalPERS") annuitant, the CONSULTANT 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 CONSULTANT. If this Agreement remains in place, the CONSULTANT 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 CONSULTANT or any employee, agent, or subconsultant of the CONSULTANT 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 CONSULTANT 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 CONSULTANT or its employees, agents, or subconsultants, 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 CONSULTANT and any of its employees, agents, and subconsultants 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 12. 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 13. 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 14. 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 the 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

$1,000,000 per occurrence. If a general aggregate limit applies, the limit shall be twice the required occurrence limit.

 Automobile Liability Insurance: Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if 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 CONTRACTOR'S profession, with limit no less than $1,000,000 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 CONTACTOR 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 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

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.

h. **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. CONTRACTOR shall, prior to commencement of work under this Agreement, file with CITY's Risk Manager such certificate(s).

i. 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 weeks prior to the expiration of the coverages.

j. 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.

k. 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 the CONTRACTOR'S insurance and shall not contribute with it.

l. All insurance coverage provided pursuant to this Agreement shall not prohibit the CONTRACTOR, and the 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.

m. 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.

n. Procurement of insurance by the CONTRACTOR shall not be construed as a limitation of the CONTRACTOR's liability or as a waiver of the CONTRACTOR's duties to indemnify, hold harmless and defend under the indemnity covenants of this Agreement.

SECTION 15. 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 16. 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.

SECTION 17. 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 Article shall survive the expiration or termination of this Agreement.

SECTION 18. 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 19. 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 20. 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.

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 21. 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:

Mr. James Enriquez, PE
Director of Public Works / City Engineer
City of Montebello
1600 West Beverly Boulevard
Montebello, California 90640
E-mail: jenriquez@cityofmontebello.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 receiving Electronic Notice may request and shall be entitled to receive the notice on paper, in a nonelectronic form.

SECTION 22. 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 23. 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 24. 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.

CITY OF MONTEBELLO
("CITY")

_____
René Bobadilla
City Manager

Dated: _____

NAME
("CONTRACTOR")

_____
Name
Title of Representative

Dated: _____

ATTEST:

_____
Christopher Jimenez,
City Clerk

APPROVED AS TO FORM:

_____
Arnold Alvarez-Glasman
City Attorney

Exhibit “A”

REQUEST FOR PROPOSAL (RFP)

SYSTEMIC SAFETY ANALYSIS REPORT (SSAR)

PROJECT #SSARPL-5247(027)

RFP No. 21-19

Exhibit “B”

Schedule of Compensation

ITEM # 14

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: René Bobadilla, City Manager

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

SUBJECT: **Beach Street Pavement and Storm Drain Rehabilitation Project - Phase 1 (From Vail Avenue to 5th Street), CP No. 883 – Authorization to Advertise for Construction**

DATE: September 8, 2021

RECOMMENDATION (S):

It is recommended that the City Council:

1) Approve the Plans, Specifications, and Estimate (PS&E) for the Beach Street Pavement Rehabilitation Project Phase 1 (Vail Avenue to 5th Street), CP No. 883); and

2) Authorize the City Clerk to publish the Notice Inviting Bids (Attachment A); and

3) Approve the Notice of Exemption (Attachment B) for the subject project and authorize the City Clerk to file the Notice of Exemption with Los Angeles Registrar-Recorder; and

4) Approve the Total Project Budget of $1,450,000 (Attachment C); and

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

FISCAL IMPACTS

The Fiscal Year 2021-22 Capital Improvement Program (CIP) Budget approved by the City Council at the June 23, 2021 meeting includes a total amount of $1,450,000 for the Beach Street Pavement and Storm Drain Rehabilitation Project, Phase 1 (Vail Avenue to 5th Street). The Project is funded entirely from the Road Maintenance and Rehabilitation Act (SB1) (Fund 201). The project is fully funded at this time and no additional appropriations are recommended.

BACKGROUND

The Beach Street Pavement and Storm Drain Rehabilitation Project (Phase 1 and Phase 2) limits are from Vail Avenue to Bluff Road and includes the removal and reconstruction of existing damaged concrete sidewalks, curb and gutters, cross gutters, concrete driveway approaches and concrete curb ramps. The project also includes cold milling and reconstruction of the existing asphalt concrete (AC) pavement, and the replacement of a deteriorated storm drain line, undersized catch basins, and manholes from 4th Street to Bluff Road. Additionally, the hydrology study completed for the project recommends extension of the storm drain to the intersection of Beach Street and 5th Street.

The storm drain discharges to the Rio Hondo Spreading Grounds under the jurisdiction of the Los Angeles County Flood Control District and operated by the Los Angeles County Department of Public Works (LACDPW). Upon initial consultation for the required permit application, LACDPW informed the City that discharges directly to spreading grounds are no longer allowed due to storm water quality regulations. The replacement of the storm drain will require extension within the spreading grounds property to discharge directly to the Rio Hondo Channel. In order to avoid delaying the entire project, the project was split into two phases allowing the majority of the pavement reconstruction to be completed while the storm drain design and permitting are resolved. Phase 1 is from 5th Street to the western end of the project at Vail Avenue.

West & Associates developed the plans, specifications and contract documents that are available for review in the Public Works Department. The Beach Street Pavement Rehabilitation Project (Phase 1) is ready for construction. Approval from the City Council is required to advertise the project for construction bids.

The Engineer's Estimate of construction costs for this project is $1,200,000.

The anticipated project schedule is as follows:

- Advertise for Construction Bids — September 16, 2021
- Bid Opening — October 13, 2021
- Award of Contract — November 2021
- Start Construction — January 2022
- Complete Construction — March 2022

The Notice Inviting Bids will be published on September 16, 2021, in the local newspaper and construction trade publications. The notice, plans and specifications will also be posted on Planet Bids through the City of Montebello's Website.

The design of Phase 2 is anticipated to be completed by February, 2022, with start of construction in April, 2022. LACDPW restricts construction of storm drain connections to the Dry Season (April 15 to October 15).

ENVIRONMENTAL

Pursuant to the guidelines of the California Environmental Quality Act (CEQA), the Beach Street Pavement Rehabilitation Project Phase 1 was found to be 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.

SUMMARY

Upon the approval of the City Council of the recommended actions, staff will coordinate the advertisement of the project for construction bids. Following the opening of sealed bids, staff will recommend award of the construction contract at a subsequent City Council meeting.

ATTACHMENT (S):

A. Attachment A – Notice Inviting Bids
B. Attachment B – Notice of Exemption
C. Attachment C – Total Project Budget

ATTACHMENT A

NOTICE INVITING SEALED BIDS

FOR

Beach Street Pavement Rehabilitation Project
Phase 1
(From Vail Avenue to 5th Street)

C.P. No. 883

IN THE CITY OF MONTEBELLO

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 10:00 am on October 13, 2021.** They will be publicly opened in the City Council Chambers shortly after on the above date.

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. It is the intent of this contract to have the contractor perform the "Project", and other appurtenances in accordance with the 2012 Standard Plans for Public Works Construction (SPPWC), 2018 Standard Specifications for Public Works Construction "Greenbook" and 2018 Caltrans Standard Plans and Specifications unless otherwise shown.

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 Thursday, September 30, 2021.**

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. 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 Appendix "B" and 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) of 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 electronically. 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 **Forty-five (45) working days** from the effective date of the Notice-to-Proceed to be issued by the City.

BY ORDER OF: The City of Montebello, California

_____
Alicia Fernandez, Deputy City Clerk

ATTACHMENT B

Print Form

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 No 883 Beach Street Pavement Rehabilitaion Project Phase 1

Project Applicant: City of Montebello

Project Location - Specific:
Beach Street from Vail Avenue to 5th Street

Project Location - City: Montebello Project Location - County: Los Angeles

Description of Nature, Purpose and Beneficiaries of Project:
The Beach Street Pavement Rehabilitation Project limits are from Vail Avenue to 5th St and includes the removal and reconstruction of existing concrete sidewalks, curb and gutters, cross gutters, concrete driveway approaches and concrete curb ramps. The project also includes cold milling and reconstruction of the existing asphalt concrete (AC) pavement.

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:

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: _____

Revised 2011

ATTACHMENT C

Beach Street Pavement and Storm Drain Rehabilitation Project - Phase 1
(From Vail Avenue to 5th Street)
CP No. 883

TOTAL PROJECT BUDGET

Project Expenses	Estimated Cost
Construction Management / Inspection	$ 130,000
Construction Estimate	$ 1,200,000
Construction Contingency (10%)	$ 120,000
Total Projected Cost:	**$ 1,450,000**

Project Funding	Estimated Budget
Road Maintenance and Rehabilitation Account (SB1) – Adopted FY 2021-22 CIP Budget (Fund 201)	$1,450,000
Total Projected Budget:	**$1,450,000**

ITEM # 15

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and Members of the City Council

FROM: René Bobadilla, City Manager

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

SUBJECT: **Approve Amendment No. 1 to Agreement No. 3399, with Safe USA, Inc. for Annual Street Striping, Legends, and Road Markings Services**

DATE: September 8, 2021

RECOMMENDATION (S):

It is recommended that the City Council:

1) Approve Amendment No. 1 to Agreement No. 3399, with Safe USA, Inc. for Annual Street Striping, Legends, and Road Markings Services exercising the 2-year extension at an additional cost not-to-exceed $265,700; and

2) Authorize the City Manager to Execute Amendment No.1 on behalf of the City; and

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

FISCAL IMPACTS

As part of the Fiscal Year 2021-22 Capital Improvement Program (CIP) Budget, presented to and approved by the City Council at the June 23, 2021 meeting, a total amount of $265,700 was allocated for the annual Signage and Striping Maintenance Program, FY 2021-22. The Program will be funded with Gas Tax ($200,000, Fund 200) and Measure M ($65,700, Fund 222).

BACKGROUND

The City of Montebello is responsible for the maintenance of approximately one hundred forty-two miles (142) of public streets including traffic striping, pavement markings and legends. Depending on the pavement surface conditions and traffic volume, painted striping and markings can last up to five (5) years and thermoplastic striping can last upwards of ten (10) years. It has been the City's practice to install thermoplastic striping

and markings on newly paved streets. For restriping projects, either thermoplastic or paint is used depending on the condition and remaining life expectancy of the pavement surface.

On May 9, 2018, in response to a Request for Proposals / Sealed Bids (RFP No. 18-41) the City Council approved Agreement No. 3399 (Attachment A) with Safe USA, Inc., for a 3-year term in an amount not-to-exceed $265,700. The Agreement is for on-call maintenance for the restriping of traffic pavement markings and legends. The initial term expires on October 15, 2021.

The Contractor, Safe USA, Inc., has performed their services competently, has provided good quality work and in a timely manner. The City is satisfied with their services and, therefore, staff recommends approval of Amendment No. 1 (Attachment B) exercising the two-year extension clause as allowed per Agreement No. 3399. Additionally, staff recommends increasing compensation by a not-to-exceed amount of $265,700 for the extended term (i.e., for the additional two-year term extension recommended). Safe USA has agreed to extend the original unit prices bid in 2018 with no increase or adjustment.

SUMMARY

Staff is recommending that the City Council approve Amendment No. 1 to Agreement No. 3399 with Safe USA, Inc., for the Annual Street Striping, Legends, and Road Markings Services, extending the contract term for two additional years and increasing the compensation in the amount not-to-exceed $265,700 for the two-year term extension. Funding exists in Funds 200 and 222 (Gas Tax and Measure M) for the current fiscal year.

ATTACHMENT (S):

A. Attachment A – Agreement No. 3399
B. Attachment B – Amendment No. 1

CITY OF MONTEBELLO
CONTRACT AGREEMENT NO. 3399
BY AND BETWEEN
CITY OF MONTEBELLO
AND
SAFE USA, INC.

THIS AGREEMENT ("Agreement") is made and entered into on **MAY 9, 2018**, by the **CITY OF MONTEBELLO**, a municipal corporation (hereinafter referred to as "CITY") and **SAFE USA, INC.** (hereinafter referred to as "CONTRACTOR"). 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 design-build services in the CITY; 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.

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

SECTION 1. SERVICES / COMPENSATION.

A. All terms, conditions, requirements, and provisions of the Request for Proposals for Annual Street Striping, Legends and Road Markings Services in the City of Montebello (April 5, 2018) ("Request for Proposals"), as such is set forth fully in **Exhibit "A"** hereto, are hereby incorporated fully herein by this reference and shall be binding on the Parties. To the extent of a conflict between the terms of this Agreement and that set forth in any exhibits or attachments hereto, the terms of this Agreement shall govern.

B. CONTRACTOR shall provide to CITY all labor, equipment, materials and incidental necessary for a turnkey design-build project as set forth fully in the Request for Proposals, as such is set forth fully in **Exhibit "A"** hereto and incorporated fully herein by this reference (hereinafter "Professional Services").

C. CONTRACTOR shall be shall be compensated for performance of the Professional Services as set forth in the **Bid Proposal dated April 21, 2018** and incorporated fully herein by this reference ("Compensation"). CONTRACTOR shall provide an itemized billing statement to the CITY each month for Professional Services performed. CONTRACTOR shall not incur fees or costs which exceed the Compensation without the prior written consent of the CITY.

SECTION 2. TERM.

This Agreement shall commence upon issuance of the Notice to Proceed by the City ("Effective Date"), and shall expire three (3) years from the Effective Date, unless terminated earlier as hereinafter provided. This Agreement may be extended for up to two (2) additional years upon such terms and conditions mutually agreed upon by the Parties in writing.

SECTION 3. PERFORMANCE.

a. CONTRACTOR shall at all times, faithfully, competently, and to the best of its ability, experience and talent, perform all tasks described herein.

b. 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. CONTRACTOR shall be knowledgeable of and subject to all CITY ordinances, rules and regulations, standard operating procedures, and the supervisory chain of command.

d. CONTRACTOR shall have the right to retain, subject to CITY's approval, additional individuals, consultants or subcontractors to assist in the completion of services as herein defined. Compensation for additional individuals, consultants or subcontractors shall be the sole and exclusive responsibility of CONTRACTOR.

e. CONTRACTOR shall retain all original reports, field and office notes, correspondence, calculations, maps, and other documents specifically related to the services provided by CONTRACTOR pursuant to this Agreement, 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.

SECTION 4. WORK PRODUCT.

a. CONTRACTOR hereby agrees that all work product produced pursuant to this Agreement, and provided to 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. 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 CONTRACTOR.

b. All data, documents, discussion, or other information developed or received by CONTRACTOR or provided for performance of this Agreement are deemed confidential and shall not be disclosed by CONTRACTOR without prior written consent by 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. CONTRACTOR agrees that the covenants contained in this Article shall survive the expiration or termination of this Agreement.

SECTION 5. EXTRA SERVICES.

No extra services over and above the Compensation shall be rendered by CONTRACTOR under this Agreement unless such extra services first shall have been duly authorized in writing by the City Manager.

SECTION 6. CITY SUPERVISION.

The City Manager shall have the right of general supervision of all work performed by CONTRACTOR and shall be the CITY agent with respect to obtaining CONTRACTOR's compliance hereunder. No payment for services rendered under this Agreement shall be made without the prior approval of the City Manager.

SECTION 7. 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 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 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, 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 (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 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 8. EMPLOYMENT OF CITY EMPLOYEES.

No regular employee of the CITY shall be employed by CONTRACTOR during the term of this Agreement.

SECTION 9. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES.

No official or employee of the CITY shall be personally liable to CONTRACTOR in the event of any default or breach by CITY, or for any amount which may become due to CONTRACTOR.

SECTION 10. 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 is in any manner an elected official, officer, employee or agent of the CITY. No employee benefits shall be available to CONTRACTOR in connection with the performance of this

Agreement. Except as provided in this Agreement, CITY shall not pay salary, wages, or other compensation to CONTRACTOR for performance hereunder for CITY, CITY shall not be liable for compensation to CONTRACTOR, CONTRACTOR's employees or 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. CITY shall not deduct from the Compensation paid to 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 CONTRACTOR. CITY shall have no responsibility to provide CONTRACTOR, its employees or subcontractors with workers' compensation insurance or any other insurance.

SECTION 11. PERS ELIGIBILITY INDEMNITY.

a. In the event that CONTRACTOR or any employee, agent, or subcontractor of CONTRACTOR providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the CITY, CONTRACTOR shall indemnify, defend, and hold harmless CITY for the payment of any employee and/or employer contributions for PERS benefits on behalf of 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 CITY.

b. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, CONTRACTOR and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by CITY, including but not limited to eligibility to enroll in PERS as an employee of CITY and entitlement to any contribution to be paid by CITY for employer contribution and/or employee contributions for PERS benefits.

SECTION 12. LEGAL RESPONSIBILITIES.

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 13. 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 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 14. INSURANCE COVERAGE.

During the term of this Agreement, 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 $1,000,000 per occurrence. If a general aggregate limit applies, the limit shall be twice the required occurrence limit.

- **Automobile Liability Insurance:** Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if 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 CONTRACTOR'S profession, with limit no less than $1,000,000 per occurrence or claim, $2,000,000 aggregate.

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.

CONTACTOR shall require each of its subcontractors, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

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.

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. CONTRACTOR agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either (i) immediately terminate this Agreement for Cause; or (ii) take out the necessary insurance and pay, at CONTRACTOR'S expense, the premium thereon.

At all times during the term of this Agreement, CONTRACTOR shall maintain on file with 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. CONTRACTOR shall, prior to commencement of work under this Agreement, file with CITY's Risk Manager such certificate(s).

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 weeks prior to the expiration of the coverages.

The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming 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 CITY. 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.

The insurance provided by CONTRACTOR shall be primary to any coverage available to CITY. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or volunteers, shall be in excess of CONTRACTOR'S insurance and shall not contribute with it.

All insurance coverage provided pursuant to this Agreement shall not prohibit CONTRACTOR, and CONTRACTOR'S employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. CONTRACTOR hereby waives all rights of subrogation against the CITY.

Any deductibles or self-insured retentions must be declared to and approved by the CITY. At the option of CITY, CONTRACTOR shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or CONTRACTOR shall procure a bond guaranteeing payment of losses and expenses.

Procurement of insurance by CONTRACTOR shall not be construed as a limitation of CONTRACTOR'S liability or as fall performance of CONTRACTOR'S duties to indemnify, hold harmless and defend under Section 9 of this Agreement.

SECTION 15. SUBCONTRACT, ASSIGNMENT OR DELEGATION.

CONTRACTOR shall not subcontract, delegate or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of 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 CONTRACTOR and shall not bind or purport to bind CITY and shall not release 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 CONTRACTOR under the Agreement.

SECTION 16. 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.

SECTION 17. 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 Article shall survive the expiration or termination of this Agreement.

SECTION 18. 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 19. 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 20. 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.

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 21. 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 personally or on the second 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:

Danilo Batson, Assistant City Manager / Director of Public Works
Public Works Department
City of Montebello
1600 West Beverly Boulevard
Montebello, California 90640
E-mail: dbatson@cityofmontebello.com

SECTION 22. NON-DISCRIMINATION AND EQUAL OPPORTUNITY EMPLOYER.

In the performance of this Agreement, 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. 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 23. CONFLICT OF INTEREST.

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 CONTRACTOR under this Agreement, or which would conflict in any manner with the performance of its services hereunder. CONTRACTOR further covenants that, in performance of this Agreement, no person having any such interest shall be employed by it. Furthermore, 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.

CONTRACTOR covenants not to give or receive any compensation, monetary or otherwise, to or from the ultimate vendor(s) of services to 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 CONTRACTOR. CONTRACTOR's covenant under this section shall survive the termination of this Agreement.

SECTION 24. ENTIRE AGREEMENT.

This Agreement contains the entire understanding between the CITY and 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.

CITY OF MONTEBELLO

Andrew G. Pasmant
Acting City Manager

Dated: 7/12/18

CONTRACTOR

Jacob Coplenas
CEO

Dated: 6-14-2018

ATTEST:

Irma Barajas
City Clerk

APPROVED AS TO FORM:

Arnold Alvarez-Glasman
City Attorney

ALL CAPACITY ACKNOWLEDGMENT

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

STATE OF California

COUNTY OF San Bernardino

On 6/16/2016 (Date) before me, Ramiro A. Escobar, Notary Public (Name and title of the officer)

personally appeared Jacob Coplenos (Name of person signing),

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.

Ramiro A. Escobar

Signature of officer

NCC1 RAMIRO A. ESCOBAR Commission No. 2171798 NOTARY PUBLIC-CALIFORNIA SAN BERNARDINO COUNTY My Comm. Expires NOVEMBER 13 2020 NCC1

(Seal)

Rev. 01/01/2015

Exhibit "A"
Request for Proposals

CITY OF MONTEBELLO
CALIFORNIA

REQUEST FOR PROPOSALS / SEALED BIDS

FOR

ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)

IN THE CITY OF MONTEBELLO

RFP NO 18-41

ISSUED ON APRIL 5, 2018

BIDS DUE
Monday, April 23, 2018 at 11:00am

BID OPENING
Monday, April 23, 2018 at 11:15am

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(THERMOPLASTIC AND/OR PAINT)

1. NOTICE INVITING SEALED BIDS
2. INSTRUCTIONS TO BIDDERS
3. BID PROPOSAL
4. CONTRACT AGREEMENT
5. GENERAL SPECIFICATIONS
6. SPECIAL PROVISIONS AND CONDITIONS

CITY OF MONTEBELLO
CALIFORNIA

NOTICE INVITING PROPOSALS / SEALED BIDS

FOR

ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)

CITY OF MONTEBELLO
NOTICE INVITING REQUEST FOR PROPOSALS /SEALED BIDS
FOR
ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)

IN THE CITY OF MONTEBELLO

PUBLIC NOTICE IS HEREBY GIVEN THAT THE City of Montebello as AGENCY, invites proposals/sealed bids for the above stated services. Proposals/bids can be submitted via PlanetBids Portal (accessed through the City of Montebello's official website at http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html) or to the City Clerk's Office at 1600 West Beverly Boulevard, up to the hour of 11:00 a.m. on Monday, April 23, 2018 at which time or thereafter said proposals/bids will be opened. Bids received after this time will be considered to be non-responsive.

The work to be done consists of furnishing all materials, equipment, tools, labor, and incidentals and traffic control as required by the Specifications, and Contract Documents for the above stated work. The general items of street striping and marking in the City of Montebello. NOTE: The term of this contract is three (3) years (with an option to extend the contract for 2 additional one-year) from the date of inception. Contract Unit Prices will be in effect for the initial term of the contract (or 3 years) with no adjustment available..

Copies of the specifications and contract documents are available from the City of Montebello, 1600 West Beverly Boulevard, Montebello, California 90640 and on PlanetBids Portal, accessed through the City of Montebello's official website at http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html.

A non-mandatory pre-proposal meeting will be held in the Montebello City Council Chambers located at 1600 West Beverly Boulevard on Monday, April 16, 2018 at 10:00 AM.

Any contract entered into pursuant to this notice will incorporate the provisions of the State Labor Code. Compliance with the prevailing rates of wages and apprenticeship employment standards established by the State Director of Industrial Relations will be required. Affirmative action to ensure against discrimination in employment practices on the basis of race, color, national origin, ancestry, sec, or religion will also be required.

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, or religion in any consideration leading to the award of contract.

The successful Contractor and his subcontractors will be required to possess business licenses from the City.

The AGENCY reserves the right to accept or reject any or all bids, to waive any irregularity in a bid and to make an award as may serve the interests of the City.

The contact person for this RFP is Sam Kouri, Consulting City Engineer at (323) 887-1460.

CITY OF MONTEBELLO
CALIFORNIA

INSTRUCTION TO BIDDERS

FOR

ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES
(THERMOPLASTIC AND/OR PAINT)

INSTRUCTIONS TO BIDDERS
FOR
ANNUAL PAVEMENT STRIPING, LEGENDS AND PAINTING
IN THE CITY OF MONTEBELLO

INSTRUCTIONS TO BIDDERS

1. GENERAL

All Bids must be made in accordance with these Instructions to Bidders ("IB"). Unless specifically noted, capitalized terms are used as defined in the Special Provisions, found in Part "A" of the Contract Appendix. All terms defined in the Special Provisions, which occur in the Bid Documents and Contract, shall have meanings as defined therein.

Bids/proposals must either be 1) on paper, mailed or delivered to the City of Montebello Or 2) Electronically submitted through PlanetBids' Bidder Portal, accessed through the City of Montebello's official website at http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html. All Prospective Bidders must register to bid through the PlanetBids Vendor Portal found on the City of Montebello's website at the link provided above. **There no fees to register and bid on this Request For Proposals.** Copies of the specifications, and contract documents are available for free from the City of Montebello website http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html.

Each bid submitted electronically is required to be accompanied by the Bid Documents; Bid, Bidder's Information, Bid Schedule, List of Subcontractors, References, Designator of Sureties, Bid Bond, Bidder's Violation of Law/Safety Questionnaire, Non-Collusion Affidavit, Certificate of Non-Discrimination by Contractors, Statement Acknowledging Penal & Civil Penalties Concerning Contractors' Licensing Laws, Addendum Acknowledgement, and all additional documentation required by the Instructions to Bidders. Bids must be submitted on the Agency's bid forms.

Any contract entered into pursuant to this notice will incorporate the provisions of the State Labor Code. Pursuant to the provisions of Section 1773.2 of the Labor Code of the State of California, the minimum prevailing rate of per diem wages for each craft, classification, or type of workman needed to execute the contract shall be those determined by the Director of Industrial Relations of the State of California.

Attention is directed to the provisions of Section 1777.5 (Chapter 1411, Statutes of 1968) and 1777.5 of the Labor Code concerning the employment of apprentices by the Contractor or any such subcontractor under him. Affirmative action to ensure against discrimination in employment practices on the basis of race, color, national origin, ancestry, sex, religion, sexual orientation, or handicap will also be required.

The AGENCY will deduct 5-percent retention from all progress payments as specified in the full specifications. The Contractor may substitute an escrow holder

surety of equal value to the retention. The Contractor shall be beneficial owner of the surety and shall receive any interest thereon.

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, or religion in any consideration leading to the award of contract.

In entering into a public works contract, or a subcontract, to supply goods, services, or materials pursuant to a public works contract, the Contractor, or subcontractor, 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 works contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgement by the parties.

No contractor or subcontractor may be listed on a bid proposal for a public works project (submitted on or after March 1, 2015) unless registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5 [with limited exceptions from this requirement for bid purposes only under Labor Code section 1771.1(a)].
No contractor or subcontractor may be awarded a contract 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.

This project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

Optional Pre-Bid Conference: Each prospective bidder is responsible for fully acquainting themselves with the conditions of the City of Montebello (which includes more than one site), as well as those relating to the construction and labor of the Project, to fully understand the facilities, difficulties and restrictions which may impact the total and adequate completion of the work required as part of this bid. To this end, a Pre-Bid Conference will be held on the **Monday, April 16, 2018, at 10:00 a.m. in the Montebello City Council Chambers, at 1600 W. Beverly Blvd., Montebello, CA 90640.**

Interest in More Than One Bid: No bidder shall be allowed to make, submit or be interested in more than one bid. However, a person, firm, corporation or other entity that has submitted a subproposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a subproposal or quoting prices to other bidders submitting a bid to the Owner.

Requests for Information (RFI's) and Questions: All questions and requests for information shall be submitted electronically at http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html under the above stated project. Any questions addressing the interpretation or clarification of the Bid Forms or

the Bid Documents must be submitted no later than **Tuesday, April 17, 2018 at 1:00 p.m. through the City's electronic submission process.** Following this deadline no questions regarding the bid packet will be accepted.

Bid Security and Insurance Certificates; Performance and Payment Bonds: The bid must be accompanied by certified or cashier's check to be submitted to the City Clerk prior to deadline for submission of proposals (proposals will only be accepted through the online process), or bidder's bond, made payable to the AGENCY for an amount no less than ten percent (10%) of the total bid price, this can be scanned and submitted as part of the proposal. Any bid not accompanied by such a guarantee will not be considered.

The successful bidder will be required to furnish, within **five days** of the written Notice of Award, insurance certificates and endorsements as described in the Bid Documents, a Performance Bond in the amount of one hundred percent (100%) of the Total Bid Price, and a Payment (Material and Labor) Bond in the amount of one hundred percent (100%) of the Total Bid Price, on the forms provided and in the manner described in the Bid Documents. Only bonds executed by an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, shall be accepted. The surety must be a California-admitted surety with a current A.M. Best's rating no less than A: VII and satisfactory to the City. If a California-admitted surety insurer issuing bonds does not meet these requirements, the insurer will be considered qualified if it is in conformance with Section 995.660 of the California Code of Civil Procedure, and proof of such is provided to the City.

Lowest Bidder: The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items. NOTE: The term of this contract is three (3) years (with an option to extend the contract for 2 additional one-year) from the date of inception. Contract Unit Prices will be in effect for the initial term of the contract (or 3 years) with no adjustment available..

Bid Protests: Shall follow the City of Montebello's Bid Protest Procedure as found in the Municipal Code: Chapter 3.08 Purchasing System; Section 3.08.036 Bid Protest Procedure Applicable to Public Works Construction Projects.

License Requirements: Pursuant to Section 7028.15 of the Business and Professions Code and Section 3300 of the Public Contract Code, all bidders must possess proper licenses for performance of this Contract. Contractors shall possess the following valid California Contractor's licenses in order to perform the Work: C-32 – Parking and Highway Improvement Contractor and all Subcontractors must possess the appropriate licenses for each specialty subcontracted and they shall be listed on the bid documents as requested.

Owner's Rights: The City of Montebello reserves the right to reject any and all proposals or bids or to waive any irregularities or informalities in any bids or in the bidding should it deem this necessary for the public good, and also the bid of any Bidder who has been delinquent or unfaithful in any former contract with the City of

Montebello and to take all bids under advisement for a period of ninety (90) days. No bidder may withdraw its bid for a period of ninety (90) days after the date from the opening thereof. The award of contract, if made, will be to the lowest responsible Bidder as determined solely by the City of Montebello.

2. AVAILABILITY OF BID/CONTRACT DOCUMENTS

Bids shall only be submitted electronically to the AGENCY on the Bid Forms which are part of the Bid Package for the Project. Copies of the plans, specifications, and contract documents are available for free from the City of Montebello website http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html as indicated in the Notice Inviting Bids. Bids shall be executed by an authorized signatory as described in the Instructions to Bidders.

3. EXAMINATION OF BID DOCUMENTS

The Owner has made copies of the Bid Documents available, as indicated above. Bidders shall be solely responsible for examining the Project Site and the Bid Documents, including any Addenda issued during the bidding period, and for informing itself with respect to local labor availability, means of transportation, necessity for security, laws and codes, local permit requirements, wage scales, local tax structure, contractors' licensing requirements, availability of required insurance, and other factors that could affect the Work. Bidders are responsible for consulting the standards referenced in the Contract, including Part "A" of the Contract Appendix, titled Special Provisions. Failure of Bidder to so examine and inform itself shall be at its sole risk, and no relief for error or omission will be given except as required under State law. **PLEASE NOTE**: *It is the sole responsibility of the bidder to notify the City if the website links provided in this document do not provide the intended information. A bidder is solely responsible to make sure that they are obtaining all needed information to submit a responsive bid.*

4. INTERPRETATION OF BID DOCUMENTS

Bidders must satisfy themselves by personal examination of the work site, Plans, Specifications, and other contract documents and by any other means as they may believe necessary, as to the actual physical conditions, requirements, and difficulties under which the work must be performed. No bidder shall at any time, after submission of a proposal, make any claim or assertion that there was any misunderstanding or lack of information regarding the nature or amount of work necessary for the satisfactory completion of the job. Any errors, omissions, or discrepancies found in the Plans, Specifications, or other contract documents shall be called to the attention of the AGENCY by submission of a written request for an interpretation or correction. Such submission, if any, must be sent using the "Q&A" tab of the electronic bid system at http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html and in accordance with the deadline for Requests for information as outlined in the Notice inviting Sealed Bids.

Any interpretation of the Contract Documents will be made only by addendum duly issued electronically to each person registered on the prospective bidder's list. The Agency will not be responsible for any explanations or interpretations provided in any other manner. No person is authorized to make any oral interpretation of any provision in the Contract Documents to any Bidder, and no Bidder should rely on any such oral interpretation.

The bidding process and terms and conditions will be in strict accordance with the following Bid Documents:

a) NOTICE INVITING SEALED BIDS

b) INSTRUCTIONS TO BIDDERS

c) BID PROPOSAL

d) CONTRACT AGREEMENT

e) GENERAL SPECIFICATIONS

f) SPECIAL PROVISIONS AND CONDITIONS

g) ANY ADDENDA ISSUED BY THE OWNER

5. INSPECTION OF SITE; PRE-BID CONFERENCE AND SITE WALK

Each prospective bidder is responsible for fully acquainting themselves with the conditions of the Project Site (which may include more than one site), as well as those relating to the construction and labor of the Project, to fully understand the facilities, conditions, difficulties and restrictions which may impact the total and adequate completion of the Project. To this end, a Pre-Bid Conference/Site Walk will be held on the date(s) and time(s) indicated in the Notice Inviting Bids included in the Proposal/Bid Forms. See the Notice Inviting Bids http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html for further information.

6. ADDENDA

The Agency reserves the right to revise the Contract Specifications and/or Contract Documents prior to Bid opening date. Revisions, if any, shall be made by written Addenda. All Addenda issued by the Agency shall be included in the Bid and made part of the Contract Documents. Pursuant to the Public Contract Code, Section 4104.5, if the Agency issues an Addendum which includes material changes to the Project less than 72 hours prior to the deadline for submission of Bids, the City will extend the deadline for submission of Bids. The Agency may determine, in its sole discretion, whether an Addendum warrants postponement of the Bid submission date. Each prospective Bidder shall provide Agency a name, address, email, and facsimile number to which Addenda may be sent, as well as a telephone number by which the Agency

can contact the Bidder. Copies of Addenda will be made available on the City of Montebello website http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html. **PLEASE NOTE:** Bidders are responsible for ensuring that they have received any and all Addenda. To this end, each Bidder should contact the City of Montebello website http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html to verify that he/she has received all Addenda issued, if any, prior to the Bid submittal deadline. Failure to cover in his/her bid any such addenda issued may render his/her bid irregular and may result in its rejection by the City.

7. DELIVERY OF BID/PROPOSAL

Bids/proposals must either be 1) on paper, mailed or delivered to the City of Montebello Or 2) Electronically submitted through PlanetBids' Bidder Portal, accessed through the City of Montebello's official website at http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html. All Prospective Bidders must register to bid through the PlanetBids Vendor Portal found on the City of Montebello's website at the link provided above. **There no fees to register and bid on this Request For Proposals.** Copies of the specifications, and contract documents are available for free from the City of Montebello website http://www.cityofmontebello.com/rfp-bids/bid-opportunities.html.

Bids will be available at the date and time stated in the Notice Inviting Bids and the amount of each Bid will be available online and recorded. The Agency may in its sole discretion, elect to postpone the opening of the submitted Bids. Agency reserves the right to reject any or all Bids and to waive any informality or irregularity in any Bid.

8. ALTERNATE BIDS

The lowest bid shall be the lowest bid price on the base contract without consideration of the prices on the additive or deductive items. Since the time for the alternate bid items has already been factored into the Contract Time, no additional Contract Time will be awarded for any of the alternate bid items. Because the Owner may elect to include one or more of the alternate bid items, or to otherwise remove certain bid items from the Project scope of work, each Bidder must ensure that each bid item contains a proportionate share of profit, overhead and other costs or expenses which will be incurred by the Bidder. Bidders shall not unevenly weight or allocate their overhead and profit to one or more particular bid items. Add alternates will be awarded in the order they are listed in the bid documents.

9. IRREGULAR BIDS

Unauthorized conditions, limitations, or provisions attached to a proposal will render it irregular and may cause its rejection. The completed proposal forms shall be without interlineations, alterations, or erasures. Alternative proposals will not be considered unless specifically requested. No oral, telegraphic, or telephonic proposal, modification, or withdrawal will be considered.

10. SIGNING OF BIDS

All Bids submitted shall be executed by the Bidder or its authorized representative. Bidders will be asked to provide evidence in the form of an authenticated resolution of its Board of Directors or a Power of Attorney evidencing the capacity of the person signing the Bid to bind the Bidder to each Bid and to any Contract arising therefrom.

If a Bidder is a joint venture or partnership, it will be asked to submit an authenticated Power of Attorney executed by each joint venturer or partner appointing and designating one of the joint venturers or partners as a management sponsor to execute the Bid on behalf of Bidder. Only that joint venturer or partner shall execute the Bid. The Power of Attorney shall also: (1) authorize that particular joint venturer or partner to act for and bind Bidder in all matters relating to the Bid; and (2) provide that each joint venturer or partner shall be jointly and severally liable for any and all of the duties and obligations of Bidder assumed under the Bid and under any Contract arising therefrom. The Bid shall be executed by the designated joint venturer or partner on behalf of the joint venture or partnership in its legal name.

11. BID GUARANTEE (BOND)

Each bid proposal shall be accompanied by cash, a certified or cashier's check, bid bond ***(the bid bond must be submitted on the form provided by the City and it shall be executed with the actual dollar amounts provided in the required locations on the form)*** or equivalent substitution in lieu of a bond, as authorized by Code of Civil Procedure Section 995.710, in an amount not less than 10% of the Total Bid Price. Any check, bond, or other substitute must be made payable to the Owner, and shall be given as a guarantee that the Bidder will enter into the Contract described in the Bid Documents if awarded the work and will provide a satisfactory Performance Bond, Payment Bond, the required insurance certificates and endorsements, and any other certifications as may be required by the Contract. By submitting a proposal, each bidder agrees that its failure to enter the Contract if awarded the work or to provide the Bonds and other information or documentation described above would result in damage to the Owner, and that it would be impracticable or extremely difficult to ascertain the actual amount of that damage. For this reason, each bidder agrees that the Owner may retain the bid proposal guarantee as liquidated damages if the bidder is awarded the work but fails or refuses to timely enter into the Contract or to provide the Bonds and other information or documentation described above, except as may otherwise be required by California law.

If electing to provide a Bid Bond, as set forth above, each Bidder must obtain such a bond from an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as such in the State of California and satisfactory to the Owner. In addition, the Bid Bond must be submitted on the form furnished by the Owner, or one substantially in conformance with the Owner's form if previously approved in writing by the Owner.

Certified or cashier's checks must be drawn on a solvent state bank or a California branch of a solvent national bank.

After the Owner has made an award to the successful Bidder, and the Bidder has signed a Contract, submitted the necessary bonds, original insurance certificates and endorsements, and any other certifications as may be required by the Contract, the remaining Bid guarantees shall be returned to each particular bidder if requested by that bidder. If the Owner rejects all Bids, it will promptly return to all Bidders their Bid guarantees.

12. LEGAL RESPONSIBILITIES

All proposals must be submitted, filed, made, and executed in accordance with State and Federal laws relating to bids for contracts of this nature whether the same or expressly referred to herein or not. Any bidder submitting a proposal shall by such action thereby agree to each and all of the terms, conditions, provisions, and requirements set forth, contemplated and referred to in the Plans, Specifications and other contract documents, and to full compliance therewith.

Additionally, any bidder submitting a proposal shall, by such action thereby, agree to pay at least the minimum prevailing per diem wages as provided in Section 1773, et. seq., of the Labor Code for each craft, classification, or type of workman required as set forth by the Director of Industrial Relations of the State of California.

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

13. WITHDRAWAL OF BID

Prior to the Bid submittal deadline, a Bid may be withdrawn by the Bidder only by using the Agency's electronic bidding system. No bid may be withdrawn during the period of ninety (90) days after opening of bid.

14. AWARD PROCESS

Once all Bids are opened and reviewed to determine the lowest responsive and responsible bidder, staff will prepare a recommendation for City Council consideration. The City Council will make all necessary decisions and project awards at a regularly scheduled meeting. Unless an extension is granted by the City due to delays beyond the control of the successful bidder, an executed Agreement, Performance Bond and

Payment Bond documents, and all required insurance certificates and endorsements shall be submitted to the City within ten days after the written Notice of Award. All contract documents shall be on the forms provided and in the manner described in the Bid Documents. Failure to do so may, in the sole discretion of Owner, result in the forfeiture of the Bid Guarantee. Once the Owner receives all of the properly drafted and executed documents and certifications from the successful bidder, the Owner shall issue a Notice to Proceed to that successful bidder.

15. DESIGNATION OF SUBCONTRACTORS

Pursuant to the Subletting and Subcontracting Fair Practices Act (commencing with Section 4100 of the Public Contract Code), bidders are required to list in their bid the name and location of place of business of each subcontractor who will perform work or labor or render services in or about the construction of the work or improvement or a subcontractor who specially fabricates and installs a portion of the work or improvement according to the Plans and Specifications in excess of 1/2 of 1% of this prime Contractor's total bid price or $10,000, whichever is greater. Bidders must make these designations, as well as any others requested by the Owner, on the document titled "List of Proposed Subcontractors" which has been included with the Bid Forms.

Pursuant to Public Contract Code Section 4104, the Owner has determined that it will **not** allow Bidders twenty-four (24) additional hours after the deadline for submission of bids to submit the information requested by the Owner about each subcontractor, other than the name and location of each subcontractor.

Failure to list a subcontractor for a portion of the work means that the prime Contractor will do that portion of the work. It is the AGENCY's intent for the Subletting and Subcontracting Fair Practices Act to apply to all phases of the work.

The registration number with the Department of Industrial Relations pursuant to Labor Code section 1725.5. is required on the subcontractor form. Failure to include may result in a bid being considered non-responsive.

16. LICENSING REQUIREMENTS

Pursuant to Section 7028.15 of the Business and Professions Code and Section 3300 of the Public Contract Code, all bidders must possess proper licenses for performance of this Contract at the time of bid submission. Subcontractors must possess the appropriate licenses for each specialty subcontracted. Pursuant to Section 7028.5 of the Business and Professions Code, the Owner shall consider any bid submitted by a contractor not currently licensed in accordance with state law and pursuant to the requirements found in the Bid Documents to be nonresponsive, and the Owner shall reject the Bid. The Owner shall have the right to request, and the Bidders shall provide within five (5) Calendar Days, evidence satisfactory to the Owner of all valid license(s) currently held by that Bidder and each of the Bidder's subcontractors, before awarding the Contract.

17. DISQUALIFICATION OF BIDDERS; INTEREST IN MORE THAN ONE BID

No bidder shall be allowed to make, submit or be interested in more than one bid. However, a person, firm, corporation or other entity that has submitted a subproposal to a bidder, or that has quoted prices of materials to a bidder, is not thereby disqualified from submitting a subproposal or quoting prices to other bidders submitting a bid to the Owner.

18. INSURANCE REQUIREMENTS

All insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII and authorized to do business in the State of California, or otherwise allowed to place insurance through surplus line brokers under applicable provisions of the California Insurance Code or any federal law. Insurance amounts can be found in the sample agreement general provisions.

19. REQUIRED BIDDER CERTIFICATIONS

Bidders must comply with the following:

A. PROPOSAL, BID FORMS AND BID BONDS: Within the Proposal/Bid Documents the bidder must certify to various information, including but not limited to, the accuracy of the representations made in the Proposal, Bid Forms and Bid Bonds.

B. NON-COLLUSION DECLARATION: Pursuant to Public Contract Code Section 7106, each Bidder must execute and submit with its bid the statutorily mandated non-collusion declaration included in the Bid Documents.

C. DIRECTOR OF INDUSTRIAL RELATIONS REGISTRATION: All Contractors and Subcontractors shall be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

20. BASIS OF AWARD; BALANCED BIDS

The Owner shall award Contracts to only the lowest responsible Bidders submitting responsive Bids, as required by law. The Owner reserves the right to reject any or all Bids. The Owner may reject any Bid which, in its opinion when compared to other bids received or to the Owner's internal estimates, does not accurately reflect the cost to perform the Work. In addition, because the Owner may elect to include or exclude any of the bid items and alternate bid items at its sole and absolute discretion, each Bidder must ensure that each bid item contains a proportionate share of profit, overhead and other costs or expenses which will be incurred by the Bidder. The Owner may reject as non-responsive any bid which unevenly weights or allocates overhead and profit to one or more particular bid items.

21. FILING OF BID PROTESTS

A bidder on a City public works project or any other interested person may object, by following the procedure provided in section 3.08.036 of the Montebello Municipal Code, to the award of the contract for the project to the person or entity that submitted the low bid based on grounds that the low bidder is not responsible or that the bid is not responsive. The apparent low bidder on a City public works project may object, by following the procedure provided in the section, to the City staff's determination that its bid is not responsive or that it is not a responsible bidder.

22. PERFORMANCE BOND AND PAYMENT BOND REQUIREMENTS

Unless an extension is granted by the City due to delays beyond the control of the apparent lowest bidder, two identical counterparts of the Performance Bond and Payment Bond in the form supplied by the Owner and included in the Bid Documents shall be submitted to the City within ten days after award of the Contract for this Project. Failure to do so may, in the sole discretion of Owner, result in the forfeiture of the Bid Guarantee. The surety supplying the bond must be an admitted surety insurer, as defined in Code of Civil Procedure Section 995.120, authorized to do business as such in the State of California and satisfactory to the Owner.

The Performance Bond shall be for one hundred percent (100%) of the Total Bid Price, and the Payment Bond shall also be for one hundred percent (100%) of the Total Bid Price.

23. EXPERIENCE AND TECHNICAL REQUIREMENTS

Bidders are required to provide the experience and qualification information required as part of the Proposal/Bid Forms. The purpose of this data is to provide the information necessary for the Owner to determine whether Bidders have the necessary experience in order to responsibly carry out the Work. Each Bidder shall answer all questions and provide information requested by the Proposal/Bid Forms.

24. SALES AND OTHER APPLICABLE TAXES, PERMITS, LICENSES AND FEES

Contractor and its subcontractors performing work under this Contract will be required to pay California sales and other applicable taxes, and to pay for non-City issued permits, licenses and fees required by the agencies with authority in the jurisdiction in which the work will be located, unless otherwise expressly provided by the Bid Documents.

25. EXECUTION OF CONTRACT

The Bidder to whom an award is made shall execute the Contract in the amount of its Total Bid Price within ten (10) days from the date of the Letter of Award. The Owner may require appropriate evidence that the persons executing the Contract and the bonds for both the Bidder and its surety or sureties are duly empowered to do so.

26. OWNER RIGHTS

The Owner may investigate the qualifications of any Bidder under consideration, require confirmation of information furnished by a Bidder, and require additional evidence of qualifications to perform the work described in these Bid Documents. The Owner reserves the right to:

A. Reject any or all of the Bids if such action is in the best interest of the Owner.
B. Issue subsequent Notices Inviting Bids.
C. Cancel this entire Notice Inviting Bids.
D. Appoint evaluation committees to review any or all Bids.
E. Seek the assistance of outside technical experts to validate the Bid(s).
F. Approve or disapprove the use of particular subcontractors.
G. Waive informalities and irregularities in Bids.

The Notice Inviting Bids does not commit the Owner to enter into a contract, nor does it obligate the Owner to pay any costs incurred in preparation and submission of Bids or in anticipation of a contract.

27. BIDDER'S RESPONSIVENESS

The Owner will evaluate Bids for responsiveness at the time of Bid opening and before award is made. A Bid must be in strict compliance with the commercial and technical specifications, without exception. Only Bids which conform in all material respects to the Bid Documents can be eligible for award.

28. BIDDER'S RESPONSIVENESS CHECKLIST

The Owner's initial responsiveness evaluation will consider the following:

SECTION 1: BID

1. BIDDING SCHEDULE: FILL IN ONLINE

SECTION 2: BIDDER FORMS

1. BID BOND: SUBMIT ONLINE
2. LIST OF PROPOSED SUBCONTRACTORS: SUBMIT ONLINE

SECTION 3: NON-COLLUSION DECLARATION

1. NON-COLLUSION DECLARATION: SUBMIT ONLINE

SECTION 4: BIDDER INFORMATION FORMS

1. BIDDER'S INFORMATION: SUBMIT ONLINE

2. LIST OF CURRENT PROJECTS (BACKLOG) : SUBMIT ONLINE

3. LIST OF COMPLETED PROJECTS - LAST THREE YEARS: SUBMIT ONLINE

4. EXPERIENCE AND TECHNICAL QUALIFICATIONS QUESTIONNAIRE: SUBMIT ONLINE

5. VERIFICATION AND EXECUTION: SUBMIT ONLINE

6. CERTIFICATION OF NON-DISCRIMINATION BY CONTRACTORS: SUBMIT ONLINE

7. DESIGNATOR OF SURETIES: SUBMIT ONLINE

8. STATEMENT ACKNOWLEDGING PENAL AND CIVIL PENALTIES CONCERNING THE CONTRACTORS' LICENSING LAWS: SUBMIT ONLINE

If the Bidder is a joint venture, each joint venturer shall prepare and submit a separate form. Extra forms, if needed, can be obtained from the Owner, or photocopied by the Bidder, if necessary.

29. LISTS OF SUBCONTRACTORS

List of Proposed Subcontractors (Forms).

State law prohibits substitution of subcontractors listed in the original Bid except as otherwise provided in Sections 4107 and 4107.5 of the California Public Contract Code. Bidders are required to list all Subcontractors whose participation in the Contract will exceed one-half of one percent (0.5%) of the Total Bid Price. The List of Proposed Subcontractors Forms must be completed as set forth below.

(1) Name. List the name of Subcontractors who will perform work in excess of one half of one percent (0.5%)of the Total Bid Price.

(2) Location. For listed Subcontractors, identify the location of its place of business (City and State).

(3) Work. For listed Subcontractors, identify the type/portion of work to be performed in the Contract.

(4) License. For listed Subcontractors, identify proper licensing for the portion of work to be performed.

(5) Percentage of Work. For listed Subcontractors, list the percentage of the total project scope work will be accomplished by the Subcontractor and provide the percentage of the total project cost that will accomplished by the Subcontractor.

(6) DIR Registration: All Contractors and Subcontractors shall be registered with the Department of Industrial Relations pursuant to Labor Code section 1725.5.

30. RESPONSIBILITY CRITERIA

Responsibility is the apparent ability of the Bidder to meet and complete successfully the requirements of the Contract. The Owner reserves the right to consider the financial responsibility and general competency of each bidder, as well as its reputation within the industry. Owner may request, and apparent low bidder shall provide, a financial statement, audited if necessary, including the Bidder's latest balance sheet and income statement. Owner expects that each Bidder will fully and truthfully disclose all information required of the Bidder by the Bid Documents. The prospective contractor, in order to be evaluated by the Owner as being a responsible contractor, must complete Bid Forms – Sections 1-4 to determine that it:

A. Has or can secure adequate financial resources to perform the contract;

B. Is able to meet the performance or delivery schedule of the contract, taking into consideration other business commitments; and

C. Has a satisfactory record of performance. A contractor seriously deficient in current contract performance, considering the number of contracts and extent of the deficiencies, is presumed not to meet this requirement unless the deficiencies are beyond its control or there is evidence to establish its responsibility notwithstanding the deficiencies. Evidence of such satisfactory performance record should show that the contractor:

(1) Has a satisfactory record of integrity in its dealings with government agencies and with subcontractors, and is otherwise qualified to receive an award under applicable laws and regulations;

(2) Has the necessary organization, experience, satisfactory safety record, accounting and operational controls and technical skills or the ability to obtain them; and

(3) Has the necessary production, construction, and technical equipment and facilities or the ability to obtain them.

31. CLAYTON ACT AND CARTWRIGHT ACT

In accordance with Section 7103 of the Public Contract Code, in entering into a public works contract or a subcontract to supply goods, services or materials pursuant to a public works contract, the Contractor or subcontractor offers and agrees to assign to the awarding body all rights, and interest in and all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 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 contract or the subcontract. This assignment shall be made and become effective at the time the awarding body tenders final payment to the Contractor, without further acknowledgment by the parties.

Please Note: If there are any discrepancies between the Provisions, Specifications, Plans and Conditions the City will determine the appropriate reference for this project.

END OF INSTRUCTIONS TO BIDDERS

CITY OF MONTEBELLO
CALIFORNIA

GENERAL SPECIFICATIONS

FOR

ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES
(THERMOPLASTIC AND/OR PAINT)

GENERAL SPECIFICATIONS

ANNUAL PAVEMENT STRIPING, LEGENDS AND PAINTING IN THE CITY OF MONTEBELLO

1. SCOPE OF WORK

The work to be done consists of furnishing all materials, equipment, tools, labor, and incidentals as required by the Specifications and contract documents. The general items of work include thermoplastic legends; thermoplastic cross walks; thermoplastic striping; curb painting and other items not mentioned that are required by the specifications.

This is an indefinite-quantity contract for supplies and services as specified. The quantities of supplies and services specified in the schedule are estimates only and are not purchased by this contract. There is no guarantee of any quantity of work.

Delivery or performance shall be made only as authorized by orders issued in accordance with the Ordering clause. The Contractor shall furnish to the City, when and if ordered, the supplies or services specified.

There is no limit on the number of orders that may be issued. The City may issue orders requiring delivery to multiple destinations or performance at multiple locations. One time mobilization will be based on orders not locations, remobilization under the same order will not be compensated.

2. ORDERING

Any supplies and services to be furnished under this contract shall be ordered by issuance of a *Work Order* list by the City Representative. At any time during the term of this contract, the City Representative may provide the Contractor with a *Work Order* list of Contract Work to be done. Work shall commence in no more than 5 calendar days from the date of issuance or as directed by the City representative. The amount of contract work included in any *Work Order* list shall be completed on a mutually agreed upon schedule, which shall not exceed 30 calendar days unless extended by the City Representative.

3. AUTHORITY OF THE CITY REPRESENTATIVE

The City Representative of the City of Montebello or designee, shall decide any and all questions which may arise as to the quality or acceptability of materials furnished and work performed, as to the manner of performance and rate of progress of the work; all questions which arise as to the acceptable fulfillment of the contract on the part of the Contractor; and all questions as to claims and compensations.

The City Representative's decision shall be final, and the City Representative shall have exclusive authority to enforce and make effective such decisions and orders as the Contractor fails to carry out promptly.

Any order given by the City Representative, not otherwise required by these Specifications will on request of the Contractor be given or confirmed by the City Representative in writing.

4. LOCATION OF WORK

The general locations and limits of the work are: Within the City Limits of Montebello

5. UTILITY NOTIFICATIONS

The Contractor shall notify the owners of all utilities and substructures not less than 48 hours prior to starting construction. The following list of names and telephone numbers is intended for the convenience of the Contractor and is not guaranteed to be complete or correct:

CITY OF MONTEBELLO		
Attention:	Danilo Batson, Public Works Director	(323) 887-1200
	Nabil S. Henein, Acting City Engineer	(323) 887-1200, Ext. 471
	Hormoz Vahid, Engineer Technician	(323) 887-1200, Ext. 470
LOCAL SEWERS, STORM DRAINS AND TRAFFIC SIGNALS		
Attention:	Mr. Sam Kouri	(323) 887-1460
City Police and Fire Departments		Police: (323) 887-1313 Fire: (323) 887-4510
AT&T		(626) 570-5314
Attention:	Ms. Anna Limas	
CALIFORNIA WATER SERVICE CO.		(323) 722-8601
Attention:	Mr. Ralph Felix	
CENTRAL BASIN MUNICIPAL WATER DISTRICT		(310) 217-2222
Attention:	Ms. Jacque Koontz	
CHARTER COMMUNICATION – CABLE COMPANY		(626) 430-3570
Attention:	Mr. Jessie Gonzalez	(626) 430-3432 Fax
EXXON-MOBIL OIL		(310) 212-1761
Attention:	Ms. Ruth Cronin-Gruitt	
LOS ANGELES COUNTY DEPT. OF PUBLIC WORKS		(626) 458-7137
Attention:	Ms. Maryam Adhami	(626) 458-4913 Fax
MCI/VERIZON		(972) 729-6322
Attention:	Mr. Dean Boyers	
METROPOLITAN WATER DISTRICT		(323) 217-6534
Attention:	Ms. Shoreh Zareh	

MONTEBELLO LAND & WATER COMPANY	(323) 722-8654
PARAMOUNT PETROLEUM CORP. Attention: Mr. Stephen Peyton	(562) 531-2060
SAN GABRIEL VALLEY WATER CO. (Its Water System and Two (2) City Water Systems) Attention: Mr. Al Krohn	(626) 448-6183
CALIFORNIA WATER SERVICE CO.	(323) 263-4145
SOUTH MONTEBELLO IRRIGATION DISTRICT	(323) 721-4735
SANITATION DISTRICTS OF LOS ANGELES COUNTY Attention: Ms. Martha Tremblay	(562) 699-7411, x6803 (562) 908-4251 Fax
SOUTHERN CALIFORNIA EDISON COMPANY Attention: Ms. Regina Gonzalez	(323) 720-5298
SOUTHERN CALIFORNIA GAS COMPANY Attention: Mr. Dwayne Green	(310) 687-2055
SOUTHERN CALIFORNIA GAS COMPANY – TRANSMISSION Attention: Ms. Rosalyn Squires	(818) 701-4546
XO COMMUNICATIONS Attention: Mr. Matt Bergine	(949) 417-4841
TRASH COLLECTORS – ATHENS DISPOSAL*	(626) 336-6100
STREET SWEEPING – NATIONWIDE	(562) 860-0604
MONTEBELLO UNIFIED SCHOOL DISTRICT	(323) 887-7900
MONTEBELLO TRANSIT	(323) 558-1625
UNDERGROUND SERVICE ALERT	811

*Note: There are a number of other collectors that operate in City; obtain names from City Business License Section.

6. EMERGENCY INFORMATION

   The names, addresses, and telephone numbers of the Contractor and subcontractors, or their representatives, shall be filed with the City Engineer and the Montebello Police Department prior to beginning work.

7. STANDARD SPECIFICATIONS

The Standard Specifications of the AGENCY are contained in the 2009 Edition of the Standard Specifications for Public Works Construction (Greenbook) and the City of Montebello adopted Supplements to "Greenbook", as written and promulgated by the Joint Cooperative Committee of the Southern California Chapter of the American Public Works Association and the Southern California District of the Associated General Contractors of California. Copies of these Standard Specifications are available from the publisher, Building News, Incorporated, 10801 National Boulevard, Los Angeles, California 90064-4139, telephone (310) 474-7771.

The Standard Specifications set-forth above will control the general provisions, construction materials, and construction methods for this contract, except as amended by the Plans, Special Provisions, or other contract documents. The following Special Provisions are supplementary and in addition to the provisions of the Standard Specifications unless otherwise noted and the section numbers of the Special Provisions coincide with those of the said Standard Specifications. Only those sections requiring elaboration, amendments, specifying of options, or additions are called out.

The Contractor is specifically directed to obtain as many copies of the 2009 Edition of the **Standard Specifications for Public Works Construction and** the adopted Supplements as necessary, to acquaint themselves with the subject matter contained therein, and to notify and apprise all other parties to the bidding process and contract as to their contents. No bidding or contractual adjustments shall be due or require immediate action as a result of failure on the part of the Contractor and his Subcontractors to fully acquaint themselves with the conditions of these documents. The Contractor is required to maintain at least one copy of these specifications on site at all times.

8. PRECONSTRUCTION MEETING

Prior to issuing the Notice to Proceed with the work, a preconstruction meeting will be held at the office of the City Representative for the purpose of discussing with the Contractor the scope of work, Contract Documents, existing conditions, schedule, delivery dates, utility coordination, construction methods, inspection procedures, and all matters pertaining to the prosecution of and the satisfactory completion of all work. The Contractor's Superintendent, as required by Subsection 7-6 of the Standard Specifications, and any key staff or subcontractors shall attend the preconstruction meeting.

9. REMOVAL AND DISPOSAL OF MATERIALS

All materials removed must be hauled away from the project site and legally disposed of at a materials site located outside the City limits of Montebello. The Contractor is encouraged to recycle materials whenever possible.

Excavated soil shall be disposed of only in one of the following ways (a) at a landfill that offers the option of "beneficial reuse" so that it is not counted as disposal; or (b) in an unpermitted inert disposal site. For a list of facilities that accept inert debris please call the City of Montebello's Environmental Programs Coordinator at (323) 848-6499.

The Contractor shall recycle construction debris, asphalt, and concrete generated from removals required as relevant to this contract. The Contractor is obligated, under this contract, to recycle the waste material through an approved recycling plant.

The Contractor shall submit to the City of Montebello the following:

A. Monthly tonnage reports shall be submitted to the City Representative by the end of each month for the previous reporting month. The information contained in the Monthly tonnage Report shall include (1) weight of all material that is diverted from a landfill and the name of the processing facility; and (2) the weight of all material that is disposed in a landfill and the name of the landfill.

B. Annual reports shall be submitted to the City Representative by the last day of January for the previous calendar year. The information contained in the Annual Report shall be a summary of all the Monthly Tonnage Reports, including the name of all permitted waste disposal facilities where the Contractor has disposed and/or transferred all solid waste removed from the City.

Payment for recycling of materials shall be included in the unit prices for the various items of work. No additional payment will be made for "Recycling of Materials" in conformance with the requirements in these specifications.

END OF GENERAL SPECIFICATIONS

CITY OF MONTEBELLO
CALIFORNIA

SPECIAL PROVISIONS AND GENERAL PROVISIONS

FOR

ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING BID (THERMOPLASTIC AND/OR PAINT)

SPECIAL PROVISIONS

All the Work to be done under this contract shall be in accordance with these Special Provisions and the **"GREENBOOK" Standard Specifications for Public Works Construction**, **latest edition and the City of Montebello adopted Supplement(s)**, as written and promulgated by the Joint Cooperative Committee of the Southern California Chapter of the American Public Works Association and the Southern California District of Associated General Contractors of California. Copies of the Standard Specifications are available from the publisher:

BNi Building News
10801 National Boulevard
Los Angeles, California 90064-4139
(310) 474-7771

The Standard Specifications set forth above, referred hereinafter as Standard Specifications, will control the general provisions, construction materials, and construction methods for this contract except as amended by the Plans, Special Provisions, or other contract documents. The other documents are but are not limited to:

Standard Specifications
State of California
Californian State Transportation Agency
Department of Transportation

The Manual on Uniform Traffic Control Devices (MUTCD) is approved by the Federal Highway Administrator as the National Standard in accordance with Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a), 23 CFR 655, and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2).

The California Manual on Uniform Traffic Control Devices (California MUTCD) is published by the State of California, Department of Transportation (Caltrans) and is issued to adopt uniform standards and specifications for all official traffic control devices, in accordance with Section 21400 of the California Vehicle Code.

The section numbers of these Special Provisions coincide with those of the said Standard Specifications. Only those sections requiring amendment, elaboration, or specifying options, are called out.

PART 1
GENERAL PROVISIONS

SECTION 1 - TERMS, DEFINITIONS, ABBREVIATIONS AND SYMBOLS

1-2 TERMS AND DEFINITIONS.

[Add the following:]

AGENCY:	City of Montebello
Board:	City Council of the City of Montebello
Caltrans:	State of California, Department of Transportation
County:	County of Los Angeles
Engineer:	The City Engineer of the City of Montebello or authorized representative
Federal:	United States of America
Contractor:	The word Contractor is supplemented by adding thereto the following:

The term Contractor means the Contractor as defined herein or his authorized representative.

SECTION 2 - SCOPE AND CONTROL OF THE WORK

2-1 AWARD AND EXECUTION OF CONTRACT.

[Replace with the following:]

Within ten (10) working days after the date of the AGENCY'S Notice of Award, the Contractor shall execute and return the following contract documents to the AGENCY:

Contract Agreement
Performance Bond
Payment Bond
Public Liability and Property Damage Insurance Certificate
Automobile Liability Insurance Certificate
Worker's Compensation Insurance Certificate
Waivers of Subrogation

Failure to comply with the above will result in annulment of the award and forfeiture of the Bid Guarantee.

The Contract Agreement shall not be considered binding upon the AGENCY until executed by the authorized AGENCY officials.

A corporation to which an award is made may be required, before the Contract Agreement is executed by the AGENCY, to furnish evidence of its corporate existence, of its right to enter into contracts in the State of California, and that the officers signing the contract and bonds for the corporation have the authority to do so.

2-5 PLANS AND SPECIFICATIONS.

2-5.1 General.

[Delete the first paragraph and replace with the following:]

Only written authorization from the AGENCY shall be binding over any deviation or change in the Specifications. Please refer to SECTION 3 - CHANGES IN WORK for further explanation. The Contractor shall maintain a control set of Specifications on the project site at all times if applicable.

Reference in the Special Provisions to "State Standard Specifications" shall mean the Standard Specifications, latest edition, of the State of California, Department of Transportation (Caltrans). Copies of these specifications may be obtained from:

State of California - Department of Transportation
Publication Distribution Unit
1900 Royal Oaks Drive
Sacramento, CA 95815
Telephone: (916) 445-3520

Reference in the Special Provisions to Standard Plans shall mean the **Standard Plans for Public Works Construction,** published by the American Public Works Association, and where applicable, the following:

Standard Plans, published by the State Department of Transportation (Caltrans), latest edition.

Standard Plans, published by the Los Angeles County Department of Public Works, latest edition.

The Manual on Uniform Traffic Control Devices (MUTCD) is approved by the Federal HighwayAdministrator as the National Standard in accordance with Title 23 U.S. Code, Sections 109(d), 114(a), 217, 315, and 402(a), 23 CFR 655, and 49 CFR 1.48(b)(8), 1.48(b)(33), and 1.48(c)(2).

The California Manual on Uniform Traffic Control Devices (California MUTCD) is published by the State of California, Department of Transportation (Caltrans) and is issued to adopt uniform standards and specifications for all official traffic control devices, in accordance with Section 21400 of the California Vehicle Code.

2-5.3 Submittals.

2-5.3.1 General.

[Add the following]:

The Contractor shall furnish for approval, within three (3) working days following the issuance of a *Work Order* list, all submittals (as applicable) as required in the Specifications. The Engineer will check and approve such samples, within three (3) working days from receipt of same, only for conformance with specifications for of work and for compliance with information given in Contract Documents. Work shall be in accordance with approved submittals.

Unless specified otherwise, sampling, preparation of samples, and tests shall be in accordance with the latest standards of the American Society for Testing and Materials.

Samples of materials and/or articles shall, upon demand, be submitted for tests or examinations and consideration before incorporation of same materials in work started. The Contractor shall be solely responsible for delays due to samples not being submitted in time to allow for proper time to make tests. Acceptance or rejection will be expressed in writing. The Engineer shall have sole discretion as to the acceptance or rejection of submittals.

Materials furnished must be equal to approved samples in every respect. Samples, which are of value after testing, will remain the property of the Contractor.

[Section 2 is amended by adding thereto the following new Subsection 2-5.4:]

2-5.4 Examination of Contract Documents. The bidder shall examine carefully the entire site of the Work, including but not restricted to the conditions and encumbrances related thereto, the Specifications, and the bid and contract forms therefore. The submission of a bid shall be conclusive evidence that the bidder has investigated and is satisfied as to the conditions to be encountered, as to the character, quality, and scope of the work to be performed, the quantities of material to be furnished and as to the requirements of the proposal, Specifications, and the Contract.

2-11 INSPECTION.

[Delete the second sentence of the first paragraph and replace with the following:]

The Contractor shall notify the Engineer two (2) working days in advance of the date that each inspection is required.

SECTION 3 - CHANGES IN WORK

3-2 CHANGES INITIATED BY THE AGENCY.

3-2.1 General.

[Add the following paragraph after the first paragraph:]

The Contractor shall prepare prices for the extra work in accordance with the City Engineer's instructions and shall submit said prices to the City Engineer for approval. The Contractor shall not proceed with the extra work until ordered to do so in writing by the City Engineer.

3-3 EXTRA WORK.

3-3.2 Payment.

3-3.2.2.3 Tools and Equipment Rental.

[Delete the second paragraph and replace with the following:]

The rates to be used in determining equipment rental costs shall be those rates listed for such equipment in the State of California, Department of Transportation publication entitled "Equipment Rental Rates and General Prevailing Wage Rates," which is in effect on the date upon which the work is accomplished, regardless of ownership and any rental or other agreement entered into by the Contractor, if such may exist for the use of such equipment. If it is deemed necessary by the Engineer to use equipment not listed in the said publication, a suitable rental rate for such equipment will be established by the Engineer. The Contractor may furnish any cost data which might assist the Engineer in the establishment of such rental rate.

3-3.2.3 Markup.

[Delete subsection in its entirety and replace with the following:]

The markups mentioned hereinafter shall include, but are not limited to, all costs for the services of superintendents, project managers, timekeepers as well as other personnel not working directly on the change order, and pickup or yard trucks used by the above personnel.

a) **Work by Contractor**. The following percentages shall be added to the Contractors costs and shall constitute the markup for all overhead and profits:

1) Labor 20%
2) Materials 15%
3) Equipment Rental 15%*
4) Other Items and Expenditures 15%

* Equipment Rental rates shall be based on the latest applicable Caltrans Equipment Rental Rates.

To the sum of the costs and markups provided for in the subsection, 1 percent shall be added as compensation for bonding.

b) **Work by Subcontractor.** When all or any part of the extra work is performed by a Subcontractor, the markup established in 3-3.2.3(a) shall be applied to the Subcontractor's actual cost of such work. A markup of 10 percent on the first $5,000 of the subcontracted portion of the extra work and a markup of 5 percent on work added in excess of $5,000 of the subcontracted portion of the extra work may be added by the Contractor.

SECTION 4 - CONTROL OF MATERIALS

4-1 MATERIALS AND WORKMANSHIP.

4-1.1 General.

[Add the following:]

The Contractor and all subcontractors, suppliers, and vendors, shall guarantee that the entire Work will meet all requirements of this contract as to the quality of materials, equipment, and workmanship. The Contractor, at no cost to the AGENCY, shall make any repairs or replacements made necessary by defects in materials, equipment, or workmanship that become evident within one year after the date of recordation of the Notice of Completion. Within this one year period, the Contractor shall also restore to full compliance with requirements of this contract any portion of the Work which is found to not meet those requirements. The Contractor shall hold the AGENCY harmless from claims of any kind arising from damages due to said defects or noncompliance.

Security of this guarantee shall be in the form of a Maintenance Bond furnished to the AGENCY by the Contractor. There shall be specific wording in the Maintenance Bond that includes the guarantee or warranty of the labor and materials for a one year period, commencing from the recording date of the Notice of Completion by the County Recorder. The guaranteed amount shall be for 100 percent of the total amount earned to date as indicated on the final progress payment. The AGENCY reserves the right to withhold the retention until the Maintenance Bond has been accepted by the AGENCY.

The Contractor shall make all repairs, replacements, and restorations covered by the Maintenance Bond within ten (10) working days after the date of the Engineer's written notice. Failure to comply with such notice will cause the AGENCY to file claim against the bond.

Excepted from the Maintenance Bond will be defects caused by acts of God, acts of the AGENCY, acts of vandals, or by acts of others outside or beyond the control of the Contractor.

4-1.4 Test of Materials.

[Delete the third sentence of the first paragraph and replace with the following:]

Unless otherwise provided, all testing shall be performed under the direction of the Engineer and the AGENCY will bear the cost of testing material and/or workmanship which meet or exceed the requirements indicated in the Standard Specifications and the Special Provisions. The cost of all other tests, including the retesting of material or workmanship that fails to pass the first test, shall be borne by the Contractor.

4-1.6 Trade Names or Equals.

[Delete the last two sentences of the first paragraph and replace with the following:]

Approval of equipment and materials, offered as equivalents to those specified, must be obtained prior to the opening of bids as set forth in the Instructions to Bidders.

SECTION 5 - UTILITIES

5-1 LOCATION.

[Delete the first sentence of the last paragraph and replace with the following:]

The location and existence of any underground utility or substructure was obtained from a search of available records. No guarantee is made or implied that the information is complete or accurate.

The Contractor shall notify the utilities designated in the General Specifications at least 48 hours in advance of excavating around any of their structures and to determine the location of all utilities.

It shall be the Contractor's responsibility alone to determine the location of underground utilities or substructures of every nature and to protect them from damage prior to commencing work. The Contractor agrees to be fully responsible for any and all damages, which may be caused by his/her failure to exactly locate and preserve any and all underground utilities. In the event the Contractor encounters underground utilities he shall verify the exact location of the utility and immediately notify the Engineer, regardless of whether the unknown utility conflicts with the proposed construction or not. In the event of such a previously unknown conflict, the Contractor shall immediately notify the Engineer as to the extent, if any, of delays or additional costs resulting from said conflict. The Contractor shall perform work and provide necessary materials to disconnect or relocate existing utilities as indicated.

Relocate existing utilities at the direction of the Engineer only if utility conflicts cannot be resolved or avoided. Relocation of utilities will be a changed condition.

When uncharted or incorrectly charted underground piping or other utilities and services are encountered during site work operations, notify the applicable utility company immediately to obtain procedure directions. Cooperate with the applicable utility company in maintaining active services in operation.

5-1.1.1 Underground Service Alert.

[Subsection 5-1 is amended by adding the following new Subsection 5-1.1.1:]

Attention is directed to Section 4215 through 4217 of the Government Code of the State of California requiring that two (2) working days prior to commencing any excavation , Underground Service Alert of southern California be notified by telephone, toll free, 1-800-422-4133 or 811, for the assignment of an "Inquiry Notification Number". The "Inquiry Notification Number" must be given to the Engineer prior to the start of any work on this project. If the Contractor fails to obtain this number, the City reserves the right to stop all work on the project. No additional compensation or extension of working time shall be allowed for this delay.

5-4 RELOCATION.

[Delete the second sentence of the last paragraph and replace with the following:]

When not otherwise required by the specifications and when directed by the Engineer, the Contractor shall arrange for the relocation of service connections, as necessary, for it to complete its work.

The Contractor is responsible for maintaining all utility services including but not limited to sanitary sewer, water, gas, electrical, telephone and cable TV. to all properties within the immediate vicinity of work area. Payment for maintaining all existing utilities is considered in the various contract bid items and no additional compensation will be allowed therefore.

5-5 DELAYS.

[Add the following:]

All notification to utility companies insofar as the relocation or removal of a utility shall be made by the Engineer based on Contractor's request as submitted to the Engineer at least 48 hours in advance of the needed work. Any costs for delay of the Contractor of utility companies in this regard shall be assigned to the Contractor, if these costs are a result of the Contractor's request being untimely in any respect excepting thereof any delay cost incurred as a result of the utility company not responding at their agreed time.

5-7 UTILITY MARKINGS.

[Section 5 is amended by adding the following new Subsection 5-7:]

Upon completion of the project, the Contractor shall be required to remove, to the satisfaction of the Engineer, all utility locator markings and utility tie-out paint markings that either the Contractor, the City or utility companies make during the course of the work from the surfaces of sidewalks, driveway approaches, curb and gutters using the removal method acceptable to the Engineer. Any damage to the existing improvements due to the Contractor's removal operation shall be repaired at the Contractor's expense. Payment for removing utility markings shall be included in the various applicable items of work, and no additional compensation will be allowed therefore.

SECTION 6 - PROSECUTION, PROGRESS, AND ACCEPTANCE OF THE WORK

6-1 CONSTRUCTION SCHEDULE AND COMMENCEMENT OF WORK.

6-1.1 Construction Schedule.

[Delete the first sentence of the first paragraph and replace with the following:]

The Contractor's proposed schedule for an issued Work Order list shall be submitted to the Engineer, for approval, within five (5) working days after the date of the AGENCY'S issuance of a Work Order list. The schedule shall be supported by written statements from each supplier of materials or equipment indicating that all orders have been placed and acknowledged, and setting forth the dates that each item will be delivered. The schedule shall be of sufficient detail to indicate what days' work items such as striping, etc., will be performed. Request for changes in the schedule shall be submitted by the Contractor to the Engineer for approval at least 72 hours prior to the scheduled operations on the streets affected.

[Add the following:]

The Contractor shall not schedule any work on City recognized holidays. Holidays will not be counted as working days, and no additional payment shall be made to the Contractor for meeting this requirement. City Holidays are:

New Year's Day ..... (January 1)
Martin Luther King Day ..... (January - Third Monday)
President's Day ..... (February – Third Monday)
Memorial Day ..... (May – Last Monday)
Independence Day ..... (July 4)
Labor Day ..... (September–First Monday)
Columbus Day ..... (October – Second Monday)
Veterans Day ..... (November 12)
Thanksgiving ..... (November - Actual Day)
Day after Thanksgiving ..... (November – Actual Day)
Christmas Day ..... (December 25)

No work will be allowed between the day before Thanksgiving and the day following New Year's Day. The Contractor shall schedule operations accordingly.

The Contractor shall not schedule any work during community events in locations affected by the events, or at locations where work would adversely affect the events. Community events are subject to change, including the addition of new events. It is the Contractor's responsibility to confirm the times and locations of community events far enough in advance to reschedule the work as necessary. No additional payment shall be made to the Contractor for meeting this requirement.

Payment for the development and management of this detailed schedule is considered included in the various contract bid items and no additional compensation will be allowed therefore.

6-1.2 Commencement of the Work.
[Add the following:]

The Contractor shall give at least twenty-four (24) hours advance notice when they or their Subcontractor will start or resume the work.

The above notice is to be given during working hours, exclusive of Saturday, Sunday or AGENCY holidays for the purpose of permitting the Engineer to make necessary assignments of his/her representatives.

6-2 PROSECUTION OF WORK.
[Add the following:]

Any lane closures during restricted times will cause to be assessed to the Contractor a blocking traffic lane charge based on the estimated cost of losses incurred by the traveling public. Blocking a traffic lane during weekday peak hours of (7:00 am – 9:00 am; or 4:00 pm – 7:00 pm) on major highways will not be allowed unless approved in writing from the Engineer. Major highways include Sunset Blvd, La Cienega Blvd, and San Vicente Blvd. The lane charge is according to the 2009-2010 City Fee Resolution which is $50 per minute, per lane, payable to the Agency. The lane charge payment will be deducted from progress payments.

6-6 DELAYS AND EXTENSIONS OF TIME.

6-6.2 Extensions of Time.
[Replace with the following:]

Extensions of time, when granted, will be based upon the effect of delays to the critical path of the work. They will not be granted for non-controlling delays to minor portions of the work unless it can be shown through schedule that such delays did or will delay the critical path of the work.

6-6.3 Payment for Delays.
[Replace with the following:]

The Contractor will only be compensated for damages incurred due to delays for which the Agency is solely responsible, and which delays are unreasonable under the circumstances involved, and not within the contemplation of the parties. The damages recoverable by the Contractor are only those actual costs incurred by the Contractor due to the delay. The Agency will not be liable for damages which the Contractor could have avoided by any reasonable means, such as judicious handling of forces, equipment, or materials plant. The determination of what damages the Contractor could have avoided will be made by the Engineer.

6-6.4 Written Notice and Report.
[Add the following:]

Within five (5) days of the Contractor's first time extension notice, the Contractor shall submit to the City a full and written detailed change order request, which fully

documents the amount of time to be claimed. The change order for time extensions shall include an "impacted" schedule showing the effect of the claimed delay event on the critical path and contract completion dates. Any change order for extension of time shall fully document the Contractor's request for time extensions pursuant to the requirements of the contract documents. The Contractor's failure to submit the above described written change order request, to the City within ten (10) days of the original commencement of the delay, shall constitute a waiver of the Contractor's claim for a time extension.

If the Contractor desires a payment for delay as specified in 6-6.3, it shall file with the City a written notice of its intent to make a claim for such payment within three (3) days after the beginning of the delay.

Any payment for the delay will be as set forth in 6-6.3.

Additionally, within three (3) days after the beginning of the delay, the Contractor shall submit to the City a written notice containing a good faith estimate of the payment it will seek for each day of delay. If the Contractor cannot make a good faith estimate of the payment it will seek for each day of delay, it shall submit within three (3) days after the beginning of the delay a full explanation as to why it cannot make a good faith estimate of the payment it will seek for each day of delay.

If Contractor fails to submit a timely notice of its intent to claim payment for delay, or its notice with an estimate of the payment it will seek per day of delay, or its explanation why such estimate cannot be made, as required above, the Contractor expressly waives and releases the City from any and all damages caused by the delay.

6-7 TIME OF COMPLETION.

6-7.1 General.

[Add the following:]

The time for completion shall be as noted in the General Specifications.

6-7.2 Working Day.

[Add the following:]

The Contractor's activities shall be confined to the hours between 8:00 A.M. and 3:00 P.M. Monday through Friday, excluding holidays. No lane closures, material deliveries, setting up traffic control, or other work will be allowed except within the hours of work. Deviation from these hours will not be permitted without the prior consent of the Engineer, except in emergencies involving immediate hazard to persons or property. In the event of a requested deviation, inspection service fees will be charged against the Contractor. The service fees will be calculated at overtime rates, including benefits, overhead, and travel time. The service fees will be deducted from any amounts due the Contractor.

6-7.2.1 Abandonment of Project.

[Subsection 6-7 is amended by adding the following new Subsection 6-7.2.1:]

If there is no substantial work or significant submittals received by the City for a period of any 5 consecutive working days after the Notice to Proceed is issued, the City may declare the project abandoned. If the project is declared to be abandoned, the City may, at its sole option terminate the contract or require the work be performed by the Surety.

6-8 COMPLETION, ACCEPTANCE, AND WARRANTY.

[Add the following:]

Unless otherwise specified, the Contractor shall make all repairs, replacements, and restorations within 30 days after the date of the Engineer's written notice. The provisions of the Specifications will continue to apply to work being done to satisfy the requirements of the guarantee.

SECTION 7 - RESPONSIBILITIES OF THE CONTRACTOR

7-1 CONTRACTOR'S EQUIPMENT AND FACILITIES.

[Add the following:]

All personal vehicles that are used for construction work must have a company emblem on the door panels while working in City.

7-1.2 Temporary Utility Services.

[Add the following:]

Water for any purpose shall be obtained by the Contractor at their expense. In no case, may the Contractor obtain water from unmetered fire hydrants. The penalty for taking water from an unmetered fire hydrant shall be deducted from the payment due to the Contractor if the City is assessed by the water purveyor. The costs of obtaining water shall be included in the prices paid for the various contract items of work included and no additional compensation will be allowed therefore, unless otherwise specified in these Contract Documents.

7-2 LABOR.

7-2.1 General.

[Add the following:]

The Contractor will be required to submit weekly certified payrolls for the project. The Contractor shall also submit payrolls for all subcontractors.

The payrolls reflect payment of the prevailing wage to all employees plus required fringe benefits. Failure to comply with this requirement may be cause for the City to stop work or to withhold contract payments until the Contractor shows compliance.

7-2.2 Prevailing Wages

[Add the following:]

The Contractor, and all subcontractors, suppliers, and vendors, shall comply with all AGENCY, State and Federal orders regarding affirmative action to ensure equal employment opportunities and fair employment practices. Failure to file any report due under said orders will result in suspension of periodic progress payments.

In accordance with the Labor Code, as provided in Section 1773, et. Seq., the City has on file in the City Clerk's Office the latest prevailing wage rates as established by the Director of Industrial Relations of the State of California. The Contractor shall not pay less than these rates.

7-3 INSURANCE.
[Add the following:]

Indemnity
Except for the gross negligence or willful misconduct of an Indemnitee (as hereinafter defined), the Contractor hereby assumes liability for and agrees to defend (at Indemnitees' option), indemnify, protect and hold harmless Agency, its officers, elected or appointed officials, employees, agents, volunteers, and their Project Consultants, and Engineers, officers, agents, and employees ("Indemnitees") from and against any and all claims, charges, damages, demands, actions, proceedings, losses, stop notices, costs, expenses (including counsel fees), judgments, civil fines and penalties, liabilities of any kind or nature whatsoever, which may be sustained or suffered by or secured against the Indemnitees arising out of or encountered in connection with this Agreement or the performance of the Work including, but not limited to, death of or bodily or personal injury to persons or damage to property, including property owned by or under the care and custody of City, and for civil fines and penalties, that may arise from or be caused, in whole or in part, by any negligent or other act or omission of Contractor, its officers, agents, employees or Subcontractors including, but not limited to, liability arising from:

1. Any dangerous, hazardous, unsafe or defective condition of, in or on the premises, of any nature whatsoever, which may exist by reason of any act, omission, neglect, or any use or occupation of the premises by Contractor, its officers, agents, employees, or subcontractors;

2. Any operation conducted upon or any use or occupation of the premises by Contractor, its officers, agents, employees, or subcontractors under or pursuant to the provisions of this contract or otherwise;

3. Any act, omission or negligence of Contractor, its officers, agents, employees, or Subcontractors.

4. Any failure of Contractor, its officers, agents or employees to comply with any of the terms or conditions of this Contract or any applicable federal, state, regional, or municipal law, ordinance, rule or regulation; and

5. The conditions, operations, uses, occupations, acts, omissions or negligence referred to in Sub-subsections (1), (2), (3), and (4), existing or conducted upon or arising from the use or occupation by Contractor on any other premises in the care, custody and control of City.

The Contractor also agrees to indemnify City and pay for all damage or loss suffered by City including, but not limited to, damage to or loss of City property, to the extent not insured by City and loss of City revenue from any source, caused by or arising out of the conditions, operations, uses, occupations, acts, omissions or negligence referred to in Sub-subsections (1), (2), (3), (4), and (5).

Contractor's obligations under this Section apply regardless of whether or not such claim, charge, damage, demand, action, proceeding, loss, stop notice, cost, expense, judgment, civil fine or penalty, consequential damage or liability was caused in part or contributed to by an Indemnitee. However, without affecting the rights of City under any provision of this agreement, Contractor shall not be required to indemnify and hold harmless 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 City is shown to have been actively negligent and where City 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 City.

Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this agreement. In the event Contractor fails to obtain such indemnity obligations from others as required here, Contractor agrees to be fully responsible according to the terms of this section.

Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth here is binding on the successors, assigns or heirs of Contractor and shall survive the termination of this agreement or this section.

This Indemnity shall survive termination of the Agreement or Final Payment hereunder. This Indemnity is in addition to any other rights or remedies that the Indemnitees may have under the law or under any other Contract Documents or Agreements. In the event of any claim or demand made against any party which is entitled to be indemnified hereunder, City may, in its sole discretion, reserve, retain or apply any monies to the Contractor under this Agreement for the purpose of resolving such claims; provided, however, City may release such funds if the Contractor provides City with reasonable assurance of protection of the Indemnitees' interests. City shall, in its sole discretion, determine whether such assurances are reasonable.

7-5 PERMITS.

[Delete subsection in its entirety and replace with the following:]

Prior to the start of any work, the Contractor shall take out the applicable AGENCY permits and make arrangements for AGENCY inspections. The AGENCY will issue the City of Montebello permits at no charge to the Contractor. The Contractor and all subcontractors shall be licensed in accordance with State Business and Professions Code. The Contractor shall also obtain any and all other permits if required for work being performed.

The Contractor shall obtain written authorization from the private property owners prior to any construction on private property.

The permits and the City business license shall be valid for the entire construction period and shall be kept at the job site at all times. All provisions of the permit shall apply and shall have authority over any conditions contained herein these Special Provisions. Any costs incurred due to compliance with the permit or in obtaining a city business license or any other required permit or license shall be included in the contract cost for the work item involved and no additional payment will be made. Failure to comply with these specific licensing and permit requirements will result in withholding of any progress payment(s) to the Contractor.

Payment for permits other than City of Montebello Permits and license requirements, unless otherwise noted herein, shall be included in the bid items of work and no additional compensation will be allowed therefore.

7-6 THE CONTRACTOR'S REPRESENTATIVE.

[Add the following:]

The Contractor shall assign a full-time Superintendent. The Superintendent shall have a functional cell phone and provide the numbers to the Engineer. The Superintendent shall be fluent in English and have full responsibility for the work. The Superintendent named under this Section shall attend the preconstruction meeting prior to mobilizing equipment or shipping materials to the project site.

The Engineer may request the Contractor to replace the Superintendent at any time by notifying the Contractor in writing. If so requested, the Contractor will assign a new Superintendent within 5 working days of the date of the request. The Contractor shall not assign a different Superintendent to the project without written approval by the Engineer, unless the current Superintendent leaves the employment of the Contractor.

The Contractor shall file with the Engineer the addresses and telephone numbers where he or his representative may be reached during hours when the work is not in progress, so that 24 hour, 7 day a week contact can be maintained.

7-7 COOPERATION AND COLLATERAL WORK.

[Add the following paragraphs following the second paragraph:]

The Contractor shall cooperate with property owners, various utility companies, and other interested parties within or adjacent to the limits of the work specified herein.

It shall be the responsibility of the Contractor to schedule his/her work and that of his /her subcontractors to produce a smooth flow of work in a competent manner. All Contractors on this project shall cooperate with each other scheduling their work.

7-8 WORK SITE MAINTENANCE.

7-8.1 General.

[Add the following:]

The Contractor shall keep premises free from accumulations of waste materials, mud, dust and rubbish at all times.

No material other than clear, clean water is allowed to flow in the street gutters and/or into storm drains.

Construction materials shall be neatly stacked by the Contractor when not in use. Dusty materials in piles or in transit shall be covered to prevent suspension of the dirt or air. The Contractor shall promptly remove splattered concrete, asphalt, oil, paint, corrosive liquids and cleaning solutions from the affected surfaces to prevent marring or other damage.

Volatile wastes shall be properly stored in covered metal containers and removed daily. Wastes shall not be buried or burned on the site or disposed of into storm drains, sanitary sewers, streams, or waterways. All wastes shall be removed from the site and disposed of in a manner complying with local ordinances and antipollution laws. Adequate cleanup will be a condition for recommendation of progress payment submittals.

7-8.2 Air Pollution Control.
[Add the following:]

The Contractor shall comply with all air pollution control rules, regulations, ordinances and statutes which apply to any work performed pursuant to the Contract, including any air pollution control rules, regulations, ordinances and statutes, specified in Section 11017 of the Government Code.

In the absence of any applicable air pollution control rules, regulations, ordinances or statutes governing solvents, all solvents, including, but not limited to, the solvent portions of paints, thinners, curing compounds, and liquid asphalt used on the project shall comply with the applicable material requirements of the South Coast Air Quality Management District. All containers of paint, thinner, curing compound or liquid asphalt shall be labeled to indicate that the contents fully comply with said requirements. Materials to be disposed of shall not be burned, either inside or outside the highway right of way. The provisions of Subsection 300-1.3 "Removal and Disposal of Materials" of the Standard Specifications permitting disposal of material by burning shall not apply.

7-8.2.1 Smog Control.
[Subsection 7-8 is amended by adding the following new Subsection 7-8.2.1:]

The Contractor shall at all times maintain strict compliance with all applicable regulations of the South Coast Air Quality Management District. Such regulations shall include, but will not be limited to:

- Maintenance of permits for all equipment requiring such permitting by the SCAQMD or State Air Resources Board.

- Compliance with all permit conditions of permitted equipment including operating conditions, equipment maintenance, installation of emission control devices, and record keeping.
- Mitigation of all smoke, odors, or other air emissions that may constitute a nuisance.

In the event that the smoke problem becomes excessive, it may be necessary to add an additional blower system to reduce the problem. No additional compensation will be made for any necessary steps required to reduce the smoke.

7-8.3 Noise Control.
[Add the following:]

A noise level limit of 86 dBA at a distance of 50 feet shall apply to all construction equipment on or related to the job whether owned by the Contractor or not. This requirement in no way relieves the Contractor from responsibility for complying with local ordinances regulating noise level. The use of excessively loud warning signals shall be avoided, except in those cases required for the protection of personnel.

The Contractor shall comply with all County and local sound control and noise level rules, regulations, and ordinances which apply to any work performed pursuant to the Contract, and shall make every effort to control any undue noise resulting from the construction operation. The use of excessively loud warning signals shall be avoided in favor of light warnings, except in those cases required by safety laws for the protection of personnel.

The Engineer reserves the right to stop work if he determines that these conditions are being violated.

Pursuant to the authority contained in Section 591 of the Vehicle Code, the Department has determined that, such areas as are within the limits of the project and are open to public traffic, the Contractor shall comply with all the requirements set forth in Divisions 11, 12, 13, 14 and 15 of the Vehicle Code. Attention is directed to the statement in Section 591 that this Section shall not relieve him or any person from the duty of exercising due care. The Contractor shall take all necessary precautions for safe operation of his/her equipment and the protection of the public from injury and damage from such equipment.

Full compensation for conforming to the requirements of this Section shall be considered as included in the prices paid for the various contract items of work involved, and no additional compensation will be allowed therefore.

7-8.4 Storage of Equipment and Materials.

7-8.4.2 Storage in Public Streets.
[Add the following:]

The Contractor shall not store construction materials, equipment or excavated material within the public right-of-way at any time without prior permission from the Engineer.

The Contractor shall secure at their own expense any area required for plant sites, storage of equipment or materials or for other purposes if sufficient area is not available within the project limits.

No parking of any construction equipment or stockpile of material will be allowed within the City Right of Way during non-working hours for the duration of the construction. Unused equipment or material (including the displaced material) shall be removed and stored offsite (to a fenced and screened area) daily. The Contractor may, at his own expense, maintain and operate a work and storage area outside of the public right-of-way. The contractor's storage area is subject to all requirements of the Storm Water Pollution Prevention Plan (SWPPP). BMP's to be implemented in the storage facility shall be designated in the SWPPP and utilized in the storage facility as needed. In such case the Contractor shall submit to Agency written authorization from the owners of the subject property prior to occupation. Occupation of site without written authorization shall be grounds for immediate suspension of work. Location of the storage site shall be approved by Agency. Condition and operation of yard shall conform to these specifications. The Contractor shall assume full responsibility for all damage to the site resulting from his operations and shall repair and/or replace same, at his own expense, to the satisfaction of the owner of the subject property. The Contractor shall vacate site and return it to pre-project condition within five (5) working days following application for Notice of Completion. The Contractor shall obtain a written release from the property owner accepting the condition of the vacated site and releasing the Contractor from any further clean-up or restoration work and shall submit a copy of such release to Agency. The Notice of Completion will not be issued until said release is submitted.

The Contractor shall provide and maintain suitable parking areas, for use by all construction workers and others performing work or furnishing services in connection with the project, as required to avoid any need for parking personal vehicles where they may interfere with public traffic, construction activities, or public parking.

Payment for conformance to the requirements of this section shall be deemed to be included in the price bid for the various items of work. No additional compensation will be allowed therefore.

7-8.5 Sanitary Sewers.

7-8.5.1 Sanitary Facilities.

[Subsection 7-8 is amended by adding the following new Subsection 7-8.5.1:]

Temporary sanitary facilities shall be of reasonable capacity, properly maintained throughout the construction period, and obscured from public view to the greatest practical extent. Contractor is required to remove stored waste from the portable toilets two (2) times per week or as deemed acceptable by the Engineer. Sanitary facilities shall be removed from the site at the end of each workday.

7-8.6 Water Pollution Control.

[Add the following:]

The Agency requires Contractors to submit and implement a program to effectively control water pollution during all construction projects. This project lies within the

boundaries of the Los Angeles Region of the Regional Water Quality Control Board and shall conform to the following requirements:

- Waste Discharge Requirements for Municipal Storm Water and Urban Runoff Discharges in the County of Los Angeles and the Incorporated Cities Therein, (Order No. 01-182, NPDES No. CASC16948),

- National Pollutant Discharge Elimination System (NPDES) Permit for General Construction Activities No. CAS000002, Order No. 99-08-DWQ, and

- Modification of Water Quality Order 99-08-DWQ State Water Resources Control Board (SWRCB) National Pollutant Discharge Elimination System (NPDES) General Permit for Storm Water Discharges Associated with Construction Activity, Resolution No. 2001-046, adopted on April 26, 2001.

In order to ensure a minimum level of water quality control, the Contractor shall comply with the following requirements by effectively implementing and maintaining appropriate Construction Site water pollution control BMP Minimum Requirements in Table 1.

- Sediments shall not be discharged to the storm drain system or receiving water. Sediments generated on the project site shall be retained by implementing appropriate BMP's.

- No Construction-related materials, waste, spills, or residue shall be discharged from the project site to streets, drainage facilities, receiving waters, or adjacent property by wind or runoff.

- Non-storm water runoff, from equipment, vehicle washing, or any other activity shall be contained by implementing appropriate BMP's.

The Contractor shall comply with these requirements by implementing the following Minimum Requirements presented on Table 1.

Water pollution control work shall conform to the requirements in the "Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual" and the "Construction Site Best Management Practices (BMP's) Manual," and addenda thereto issued up to and including, the date of advertisement of the project. Copies of these Manuals are available for purchase from:

Los Angeles County Department of Public Works
Cashiers Office
900 S. Fremont Avenue
Alhambra, CA 91803
(626) 458-6959

The Contractor shall obtain and comply with the "LACDPW Modification to the Storm Water Pollution Prevention Plan (SWPPP) and Water Pollution Control Program (WPCP) Preparation Manual" and the "Construction Site Best Management Practices (BMPs) Manual."

Table 1
CONSTRUCTION SITE BMP'S
MINIMUM REQUIREMENTS*

TEMPORARY SOIL STABILIZATION	
SS-1	SCHEDULING
SS-2	PRESERVATION OF EXISTING VEGETATION
TEMPORARY SEDIMENT CONTROL	
SC-1	SILT FENCE
SC-7	STREET SWEEPING AND VACUUMING
SC-10	STORM DRAIN PROTECTION
WIND EROSION CONTROL	
WE-1	WIND EROSION CONTROL
NON-STORM WATER MANAGEMENT	
NS-6	ILLICIT CONNECTION/ILLEGAL DISCHARGE AND REPORTING
NS-8	VEHICLE EQUIPMENT CLEANING
NS-9	VEHICLE EQUIPMENT FUELING
NS-10	VEHICLE EQUIPMENT MAINTENANCE
WASTE MANAGEMENT AND MATERIAL POLLUTION CONTROL	
WM-1	MATERIAL DELIVERY
WM-2	MATERIAL USE
WM-4	SPILL PREVENTION AND CONTROL
WM-5	SOLID WASTE MANAGEMENT
WM-9	SANITARY/SEPTIC WASTE MANAGEMENT

*Not all minimum requirements may be applicable to this project. Applicability to this project shall be verified by the Contractor and approved by the Agency. Additional BMP's may be required as a result of actual field conditions, contractor activities, or construction operations.

The Contractor shall know and fully comply with the applicable provisions of the Manuals, Permits, and Federal, State and Local regulations that govern the Contractor's operations and storm water discharges from the project site. The Contractor shall implement, inspect and maintain all necessary water pollution control practices to satisfy all applicable Federal, State, and Local laws and regulations that govern water quality.

The Agency, as a permittee, is subject to enforcement action by the State Water Resources Control Board, Environmental Protection Agency, private citizens, and citizen groups. The Agency will assess the Contractor a penalty of $1,000 for each calendar day that the Contractor does not fully implement or comply with the provisions set forth in this section "Water Pollution Control," including, but not limited to, compliance with the applicable provisions of the Manuals, Permits and Federal, State and Local regulations. The Contractor shall be responsible for the costs and for liabilities imposed by law as a result of the Contractor's failure to comply with the

provisions. Costs and liabilities include, but are not limited to, fines, penalties, and damages whether assessed against the Agency or the Contractor, including those levied under the Federal Clean Water Act and the State Porter Cologne Water Quality Act. In addition, the Agency will deduct, from payments due the Contractor, the total amount of any legal fees, staff costs, and consultant fees as a result of the Contractor's non-compliance with these provisions.

Unless arrangements for disturbance or use of areas outside the project limits are made by the Agency and made part of the contract, it is expressly agreed that the Agency assumes no responsibility for the Contractor or property owner with respect to any arrangements made between the Contractor and property owner. The Contractor shall implement, inspect and maintain all necessary water pollution control practices to satisfy all applicable Federal, State and Local laws and regulations that govern water quality for areas used outside of the project limits. These areas shall be addressed in the SWPPP.

REPORT OF DISCHARGE, NOTICES, OR ORDERS

The Contractor shall notify the Agency immediately upon request from the regulatory agencies to enter, inspect, sample, monitor or otherwise access the project site or the Contractor's records pertaining to water pollution control work.

If the Contractor identifies any discharge into receiving waters in a manner causing, or potentially causing, a condition of pollution, the Contractor shall immediately inform the Agency. The Contractor shall submit a written report to the Agency within 5 days of the discharge event, notice, or order. The report shall include the following information:

- The date, time, location, nature of the operation, and type of discharge, including the cause or nature of the notice or order.
- The water pollution control practices deployed before the discharge event, or prior to receiving the notice or order.
- The date of deployment and type of water pollution control practices deployed after the discharge event, or after receiving the notice, or order, including additional measures installed or planned to reduce or prevent reoccurrence.
- An implementation and maintenance schedule for any affected water pollution control practices.

7-9 PROTECTION AND RESTORATION OF EXISTING IMPROVEMENTS.

[Delete the second paragraph and replace with the following:]

Where existing traffic striping, pavement markings, and curb markings are damaged or their reflectivity reduced by the Contractor's operations, such striping or markings shall also be considered as existing improvements and the Contractor shall repaint or replace such improvements.

Relocations, repairs, replacements or reestablishments shall be at least equal to the existing improvements and shall match such improvements in finish and dimensions, unless otherwise specified.

[Delete the last paragraph and replace with the following:]

All costs to the Contractor for protecting, removing, restoring, relocating, repairing, replacing, or re-establishing and/or supporting existing improvements shall be included in the various bid items shown in the bid schedule and no additional compensation will be allowed therefore.

7-10 SAFETY.
(Add the following in its entirety)

The Contractor shall immediately relocate construction equipment and vehicles to clear existing loading zones and clear access to driveways for deliveries and emergency access, whenever such access is needed by commercial vehicles.

When entering or leaving roadways carrying public traffic, the Contractor's equipment, whether empty or loaded shall in all cases yield to public traffic. No excavation within the traveled way shall remain open longer than is necessary to perform the work, and in no case shall remain unplated overnight or on weekends.

The Contractor shall provide, to the Engineer, a telephone number at which the Contractor's representatives can be reached, at any hour, should an emergency occur requiring replacement or relocation of the required traffic control devices.

The City requires the Contractor to furnish a cell phone number that will be furnished to the community with questions or complaints regarding the Contractor's work. The Contractor should designate a public liaison person to handle all resident inquiries. The Contractor shall respond to community inquiries within one hour of the call during normal working hours. When dealing with residents, businesses and property owners, common courtesy is required.

It is essential that the work be properly planned and that the work proceeds according to the approved schedule.

The Contractor shall provide sufficient written notice; forty-eight (48) hours prior to the start of any phase of the work, to all affected businesses and property owners, and shall be responsible for protection of all private and public property in the vicinity. The Contractor shall submit a sample notification letter to the Engineer for review and approval prior to distribution. Damages to any such properties or utilities caused by Contractor's operations shall be corrected by the Contractor at no cost to the City.

All signs shall be illuminated or reflectorized when they are used during hours of darkness. All cones, pylons, barricades, or posts used in the diversion of traffic shall be reflectorized.

All signing, barricading and diversion of traffic shall be subject to the approval of the Engineer. The Contractor shall provide a telephone number at which the Contractor's representatives can be reached should an emergency occur requiring replacement or relocation of the required traffic devices.

All existing traffic signs and street signs shall be maintained in visible locations during construction. Signs designated for removal shall be salvaged and delivered to the AGENCY Yard or disposed of as directed by the AGENCY.

"TEMPORARY NO PARKING" signs shall be posted at least twenty-four (24) hours in advance of the work. The signs shall be placed no more than 50 feet apart on each side of the alleys, streets, and parking areas and at shorter intervals if conditions warrant. The Contractor shall provide the signs and will be responsible for adding the dates and hours of closure to the signs. Removal of signs and furnishing and placing of barricades, if necessary, for posting of signs shall be provided by the Contractor. Signs shall not be posted on any tree, utility pole or traffic sign. These signs shall be removed when the street is reopened for traffic.

Should the Contractor elect to alter the existing traffic stripes and markings, or to divert the flow of traffic on the construction project for its convenience and there are no specific pavement markings or lane delineations shown on the Plans or in the Specifications, he shall provide the necessary temporary striping in accordance with the Work Area Traffic Control Handbook (WATCH), unless otherwise directed by the Engineer.

At least one 12-foot wide traffic lane shall be provided for each direction of travel on all streets at all times, except as permitted by the Engineer. The traffic lanes shall be maintained on pavement, and shall remain unobstructed. The Contractor will be required to submit supplemental traffic control plan(s) for daily lane closures, as shown on the Traffic Control Plan and as required for the Contractor's activities as approved by the Engineer.

One 4-foot wide paved pedestrian walkway shall be maintained in the parkway area on each side of all streets. The clearance from the pedestrian walkway to any traffic lane shall be 5 feet.

The Contractor shall provide access to all fire hydrants, valves, vaults, meters and pull boxes at all times. Traffic signals, pedestrian signals and stop signs shall remain unobstructed at all times.

If the work is done at night, the Contractor shall provide adequate light for proper prosecution of the work, for the safety of the workers and the public, and for proper inspection.

7-10.1.1 Holiday Cessations of Work

No work shall be performed on the project, other than maintenance of barricading, traffic control and other safety measures, during the following period:

Beginning the day before Thanksgiving (Wednesday, November 25, 2009) and ending the Monday following New Year's Day (Monday, January 4, 2010).

Any costs associated with remobilizations shall be distributed to the bid prices for related items of work and no additional compensation will be provided therefore.

7-10.3 Haul Routes.

[Add the following:]

The Contractor shall prepare a permit application for street closure and shall attach two copies of the proposed traffic control signing, barricading, and/or detour routing. The permit application and accompanying attachments shall be submitted to the Engineer for review at least seventy-two (72) hours prior to the start of such work. Upon approval from the Engineer, a no-fee Street Closure Permit will be issued. No Street Closure, Lane Closure, Detour or other work requiring traffic control shall commence prior to issuance of said permit

The Contractor shall submit a daily work schedule and traffic routing plan showing the intended construction zone signing and operations for each phase of the work to be accomplished. The daily work schedule and traffic routing plan shall be submitted within 15-working days after the date of the AGENCY'S execution of the Contract Agreement. No work shall commence until this plan has been reviewed and approved in writing by the City Engineer.

All barricading and construction signing shall be in conformance with the latest edition of the Work Area Traffic Control Handbook (WATCH). The Contractor shall furnish and install all flagmen, lights, signs, barricades, and other safety devices and equipment required in accordance with the WATCH manual, and maintain them in new or like new condition for the duration of the construction project, unless otherwise approved by the Engineer. **Contractor shall provide solar-powered battery, sequential arrow boards for all lane closures.**

Additional construction signing and barricading, required in the opinion of the Engineer to protect the public, shall be immediately erected by the Contractor, at no additional cost to the City.

Temporary traffic channelization shall be accomplished with barricades or delineators. Temporary striping will not be allowed unless specifically permitted by the Engineer. The Contractor shall prepare any plans that may be required for temporary striping to the satisfaction of the Engineer. In no event will temporary striping be allowed on finish pavement surfaces which are to remain.

[Add the following:]

The Contractor shall notify the Engineer a minimum of five (5) working days prior to closing or restricting left-turn movements. A minimum of forty-eight (48) hours prior to restricting left-turn movements and/or closing left-turn pockets, the Contractor shall post signs in advance of and in the area of the closure or restriction. The signs, as a minimum, shall notify the public of the date(s) of the closure and the duration.

Judgment as to adequate or sufficient barricading and signing shall be that which is sufficient and adequate in the opinion of the Engineer.

The Contractor shall relocate, preserve and maintain the visibility of all existing signs within the project limits which affect the flow of traffic, as directed by the Engineer. Any signs which are damaged or found to be missing during the course of construction shall be replaced by the Contractor at his expense as directed by the Engineer. All other signs that interfere with the course of work and are not necessary for the safe flow of traffic will be removed and replaced by the City. Traffic control signs include Stop Signs, Speed Limit, Parking Restriction and other regulatory signs.

7-10.4 Safety.

7-10.4.1 Work Site Safety.

[Add the following:]

The Contractor shall comply with the provisions of any Agency ordinances or regulations regarding requirements for the protection of excavations and the nature of such protection.

In accordance with Section 6500 of the Labor Code, the Contractor is required to obtain a permit from the Division of Industrial Safety for any trench or excavation of five feet or more in depth and into which a person is required to descent.

Prior to beginning of excavations requiring shoring, the Contractor shall designate in writing to the Engineer someone whose responsibility it is to supervise the project safety measures and someone whose responsibility it is to supervise the installation and removal of sheeting, shoring and bracing. In addition to shoring the excavations in accordance with the minimum requirements of Industrial Safety Orders, it shall be the Contractor's responsibility to provide any and all additional shoring required to support the sides of the excavation against the effects of load which may exceed those desired by using the criteria set forth in the Industrial Safety Orders. The Contractor shall be solely responsible for any damages which may result from his failure to provide adequate shoring of the excavation under any and all of the conditions of loading which may exist or which may arise during construction of the project.

In accordance with Section 7104 of the Public Contract code, any public works contract, which involves excavations that extend deeper than four feet below the surface shall provide as follows:

(a) That the Contractor shall promptly, and before the following conditions are disturbed, notify the public entity, in writing, of any:

(1) Material that the Contractor believes may be material that is hazardous waste, as defined in Section 25117 of the Health and Safety Code, which is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law.

(2) Subsurface or latent physical conditions at the site differing from those indicated.

(3) Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally as inherent in work of the character provided for in the contract.

(b) That the public entity shall promptly investigate the conditions, and if it finds that the conditions do materially so differ, or do involve hazardous waste, and cause a decrease or increase in the Contractor's cost of, or the time required for, performance of any part of the work shall issue a change order under the procedures described in the contract.

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

7-10.5 Security and Protective Devices.

[Subsection 7-10 is amended by adding the following new Subsection 7-10.5:]

It is part of the service required of the Contractor to make whatever provisions are necessary to protect the public. The Contractor shall use foresight and shall take such steps and precautions as his operations warrant to protect the public from danger, loss of life, or loss of property, which would result from interruption or contamination of public water supply, interruption of other public service, or from the failure of partly completed work or partially removed facilities. Unusual conditions may arise on the work which will require that immediate and unusual provisions be made to protect the public from danger or loss, or damage to life and property, due directly or indirectly to prosecution of work under this contract.

Whenever, in the opinion of the Engineer, an emergency exists against which the Contractor has not taken sufficient precaution for the public safety, protection of utilities and protection of adjacent structures or property, which may be damaged by the Contractor's operations and when, in the opinion of the Engineer, immediate action shall be considered necessary in order to protect the public or property due to the Contractor's operations under this contract, the Engineer will order the Contractor to provide a remedy for the unsafe condition. If the Contractor fails to act on the situation within a reasonable time period, the Engineer may provide suitable protection to said interests by causing such work to be done and material to be furnished as, in the opinion of the Engineer may seem reasonable and necessary.

The cost and expense of said labor and material, together with the cost and expense of such repairs as are deemed necessary, shall be borne by the Contractor. All expenses incurred by the AGENCY for emergency repairs will be deducted from the progress

payments and the final payment due to the Contractor. However, if the AGENCY does not take such remedial measures, the Contractor is not relieved of the full responsibility for public safety.

7-10.6 Payment

[Subsection 7-10 is amended by adding the following new Subsection 7-10.6:]

Full compensation for conforming to all sections of 7-10 shall be considered as included in the unit price and shall include, but not be limited to, traffic control, notifications, advanced signing, maintenance of parking restrictions, and no additional compensation shall be allowed therefore.

SECTION 8 - FACILITIES FOR AGENCY PERSONNEL

8-1 GENERAL.

[Add the following:]

No field offices for AGENCY personnel shall be required; however, the AGENCY personnel shall have the right to enter upon the project at all times.

SPECIAL PROVISIONS

TRAFFIC SIGNING, PAVEMENT STRIPING, MARKINGS AND MARKERS

All equipment, materials, and components for signing and striping, and the installation thereof, shall conform to the Caltrans Standard Plans and Standard Specifications, Section 84, "Traffic Stripes and Pavement Markings;" and Section 85, "Pavement Markers," most recent version, except as noted in the Special Provisions and on the Plans. These plans and specifications are hereinafter referred to as State Standard Plans and State Standard Specifications PUBLISHED BY DEPARTMENT OF TRANSPORTATION. Copies of these documents may be obtained by writing to:

STANDARD SPECIFICATONS

Copies of this book may be obtained from:

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
PUBLICATION DISTRIBUTION UNIT
1900 ROYAL OAKS DRIVE
SACRAMENTO, CALIFORNIA 95815-3800

Telephone (916) 263-0822
Fax (916) 263-0470
Publication Unit Web site: http://caltrans-opac.ca.gov/publicat.htm

Where reference is made to State-furnished material, it shall mean Contractor-furnished, unless otherwise noted.

SECTION 84: MARKINGS

84-1 GENERAL

84-1.01 DESCRIPTION

[Add the following:]

Traffic stripes and pavement markings shall be thermoplastic unless listed otherwise.

84-1.02 CONTROL OF ALIGNMENT AND LAYOUT

[Add the following:]

The Contractor shall furnish the necessary control points for all striping and markings, and shall be responsible for the completeness and accuracy thereof to the satisfaction of the Engineer. The Contractor shall establish all traffic striping between these points by stringline or other method to provide striping that will vary less than 1/2 inch in 50 feet from the specified alignment.

When no previously applied figures, markings, or traffic striping are available to serve as a guide, suitable layouts shall be spotted in advance of the permanent thermoplastic or paint application. Traffic lines may be spotted by using a rope as a guide for marking spots every five (5) feet, by using a marking wheel mounted on a vehicle, or by any other means satisfactory to the Engineer.

The Contractor shall mark or otherwise delineate the traffic lanes in the new roadway, or portion of roadway, or detour before opening it to traffic.

The Contractor shall provide an experienced technician to supervise the location, alignment, layout, dimensions, and application of the thermoplastic striping and markings.

Spotting shall be completed prior to the removal of any existing stripes. Existing stripes and markings shall be removed prior to the installation of new stripes and markings, but in no case shall any section of street be left without the proper striping for more than 24 hours, or over weekends or holidays.

[Subsection 84-1 is amended by adding the following new Subsection 84-1.05:]

84-1.05 REMOVAL OF EXISTING STRIPING, PAVEMENT MARKINGS, CURB PAINTING, OR RAISED PAVEMENT MARKERS

Existing traffic stripes (including raised pavement markers) and markings which are in conflict with the proposed striping shall be removed by wet sandblasting. Removal of existing thermoplastic striping or pavement markings shall be performed by grinding. Removal shall be to the satisfaction of the City Engineer.

Existing pavement markings that are removed by sandblasting or grinding shall be completely removed. The Contractor shall immediately and continuously remove blasting sand or grinding residue from the roadway during sandblasting or grinding operations and no residue shall be allowed to accumulate. All water used in wet sandblasting shall be recovered and shall not be allowed to enter any public or private storm drain system.

84-2 THERMOPLASTIC TRAFFIC STRIPES AND PAVEMENT MARKINGS

84-2.06 PAYMENT

Payment for installation of thermoplastic traffic striping shall be made at unit price bid for Thermoplastic Traffic Striping, Markings, and Pavement Markings and shall include full compensation for removal of traffic striping and markings and no additional compensation will be allowed therefore.

84-3 PAINTED TRAFFIC STRIPES AND PAVEMENT MARKINGS

84-3.01 DESCRIPTION

Paint for curb marking shall be ready-mixed rapid dry type.

Ready-mixed paints shall be suitable for use on either asphalt concrete or Portland cement concrete.

84-3.05 APPLICATION

[Add the following:]

The Contractor shall notify the Engineer a minimum of two (2) working days prior to beginning the work to coordinate the work. A schedule of the streets to have striping, pavement markings, pavement legends, or curb painting applied shall be provided to the City of Montebello Representative a minimum of one (1) full workday prior to re-striping the streets shown on the schedule. Failure to provide the proper advance notice will require postponement of striping until the next mutually convenient day.

The Contractor shall begin each striping workday by meeting with the Engineer to test the application rate of paint of striping. The Contractor shall adjust the paint application rate as necessary to achieve the paint application rate stated elsewhere in these Special Provisions.

84-3.06 MEASUREMENT

[Delete Subsection in its entirety.]

84-3.07 PAYMENT

[Delete Subsection in its entirety and replace with the following:]

Payment for all traffic striping and pavement markers, markings, painting parking stall numbers on curb, legends, stop bars, crosswalks, curb painting, sandblasting, grinding, clean up, shall be considered included in the unit price bid for Thermoplastic Traffic Striping, Markings, and Pavement Markings, and shall include full compensation for furnishing all labor, materials, tools, equipment, and incidentals to provide the intended installation, and no additional payment will be made therefore. All references to traffic striping and markings shall be "Thermoplastic" unless specified otherwise.

SECTION 85: PAVEMENT MARKERS

85-1.06 PLACEMENT

[Delete the first paragraph and replace with the following:]

Pavement markers shall be cemented to the pavement with hot melt bituminous adhesive.

Curb markings: All curb markings and median island markings shall be painted using EPA compliant paint material. Paint shall be fast or rapid dry type solvent of similar or approved equal to that manufactured by Ennis or Pervo Paint Companies and shall meet all requirements of South Coast Air Quality Management District. The rate of paint to be applied shall be per recommendation of the paint manufacturer.

Paint Lines: In areas of new, or restoration of street striping, markings and legends, the Contractor shall provide and install traffic striping, thermoplastic paint and beads equal to Section 84 of the Caltrans Standard Specifications.

Pavement Markings: Pavement marking work shall include, but not limited to, replacement of legends, left/right turn arrow legends, stop bars and crosswalks with 120 mils thick thermoplastic within the confines of the work area unless otherwise directed by the Engineer. Long line striping shall be "ribbon" applied and minimum 60 mils. All

work shall match existing conditions. All materials shall conform to the Caltrans Standard Specifications.

All existing markings, which do not conform to the new striping, shall be removed with a grinder. Existing markers, which are partially removed or damaged, shall be removed in total and replaced in kind.
Any uncertainties regarding location extend, or type of striping, markings or markers to be used shall be discussed with the Engineer for clarification prior to application.

85-1.08 MEASUREMENT

[Delete Subsection in its entirety.]

85-1.09 PAYMENT

[Delete Subsection in its entirety and replace with the following:]

Payment for all raised non-reflective and reflective pavement markers, sandblasting, removal, adhesives, clean up and any other labor, materials, equipment to provide the intended installation, shall be considered to be included in the unit cost for Thermoplastic Traffic Striping, Markings, and Pavement Markings, and no additional payment will be made therefore.

Exhibit "B"
Schedule of Compensation

BID PROPOSAL
FOR
ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)
IN THE CITY OF MONTEBELLO

TO THE CITY OF MONTEBELLO, as AGENCY

Submit all completed proposal pages online or to the City Clerk

TO **CITY OF MONTEBELLO**, as AGENCY:

In accordance with AGENCY's "Notice Inviting Bids", the undersigned Bidder hereby proposes to furnish all materials, equipment, tools, labor, and incidentals required for the above stated services as set forth in the Specifications, and Contract Documents therefore, and to perform all work in the manner and time prescribed therein.

Bidder declares that this bid is based upon careful examination of the Specifications, Instructions to Proposer, and Contract Documents. If this bid is accepted for award, BIDDER agrees to enter into a contract with AGENCY at the unit and/or lump sum prices set forth in the following Bidding Schedule(s). BIDDER understands that failure to enter into a contract in the manner and time prescribed will result in forfeiture to AGENCY of the Bid Bond/Guarantee accompanying this bid.

BIDDER understands that a bid is required for the entire work, that the estimated quantities set forth in the Bid Sheet are solely for the purpose of comparing bids, and that final compensation under the contract will be based upon the actual quantities of work satisfactorily completed. It is agreed that the Unit and/or Lump Sum Prices bid include all appurtenant expenses, taxes, royalties, and fees. In the case of discrepancies in the amounts bid, Unit Prices shall govern over extended amounts.

Attached hereto is a certified check, a cashier's check or a bid bond in the amount of

Eight Thousand Dollars($ 8,000.00)

said amount being not less than ten percent (10%) of the Total Bid Price. the undersigned BIDDER agrees that said amount shall be retained by the Owner if, upon award, we fail or refuse to execute the Contract and furnish the required bonds, certificates and endorsements of insurance and other certifications within the time provided.

If awarded a Contract, the undersigned BIDDER agrees to execute the formal Contract, which will be prepared by the Owner for execution, within **ten (10)** Calendar Days following the Letter of Award for the Contract.

BIDDER agrees and acknowledges that he/she is aware of the provisions of Section 3700 of the Labor Code which requires every employer to be insured against liability for Worker's Compensation or to undertake self-insurance in accordance with the provisions of that code, and that the BIDDER will comply with such provisions of that code before commencing the performance of this Contract if awarded to it.

BIDDER certifies that in all previous contracts or subcontracts, all reports which may have been due under the requirements of any agency, State, or Federal equal employment opportunity orders have been satisfactorily filed, and that no such reports are currently outstanding.

BIDDER declares that the only persons or parties interested in this bid as principals are those named herein; that no officer, agent, or employee of the AGENCY is personally interested, directly or indirectly, in this Bid; that this Bid is made without connection to any other individual, firm, or corporation making a bid for the same work; and that this Bid is in all respects fair and without collusion or fraud.

BIDDER certifies that affirmative action has been taken to seek out and consider Disadvantaged Business Enterprises for those portions of the work to be subcontracted, and that such affirmative actions have been carefully documented, that said documentation is open to inspection, and that said affirmative action will remain in effect for the life of any contract awarded hereunder. Furthermore, BIDDER certifies that affirmative action will be taken to meet all equal employment opportunity requirements of the contract documents.

The undersigned BIDDER offers and agrees that if this bid is accepted, it will assign to the purchasing 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 of Part 2 of Division 7 of the Business and Professional Code), arising from purchases of goods, materials or services by the BIDDER for sale to the purchasing body pursuant to the bid. Such assignment shall be made and become effective at the time the purchasing body tenders final payment to he Contractor.

BIDDER understands and agrees that, when requested by Owner, he shall provide: (1) evidence satisfactory to the Owner of BIDDER's California contractor's license(s) in good standing; (2) evidence that the person signing this Bid is authorized to bind BIDDER to this Bid and to a contract resulting therefrom; and (3) any other information and documentation, financial or otherwise, needed by Owner to award a Contract to the lowest responsible and responsive bidder.

BIDDER understands and agrees that liquidated damages shall apply to this Contract in the amounts and subject to the terms and conditions described in the Contract Form and the Contract Documents.

Attached to this Bid and by this reference incorporated herein and made a part of these completed Proposal/Bid Forms are a Bid Bond, a Non-Collusion Declaration, and Bidder Information Form.

The undersigned BIDDER acknowledges receipt, understanding and full consideration of the following addenda to the Contract Documents.

Addenda No's. 1, 2, 3, 4

City of Montebello

Department of Public Works
ENGINEERING DIVISION
PHONE (323) 887-1200

To: Planholders

From: Samuel T. Kouri, P.E.,
City Engineer

Date: April 18, 2018

Subject: RFP No. 18-41 ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)

Addendum #1 – Planholder's Information Items

Item 1
Item 16 of Instructions to Bidders – A C-8 Contractor License is required for this contract.

Item 2
Bidders are required to submit a Bidder's Bond based on the City's anticipated average annual contract amount of $80,000.

Item3
The Optional Pre-Bid Meeting – This meeting has no agenda. The meeting format will be Q&A regarding questions from Planholders. Minutes and Sign-in sheet will be provided afterwards.

Item 4
Asphalt Slurry Seal will be Type II with 2% Latex.
Minimum Slurry Seal Area: 50,000 SF.
Number of Mobilization per Work Order: ONE (1)

Item 5
Bid Proposal Item 26 – This item is changed to **12" WHITE CROSSWALK.** The **LIMIT LINE** is deleted from this item.

Bidder's Certificate: (This Certificate must be signed and returned together with the Bid Proposal, otherwise the submitted bid shall be considered incomplete.)

I ACKNOWLEDGE RECEIPT OF THIS ADDENDUM #1, AND I ACCEPT THE AFOREMENTIONED CONDITIONS.

DATE: 4-17-2018
COMPANY: Safe USA, Inc
SIGNATURE: [signature]
TITLE: Office Manager

City of Montebello

Department of Public Works
ENGINEERING DIVISION
PHONE (323) 887-1200

To: **Planholders**

From: **Samuel T. Kouri, P.E.,**
City Engineer

Date: **April 18, 2018**

Subject: **RFP No. 18-41 ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)**

Addendum #2

Item 16 of Instructions to Bidders – A C-32 Contractor License is required for this contract. This is an update of Item 1 of Addendum 1.

Bidder's Certificate: (This Certificate must be signed and returned together with the Bid Proposal, otherwise the submitted bid shall be considered incomplete.)

I ACKNOWLEDGE RECEIPT OF THIS ADDENDUM #2, AND I ACCEPT THE AFOREMENTIONED CONDITIONS.

DATE: 4-17-2018

COMPANY: Safe Usa, Inc.

SIGNATURE: [signature]

TITLE: office Manager

City of Montebello

Department of Public Works
ENGINEERING DIVISION
PHONE (323) 887-1200

To: **Planholders**

From: **Samuel T. Kouri, P.E.,**
City Engineer

Date: **April 19, 2018**

Subject: **RFP No. 18-41 ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)**

Addendum #3 ---BE APPRAISED OF THE FOLLOWING UPDATES AS NOTED IN RED:

Item 44	250 LF	Two-Way Left Turn Lane (Double 4" Solid Skip Yellow Lines with 3" Solid Black Line Between Yellow Lines)

Item 47- Units should be SF

Item 48 – Units should be LF

Bidder's Certificate: (This Certificate must be signed and returned together with the Bid Proposal, otherwise the submitted bid shall be considered incomplete.)

I ACKNOWLEDGE RECEIPT OF THIS ADDENDUM #3, AND I ACCEPT THE AFOREMENTIONED CONDITIONS.

DATE: 4-21-18

COMPANY: Safe Usa, Inc.

SIGNATURE: Monica G

TITLE: office Manager

City of Montebello

Department of Public Works
ENGINEERING DIVISION
PHONE (323) 887-1200

To: **Planholders**

From: **Samuel T. Kouri, P.E.,**
City Engineer

Date: **April 23, 2018**

Subject: **RFP No. 18-41 ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)**

Addendum #4 ---BE APPRAISED OF THE FOLLOWING UPDATE:

Certification of Non-Discrimination By Conractors.
Experience and Technical Qualifications Questionnaire.

These forms are missing from the bid proposal. Bidders are required to submit their bids without these forms. The City will require these forms to be submitted by the apparent low bidder within 72 hours.

Bidder's Certificate: (This Certificate must be signed and returned together with the Bid Proposal, otherwise the submitted bid shall be considered incomplete.)

I ACKNOWLEDGE RECEIPT OF THIS ADDENDUM #3, AND I ACCEPT THE AFOREMENTIONED CONDITIONS.

DATE: 4-23-2018

COMPANY: Safe USA, Inc.

SIGNATURE: [signature]

TITLE: President

By its signature on this Bid, the BIDDER certifies under penalty of perjury of the laws of State of California that the accuracy of the representations made on the Proposal/Bid Forms herein are true and correct and the representations are in accordance with the requirements of California Business and Professional Code Section 7028.15.

Bidder Signature _____ Date 4/17/2018

Safe USA, Inc. Jacob Kapenas President
Name of Bidder (Print) Title

1030 N. Mountain Ave. #180 909-983-0703
Business Street Address Telephone Number

Ontario, Ca. 91762
City, State and Zip Code

Bidder's State Contractor's License Number(s): 874085

Subscribed and sworn before me
this 21 day of April, 2018.

(SEAL)

Ramiro A. Escobar
Notary Public in and for
the State of California

My Commission Expires: 11.13.2020

RAMIRO A. ESCOBAR
Commission No. 2171798
NOTARY PUBLIC-CALIFORNIA
SAN BERNARDINO COUNTY
My Comm Expires NOVEMBER 13 2020

BID SCHEDULE
FOR
ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)

IN THE CITY OF MONTEBELLO

I/We agree to perform the above entitled work in accordance with the Specifications of the City of Montebello and as referenced in these documents for the prices listed below. Unit prices shall include all labor, material, tools, equipment, barricades, traffic and warning devices, transportation, overhead and profit to perform the work. NOTE: The term of this contract is three (3) years (with an option to extend the contract for 2 additional one-year) from the date of inception. Contract Unit Prices will be in effect for the initial term of the contract (or 3 years) with no adjustment available. The City will issue Work Orders with a detailed scope of work and the limits of work least annually.

TOTAL BID PRICE FOR THE ENTIRE CONTRACT WORK for the cost of labor, materials, equipment parts, implements and supplies necessary to complete the project, as based on the City' estimate of quantities of work to be done (summation of preceding subtotals of Items 1 through 56 inclusive):

LEGENDS - PAINTED

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
1.	10 EA	**SPEED LIMIT** (white)	20.00	$200.00
2.	25 EA	**STOP** (white)	40.00	$1,000.00
3.	25 EA	**STOP AHEAD** (white)	40.00	$1,000.00
4.	25 EA	**PED XING** (white)	40.00	$1,000.00
5.	10 EA	**WAIT HERE** (white)	40.00	$400.00
6.	10 EA	**ONLY** (white)	40.00	$400.00

7.	4 EA	**KEEP CLEAR FIRE DEPT** (white)	100.00	$400.00
8.	10 EA	**30 MPH** (white)	30.00	$300.00
9.	10 EA	**35 MPH** (white)	30.00	$300.00
10.	15 EA	**Arrow – Right** (white)	30.00	$450.00
11.	5 EA	**SLOW SCHOOL XING** (yellow)	60.00	$300.00
12.	5 EA	**SCHOOL** (yellow)	40.00	$200.00
13.	30 EA	**8 Ft. Letter** (white)	40.00	$1,200.00
14.	70 EA	**Bike Legend** (white)	40.00	$2,800.00

LEGENDS - THERMOPLASTIC

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
15.	25 EA	**SPEED LIMIT** (white)	50.00	$1250.00
16.	75 EA	**STOP** (white)	80.00	$6,000.00
17.	25 EA	**STOP AHEAD** (white)	100.00	$2500.00
18.	75 EA	**PED XING** (white)	80.00	$6,000.00
19.	50 EA	**ONLY** (white)	80.00	$4,000.00

20.	25 EA	**RIGHT TURN ONLY** (white) per thermoplastic legend	100.00	$ 2,500.00
21.	25 EA	**LEFT TURN ONLY** (white)	100.00	$ 2,500.00
22.	25 EA	**Arrow – Right** (white)	40.00	$ 1,000.00
23.	120 EA	**Arrow – Left** (white)	40.00	$ 4,800.00
24.	30 EA	**8 Ft. Letter** (white)	80.00	$ 2,400.00
25.	70 EA	**Bike Legend** (white)	40.00	$ 2,800.00
26.	70 EA	**Bike Arrow** (white)	40.00	$ 2,800.00

CROSSWALKS - PAINT

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
26.	300 LF	**White 12" Cross Walk & Limit Line**	2.00	$ 600.00
27.	500 LF	**White 24" Cross Hatching / Zebra Striping Cross Walk**	2.00	$ 1,000.00

CROSSWALKS - THERMOPLASTIC

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
28.	1,500 LF	**White 12" Cross Walk & Limit Line**	2.00	$ 3,000.00

29..	15,000 LF	**White 24" Cross Hatching / Zebra Striping Cross Walk**	3.00	$ 45,000.00

STRIPING - PAINT

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
30.	500 LF	**White 12" Stop Bar**	1.00	$ 500.00
31.	2,000 LF	**4" Solid White Lane Line and Parking Stall Line**	.20	$ 400.00
32.	4,000 LF	**4" Solid Double Yellow Centerline with 3" Solid Black Line**	.20	$ 800.00
33.	4,000 LF	**Two-Way Left Turn Lane (Double 4" Solid Skip Yellow Lines with 3" Solid Black Line Between Yellow Lines)**	.50	$ 2,000.00
34.	500 LF	**8" Solid White Lane Line**	.40	$ 200.00
35.	1,000 EA	**Parking Stall "T"'s** (white)	$ 4.00	$ 4,000.00
36.	2,000 LF	**4" Skip White Lane Line**	.20	$ 400.00

STRIPING - THERMOPLASTIC

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
37.	1,000 LF	**White 12" Stop Bar**	2.00	$2000.00
38.	7,000 LF	**4" Solid White Lane Line and Parking Stall Line**	.60	$4,200.00
39.	7,000 F	**4" Skip White Lane Line**	.50	$3,500.00
40.	7,000 LF	**4" Solid Double Yellow Centerline with 3" Solid Black Line**	1.20	$8400.00
41.	500 LF	**4" Skip Yellow Centerline**	.50	$250.00
42.	5,000 LF	**8" Solid White Lane Line**	1.20	$6,000.00
43.	500 EA	**Parking Stall "T"'s** (white)	4.00	$2,000.00
44.	250 EA	**Two-Way Left Turn Lane (Double 4" Solid Skip Yellow Lines with 3" Solid Black Line Between Yellow Lines)**	2.00	$500.00

CURB - PAINTING

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
45.	150,000 LF	**Red Curb**	.28	$42,000.00
46.	2,500 LF	**Yellow Curb**	.40	$ 1,000.00

REMOVALS – GRINDING (REMOVAL DEFINED AS COMPLETE REMOVAL)

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
47.	3000 LF	**Legends**	1.00	$3,000.00
48.	20,000 SF	**Striping**	.70	$ 14,000.00
49.	10,000 SF	**Crosswalks**	1.00	$ 10,000.00

REMOVALS – SANDBLASTING (REMOVAL DEFINED AS COMPLETE REMOVAL)

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
50.	1,500 SF	**Painted Curbs**	2.00	$ 3,000.00

BLACKOUT

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
51.	1,500 SF	**Legends**	1.00	$ 1,500.00
52.	9,500 LF	**Striping**	.50	$ 4,750.00
53.	10,000 SF	**Crosswalks**	.50	$ 5,000.00

OTHER ITEMS

ITEM NO.	ESTIMATED QUANTITY	DESCRIPTION AND UNIT PRICE WRITTEN IN WORDS	UNIT PRICE IN FIGURES	TOTAL IN FIGURES
54.	20,000 LF	**Crack Sealing - Rubberized**	.25	$ 5,000.00
55.	125,000 SF	**Asphalt Slurry Sealing**	.32	$ 40,000.00
56.	8 EA	**Mobilization – One Time Mobilization for each Work Order List – No compensation for remobilization**	400.00	$ 3,200.00

TOTAL BID $ 265,700.00

TOTAL BID (in words) Two- Hundred sixty Five thousand seven hundred dollars and no cents.

BIDDER'S NAME Safe Usa, Inc.

DESIGNATION OF SUBCONTRACTORS, SUPPLIERS AND VENDORS

BIDDER proposes to subcontract certain portions of the work, and to procure materials and equipment from suppliers and vendors as follows (add additional pages as necessary):

Subcontractor Name: All American Asphalt

Address: P.O Box 2229, Corona, Ca. 92878-2229

License No. and Class: 267073-A

Department of Industrial Relations (DIR) Registration Number 1000001051

Percentage of Total Contract: 16.5

Specific Items of Work: Slurry Seal

Subcontractor Name: _____

Address: _____

License No. and Class: _____

Department of Industrial Relations (DIR) Registration Number _____

Percentage of Total Contract: _____

Specific Items of Work: _____

Suppliers List

1. Ennis-Flint, Inc., 4161 Piedmont Parkway, Suite 370, Greensborom, NC 27410
   Paint and Thermoplastic Material

2. Maxwell Products, Inc. 680 South Delong St., Salt Lake City , UT 84104
   Crack Sealing Material

3. Apex Universal 11033 Forest Place, Santa Fe Springs, CA 90670
   RPMs

REFERENCES

The following are the names, addresses, and telephone numbers for three public agencies for which BIDDER has performed similar work within the past 2 years:

1. City of Highland - 27215 Base Line. Highland, Ca. 92346
   Name and Address of Owner

   Jim Richardson - Public Works Manager 909-863-0284
   Name and telephone number of person familiar with project

   $ 22,842.00 striping, seal coat 5yr contract from 2016
   Contract amount | Type of work | Date completed

2. City of Temecula - 41000 Main St. Temecula, Ca 92590
   Name and Address of Owner

   Chris White 951-308-6388
   Name and telephone number of person familiar with project

   $300,000 Striping 11/2017
   Contract amount | Type of work | Date completed

3. City of Ontario - 303 - E. "B" St. Ontario, Ca. 91764
   Name and Address of Owner

   Miguel Sato Mayor 909-395-2108
   Name and telephone number of person familiar with project

   $ 194,000 striping 11/2016
   Contract amount | Type of work | Date completed

The following are the names, addresses, and telephone numbers of all brokers and sureties from whom BIDDER intends to procure insurance and bonds:

Gabriel Hill - 4195 Chino Hills Parkway #403, 909-703-9396

Daniel Benton - 600 Anton Blvd, Suite 100 Costa Mesa, Ca. 92626 714-427-3492

John Paul Vargas - 869 Mistletoe LN, Redding, Ca. 96002 - 530-221-3224

NONCOLLUSION AFFIDAVIT

BIDDER declares that the only persons or parties interested in this bid as principals are those named herein; that no officer, agent, or employee of the AGENCY is personally interested, directly or indirectly, in this proposal; that this bid is made without connection to any other individual, firm, or corporation making a bid for the same work and that this bid is in all respects fair and without collusion or fraud.

NONCOLLUSION AFFIDAVIT TO BE EXECUTED BY EACH AWARDEE OF A PRINCIPAL CONTRACT

STATE OF CALIFORNIA)
)ss
COUNTY OF)

Jacob Coplenas

being first duly sworn, deposes and says that he is

President

(sole owner, a partner, president, etc.)

of Safe USa, Inc.,

the party making the foregoing bid, in accordance with the Title 23 United States Code Section 112 and Public Contract Code 7106 the bidder declares that such bid is not made in the interest of or behalf of any undisclosed person, partnership, company, association, organization or corporation, that such bid is genuine and not collusive or sham, that said bidder has not directly or indirectly induced or solicited any other bidder to put a false or sham bid, and has not directly or indirectly colluded, conspired, connived, or agreed with any bidder or anyone else to put a sham bid, or that anyone shall refrain from bidding, that said bidder has not in any manner, directly or indirectly, sought by agreements, communication, or conference with anyone to fix the bid price of said bidder or of any other bidder, or to fix the overhead, profit or cost element of such bid price, or of that of any other bidder, or to secure any advantage against the public body awarding the Contractor or anyone interested in the proposed contract; that all statements contained in such bid are true and, further, that said bidder has not, directly or indirectly, submitted his bid price, or any breakdown thereof, of the contents thereof, or divulged information or data relative thereto, or paid and will not pay any fee in connection therewith to any corporation, partnership, company, association, organization, bid depository, or to any member or agency thereof, or to any other individual, except to such person or persons who have a partnership of other financial interest with said bidder in his general business.

Also

Signed J. Gpl

President

Title

Subscribed and sworn to before me this 21 day of April, 2016.

Ramiro A. Escobar

Notary Public

RAMIRO A. ESCOBAR
Commission No. 2171798
NOTARY PUBLIC-CALIFORNIA
SAN BERNARDINO COUNTY
My Comm. Expires NOVEMBER 13 2020

BIDDER'S INFORMATION

BIDDER certifies that the following information is true and correct:

Bidder's Name Safe USA Inc.

Business Address 1030 N. Mountain Ave. #180

Ontario, Ca. 91762

Telephone 909-983-0703

State Contractor's License No. and Class 874055 C32

Director of Industrial Relations – DIR Registration Number: 1000000311

Original Date Issued 4/21/2017 Expiration Date 4/30/2018

The following are the names, titles, addresses, and telephone numbers of all individuals, firm members, partners, joint venturers, and/or corporate officers having a principal interest in this proposal:

Jacob Coplenas. 767W 5th St. Ontario, Ca. 91762,

President, Vice President. 909-983-0703

Monica Coplenas- 767W 5th st. Ontario, Ca. 91762

Secretary 909-983-0703

The dates of any voluntary or involuntary bankruptcy judgements against any principal having an interest in this proposal, or any firm, corporation, partnership, or joint venture of which any principal having an interest in this bid was an owner, corporate officer, partner, or joint venturer are as follows:

N/A

All current and prior DBA's, alias, and/or fictitious business names for any principal having an interest in this bid are as follows:

N/A

By submission of this proposal, the applicant represents that neither it, nor any subsidiary substantially owned by it, does not maintain any policy or practice which prohibits free business interaction with the nation of Israel.

By submission of this proposal, the applicant agrees to abide by the provisions of the Montebello Living Wage Ordinance. The applicant also agrees that, during the term of the contract, the applicant shall keep on file with the City sufficient evidence of its employee compensation to enable verification of compliance with the Montebello Living Wage Ordinance. (A copy of the ordinance is attached for your reference.)

IN WITNESS WHEREOF, BIDDER executes and submits this bid with the names, title, hands, and seals of all aforenamed principals this 21 day of April, 2018.

BIDDER Safe Usa, Inc
1030 N. Mountain Ave. #180
ontario, Ca. 91762
909-983-0703

The undersigned declares under penalty of perjury under the laws of the State of California that the representatives made hereto are true and correct.

Contractor's Signature

Jacob Cepeda

Printed Name

Subscribed and sworn to this 21 day of April, 2018

NOTARY PUBLIC Ramiro A. Escobar

RAMIRO A. ESCOBAR
Commission No. 2171798
NOTARY PUBLIC-CALIFORNIA
SAN BERNARDINO COUNTY
My Comm Expires NOVEMBER 13 2020

Bond # BB2005272

BID GUARANTEE
BID BOND FOR
ANNUAL STREET STRIPING, LEGENDS AND ROAD MARKING SERVICES (THERMOPLASTIC AND/OR PAINT)
IN THE CITY OF MONTEBELLO

KNOW ALL MEN BY THESE PRESENTS that, as BIDDER, and, as SURETY, are held and firmly bound unto the City of Montebello, as AGENCY, in the penal sum of Eight Thousand and 00/100 ********** dollars ($ 8,000.00), which is 10 percent of the total amount bid by BIDDER to AGENCY for the above-stated project, for the payment of which sum, BIDDER and SURETY agree to be bound, jointly and severally, firmly by these present.

THE CONDITIONS OF THIS OBLIGATION ARE SUCH that, whereas BIDDER is about to submit a bid to AGENCY for the above-stated project, if said bid is rejected, or if said bid is accepted and a contract is awarded and entered into by BIDDER in the manner and time specified, then this obligation shall be null and void, otherwise it shall remain in full force and effect in favor of AGENCY.

IN WITNESS WHEREOF the parties hereto have set their names, titles, hands, and seals, this 19th day of April, 20 18.

BIDDER* Safe USA, Inc.
1030 No. Mountain Ave., Ste. 180
Ontario, Ca. 91762 - 909-983-0703
Jacob Coplenas, Pres/CEO

SURETY* U.S. Specialty Insurance Company
801 So. Figueroa St. Ste. 700
Los Angeles, Ca. 90017 - 800-486-6695
Gabriel Hill, Attorney-in-Fact

Subscribed and sworn to this 19th day of April, 2018

NOTARY PUBLIC Virginia Pinel

*Provide BIDDER/SURETY name, address, and telephone number and the name, title, address, and telephone number for authorized representative.

VIRGINIA PINEL
Commission # 2139014
Notary Public - California
San Bernardino County
My Comm. Expires Jan 2, 2020

TOKIO MARINE HCC

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That, U.S. SPECIALTY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint,

GABRIEL HILL

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver bond number BB2005272, issued in the course of its business and to bind the Company thereby, in an amount not to exceed Three million and 00/100 ($3,000,000.00). Said appointment is made under and by authority of the following resolutions of the Board of Directors of U. S. Specialty Insurance Company:

"Be it Resolved, that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." Adopted by unanimous written consent in lieu of meeting on September 1st, 2011.

The Attorney-in-Fact named above may be an agent or a broker of the Company. The granting of this Power of Attorney is specific to this bond and does not indicate whether the Attorney-in-Fact is or is not an appointed agent of the Company.

IN WITNESS WHEREOF, U.S. Specialty Insurance Company has caused its seal to be affixed hereto and executed by its Senior Vice President on this 18th day of December 2017.

State of California
County of Los Angeles SS:

U.S. SPECIALTY INSURANCE COMPANY

By: _____
Adam S. Pessin, Senior Vice President

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.

On this 18th day of December 2017, before me, Patricia Kanegawa Perez, a notary public, personally appeared Adam S. Pessin, Senior Vice President of U.S. Specialty Insurance Company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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)

PATRICIA KANEGAWA PEREZ
COMM. #2125219
Notary Public - California
Los Angeles County
My Comm. Expires Sep. 25, 2019

I, Kio Lo, Assistant Secretary of U.S. Specialty Insurance Company, do hereby certify that the Power of Attorney and the resolution adopted by the Board of Directors of said Company as set forth above, are true and correct transcripts thereof and that neither the said Power of Attorney nor the resolution have been revoked and they are now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 19th day of April, 2018.

Bond No. BB2005272

Agency No. 18488

_____
Kio Lo, Assistant Secretary

HCCSZZ POAUSSIC12/2017

BIDDER'S VIOLATION OF LAW/SAFETY QUESTIONNAIRE

In accordance with Government Code Section 14310.5, the Bidder shall complete, under penalty of perjury, the following questionnaire.

QUESTIONNAIRE

Has the Bidder, any officer of the Bidder, or any employee of the Bidder who has a proprietary interest in the Bidder ever been disqualified, removed, or otherwise prevented from bidding on or completing a Federal, State, or local government project because of a violation of law or a safety regulation?

Yes _____ No X

If the answer is yes, explain the circumstances in the space provided.

Note: This questionnaire constitutes a part of the Proposal, and a signature portion of the Bid shall constitute signature of this questionnaire.

STATEMENT ACKNOWLEDGING PENAL AND CIVIL PENALTIES
CONCERNING THE CONTRACTORS' LICENSING LAWS
[Business and Professions Code § 7028.1]
[Public Contract Code §20103.5]

I, the undersigned, certify that I am aware of the following provisions of California law and that I, or the entity on whose behalf this certification is given, hold a currently valid California contractor's license as set forth below:

Business and Professions Code §7028.15

(a) **It is a misdemeanor for any person to submit a bid to a public agency in order to engage in the business or act in the capacity of a contractor within this state without having a license therefore,** except in any of the following cases:

(1) The person is particularly exempted from this chapter.

(2) The bid is submitted on a state project governed by Section 10164 of the Public Contract Code or on any local agency project governed by Section 20104 [now § 20103.5] of the Public Contract Code.

(b) If a person has been previously convicted of the offense described in this section, the court shall impose a fine of 20 percent of the price of the contract under which the unlicensed person performed contracting work, or four thousand five hundred dollars ($4,500), whichever is greater, or imprisonment in the county jail for not less than 10 days nor more than 6 months, or both.

In the event the person performing the contracting work has agreed to furnish materials and labor on an hourly basis, "the price of the contract" for the purposes of this subdivision means the aggregate sum of the cost of materials and labor furnished and the cost of completing the work to be performed.

(c) This section shall not apply to a joint venture license, as required by Section 7029.1. However, at the time of making a bid as a joint venture, each person submitting the bid shall be subject to this section with respect to his or her individual licensure.

(d) This section shall not affect the right or ability of a licensed architect, land surveyor, or registered professional engineer to form joint ventures with licensed contractors to render services within the scope of their respective practices.

(e) Unless one of the foregoing exceptions applies, a bid submitted to a public agency by a contractor who is not licensed in accordance with this chapter shall be considered nonresponsive and shall be rejected by the public agency. Unless one of the foregoing exceptions applies, a local public agency shall, before awarding a contract or issuing a purchase order, verify that the contractor was properly licensed when the contractor submitted the bid. Notwithstanding any other provision of law, unless one of the foregoing exceptions applies, the registrar may issue a citation to any public officer or employee of a public entity who knowingly awards a contract or issues a purchase order to a contractor who is not licensed pursuant to this chapter. The amount of civil

penalties, appeal, and finality of such citations shall be subject to Sections 7028.7 to 7028.13, inclusive. **Any contract awarded to, or any purchase order issued to, a contractor who is not licensed pursuant to this chapter is void.**

(f) Any compliance or noncompliance with subdivision (e) of this section, as added by Chapter 863 of the Statutes of 1989, shall not invalidate any contract or bid awarded by a public agency during which time that subdivision was in effect.

(g) A public employee or officer shall not be subject to a citation pursuant to this section if the public employee, officer, or employing agency made an inquiry to the board for the purposes of verifying the license status of any person or contractor and the board failed to respond to the inquiry within three business days. For purposes of this section, a telephone response by the board shall be deemed sufficient.

Public Contract Code §20103.5:

In all contracts subject to this part where federal funds are involved, no bid submitted shall be invalidated by the failure of the bidder to be licensed in accordance with the laws of this state. However, at the time the contract is awarded, the contractor shall be properly licensed in accordance with the laws of this state. The first payment for work or material under any contract shall not be made unless and until the Registrar of Contractors verifies to the agency that the records of the Contractors' State License Board indicate that the contractor was properly licensed at the time the contract was awarded. Any bidder or contractor not so licensed shall be subject to all legal penalties imposed by law, including, but not limited to, any appropriate disciplinary action by the Contractors' State License Board. The agency shall include a statement to that effect in the standard form of prequalification questionnaire and financial statement. **Failure of the bidder to obtain proper and adequate licensing for an award of a contract shall constitute a failure to execute the contract and shall result in the forfeiture of the security of the bidder.**

License No. 874085 Class: C32 Expiration Date: 11-30-2018

Date 4-17-2018 Signature [signature]

CURRENT PROJECT (BACKLOG)

1. City of El Paso De Robles- Subcontractor for Striping – Contract # 157,000
2. City of South Pasadena- Subcontractor for Striping – Contract # 10,000
3. City of Loma Linda-Contractor for Striping – Contract #18,000
4. Co. of Riverside- Subcontractor for Striping – Contract # 10,000

LIST OF COMPLETD PROJECTS LAST THREE YEARS

OWNER	WORK PERFORMED	DATE COMPLETED	CONTRACT AMOUNT
Laguna Niguel	Striping	Mar-18	$22,027.95
Pasadena	Striping	Mar-18	$24,886.00
San Marino	Striping	Nov-17	$10,330.75
El Monte	Striping	Dec-17	$7,161.00
Goleta	Striping	Oct-17	133,785.65
El Centro	Striping	Dec-17	$128,000
Beaumont	Striping/Seal Coat	Jun-17	$52.074.17
Temecula	Striping	Sep-17	$271,092
Upland	Striping	Sep-17	$57,328.00
Riverside	Striping	Aug-17	$6,092.00
Ontario	Crack Sealing	Feb-18	$143,530
Chino Hills	Striping	Feb-17	$11,225
Highland	Striping/Seal Coat	Mar-18	33,114
Jurupa Valley	Striping	Mar-17	$11,225.00
Upland	Striping	Nov-16	$15,558.00
Corona	Striping	Nov-16	$175,140.00
Hesperia	Striping	Feb-17	$15,503.00
Co. of Riverside	Striping	Nov-16	$79,625.00
Claremont	Striping	Aug-16	$2,750.00
San Luis Obispo	Striping	Sep-16	$115,805.00
Ontario	Striping	Nov-16	$194,000.00
Victorville	Striping	Jun-16	$117,638.00
Rancho Santa Margargita	Crack Sealing	Apr-16	$36,000.00
Alisa Viejo	Crack Sealing	Mar-16	$18,000.00
Vista	Striping	Mar-16	$88,550.00
Claremont	Striping	Mar-16	$21,600.00
San Jacinto	Striping	Feb-16	$6,700.00
Co. of Riverside	Striping	Oct-16	$148,940.00
Arroyo Grande	Striping	Sep-15	$60,800.00
La Quinta	Striping	Oct-15	$78,750.00
Co. of Riverside	Striping	Nov-15	$180,250.00
Hidden Hills	Striping	Jun-16	$21,000.00
Ontario	Crack Sealing	Nov-15	$99,712.00
Vista	Striping	Apr-15	$192,600.00
Santa Barbara	Striping	Feb-15	$87,839.60
Palos Verde	Striping	Feb-15	$13,950.00
Compton	Striping	Feb-15	$47,400.00
San Jacinto	Striping	Feb-15	$13,710.00
Vista	Striping	Apr-15	$206,860.00
Cypress	Striping	Jul-15	$173,00.00

Form **W-9**
(Rev. November 2017)
Department of the Treasury
Internal Revenue Service

Request for Taxpayer Identification Number and Certification

▶ **Go to *www.irs.gov/FormW9* for instructions and the latest information.**

Give Form to the requester. Do not send to the IRS.

Print or type. See **Specific Instructions** on page 3.

1 Name (as shown on your income tax return). Name is required on this line; do not leave this line blank.
Safe USA, Inc.

2 Business name/disregarded entity name, if different from above

3 Check appropriate box for federal tax classification of the person whose name is entered on line 1. Check only **one** of the following seven boxes.

☐ Individual/sole proprietor or single-member LLC ☑ C Corporation ☐ S Corporation ☐ Partnership ☐ Trust/estate

☐ Limited liability company. Enter the tax classification (C=C corporation, S=S corporation, P=Partnership) ▶ _____

Note: Check the appropriate box in the line above for the tax classification of the single-member owner. Do not check LLC if the LLC is classified as a single-member LLC that is disregarded from the owner unless the owner of the LLC is another LLC that is **not** disregarded from the owner for U.S. federal tax purposes. Otherwise, a single-member LLC that is disregarded from the owner should check the appropriate box for the tax classification of its owner.

☐ Other (see instructions) ▶

4 Exemptions (codes apply only to certain entities, not individuals; see instructions on page 3):

Exempt payee code (if any) _____

Exemption from FATCA reporting code (if any) _____

(Applies to accounts maintained outside the U.S.)

5 Address (number, street, and apt. or suite no.) See instructions.
767 W 5th St.

Requester's name and address (optional)

6 City, state, and ZIP code
Ontario, Ca. 91762

7 List account number(s) here (optional)

Part I Taxpayer Identification Number (TIN)

Enter your TIN in the appropriate box. The TIN provided must match the name given on line 1 to avoid backup withholding. For individuals, this is generally your social security number (SSN). However, for a resident alien, sole proprietor, or disregarded entity, see the instructions for Part I, later. For other entities, it is your employer identification number (EIN). If you do not have a number, see *How to get a TIN,* later.

Note: If the account is in more than one name, see the instructions for line 1. Also see *What Name and Number To Give the Requester* for guidelines on whose number to enter.

Social security number
			-			-				

or

Employer identification number
2	7	-	1	0	1	3	0	2	4

Part II Certification

Under penalties of perjury, I certify that:

1. The number shown on this form is my correct taxpayer identification number (or I am waiting for a number to be issued to me); and
2. I am not subject to backup withholding because: (a) I am exempt from backup withholding, or (b) I have not been notified by the Internal Revenue Service (IRS) that I am subject to backup withholding as a result of a failure to report all interest or dividends, or (c) the IRS has notified me that I am no longer subject to backup withholding; and
3. I am a U.S. citizen or other U.S. person (defined below); and
4. The FATCA code(s) entered on this form (if any) indicating that I am exempt from FATCA reporting is correct.

Certification instructions. You must cross out item 2 above if you have been notified by the IRS that you are currently subject to backup withholding because you have failed to report all interest and dividends on your tax return. For real estate transactions, item 2 does not apply. For mortgage interest paid, acquisition or abandonment of secured property, cancellation of debt, contributions to an individual retirement arrangement (IRA), and generally, payments other than interest and dividends, you are not required to sign the certification, but you must provide your correct TIN. See the instructions for Part II, later.

Sign Here | **Signature of U.S. person** ▶ Vacant | **Date** ▶ 6-12-18

General Instructions

Section references are to the Internal Revenue Code unless otherwise noted.

Future developments. For the latest information about developments related to Form W-9 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/FormW9.*

Purpose of Form

An individual or entity (Form W-9 requester) who is required to file an information return with the IRS must obtain your correct taxpayer identification number (TIN) which may be your social security number (SSN), individual taxpayer identification number (ITIN), adoption taxpayer identification number (ATIN), or employer identification number (EIN), to report on an information return the amount paid to you, or other amount reportable on an information return. Examples of information returns include, but are not limited to, the following.

- Form 1099-INT (interest earned or paid)
- Form 1099-DIV (dividends, including those from stocks or mutual funds)
- Form 1099-MISC (various types of income, prizes, awards, or gross proceeds)
- Form 1099-B (stock or mutual fund sales and certain other transactions by brokers)
- Form 1099-S (proceeds from real estate transactions)
- Form 1099-K (merchant card and third party network transactions)
- Form 1098 (home mortgage interest), 1098-E (student loan interest), 1098-T (tuition)
- Form 1099-C (canceled debt)
- Form 1099-A (acquisition or abandonment of secured property)

Use Form W-9 only if you are a U.S. person (including a resident alien), to provide your correct TIN.

If you do not return Form W-9 to the requester with a TIN, you might be subject to backup withholding. See What is backup withholding, *later.*

CONTRACTOR BUSINESS LICENSE CERTIFICATE

The person, firm or corporation above named is hereby granted license to engage in, carry on, or conduct in the CITY OF MONTEBELLO, CALIFORNIA, the business trade calling, profession, exhibition or occupation described above, for the period indicated. This license is permission only, not an endorsement of license.

CITY OF MONTEBELLO

1600 West Beverly Boulevard
Montebello, CA 90640-3932
(323) 887-1448

BUSINESS NAME: Safe Usa, Inc.

BUSINESS LOCATION: 1030 N MOUNTAIN AVE #180
ONTARIO, CA 91762-2114

BUSINESS OWNER: Safe Usa, Inc.

SAFE USA, INC.
1030 N MOUNTAIN AVE #180
ONTARIO, CA 91762-2114

BUSINESS LICENSE NO. 223242

Effective Date: May 07, 2018

Expiration Date: March 31, 2019

Business Class No.: 034

Description: Contractor

Contractor State License No. 874085
License Type: C32

TO BE POSTED IN A CONSPICUOUS PLACE

NOT TRANSFERABLE

ACORD®

CERTIFICATE OF LI

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ON
CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEN
BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTI
REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, th
If SUBROGATION IS WAIVED, subject to the terms and conditions of
this certificate does not confer rights to the certificate holder in lieu of

PRODUCER

State Farm

Zach Bay State Farm
869 Mistletoe Lane
Redding, CA 96003

INSURED

Coplenas, Jacob DBA Safe Usa
1030 N Mountain Ave
Ontario, CA 91762

COVERAGES CERTIFICATE NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW
INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITI
CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFO
EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HA

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER
	☐ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☐ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:			
A	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☒ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY	Y		442 2023-E20-55
	☐ UMBRELLA LIAB ☐ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE ☐ DED ☐ RETENTION $			
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) Y / N ☐ If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Sc

Job: Annual Street Striping, Legends and Marking Services

CERTIFICATE HOLDER

City of Montebello
1600 West Beverly Blvd.
Montebello, CA 90640

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 06/12/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
StateFarm
Zach Bay State Farm
869 Mistletoe Lane
Redding, CA 96003

CONTACT NAME: Jennifer Peterson
PHONE (A/C, No, Ext): 5302213224 FAX (A/C, No): 5302216122
E-MAIL ADDRESS: Jennifer@zachbay.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : State Farm Mutual Automobile Insurance Company	25178
INSURER B :	
INSURER C :	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
Coplenas, Jacob DBA Safe Usa
1030 N Mountain Ave
Ontario, CA 91762

COVERAGES **CERTIFICATE NUMBER:** **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
	COMMERCIAL GENERAL LIABILITY							
	☐ CLAIMS-MADE ☐ OCCUR							
	GEN'L AGGREGATE LIMIT APPLIES PER:							
	☐ POLICY ☐ PRO-JECT ☐ LOC							
	OTHER:							
							EACH OCCURRENCE	$
							DAMAGE TO RENTED PREMISES (Ea occurrence)	$
							MED EXP (Any one person)	$
							PERSONAL & ADV INJURY	$
							GENERAL AGGREGATE	$
							PRODUCTS - COMP/OP AGG	$
								$
A	AUTOMOBILE LIABILITY	Y		442 2023-E20-55	11/20/2017	11/20/2018	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	☐ ANY AUTO						BODILY INJURY (Per person)	$
	☐ OWNED AUTOS ONLY ☒ SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
	☐ UMBRELLA LIAB ☐ OCCUR							
	☐ EXCESS LIAB ☐ CLAIMS-MADE						EACH OCCURRENCE	$
	☐ DED ☐ RETENTION $						AGGREGATE	$
								$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N						☐ PER STATUTE ☐ OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ N/A (Mandatory in NH)						E.L. EACH ACCIDENT	$
	If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. DISEASE - EA EMPLOYEE	$
							E.L. DISEASE - POLICY LIMIT	$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Job: Annual Street Striping, Legends and Marking Services

CERTIFICATE HOLDER

City of Montebello
1600 West Beverly Blvd.
Montebello, CA 90640

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
6/12/2018

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Dealey, Renton & Associates DRA License 0020739 P. O. Box 10550 Santa Ana CA 92711-0550	CONTACT NAME: PHONE (A/C, No, Ext): 714-427-6810 FAX (A/C, No): 714-427-6818 E-MAIL ADDRESS:
INSURED SAFEUSA Safe USA, Inc. 767 W. Fifth St. Ontario CA 91762	INSURER(S) AFFORDING COVERAGE — NAIC # INSURER A : Landmark American Insurance Co. INSURER B : Wesco Insurance Company INSURER C : Everest National Insurance Company INSURER D : INSURER E : INSURER F :

COVERAGES **CERTIFICATE NUMBER:** 798565289 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	X COMMERCIAL GENERAL LIABILITY CLAIMS-MADE [X] OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: POLICY [ ] PRO-JECT [X] LOC OTHER:	Y	Y	LHA139987	4/19/2018	4/19/2019	EACH OCCURRENCE DAMAGE TO RENTED PREMISES (Ea occurrence) MED EXP (Any one person) PERSONAL & ADV INJURY GENERAL AGGREGATE PRODUCTS - COMP/OP AGG $	$ 1,000,000 $ 50,000 $ 5,000 $ 1,000,000 $ 2,000,000 $ 2,000,000 $
B	AUTOMOBILE LIABILITY ANY AUTO ALL OWNED AUTOS X SCHEDULED AUTOS X HIRED AUTOS X NON-OWNED AUTOS			WPP140618102	10/21/2017	10/21/2018	COMBINED SINGLE LIMIT (Ea accident) BODILY INJURY (Per person) BODILY INJURY (Per accident) PROPERTY DAMAGE (Per accident) $	$ 1,000,000 $ $ $ $
	UMBRELLA LIAB [ ] OCCUR EXCESS LIAB [ ] CLAIMS-MADE DED [ ] RETENTION $						EACH OCCURRENCE AGGREGATE $	$ $ $
C	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y/N [N] N/A (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y	7600013895171	11/1/2017	11/1/2018	X PER STATUTE [ ] OTH-ER E.L. EACH ACCIDENT E.L. DISEASE - EA EMPLOYEE E.L. DISEASE - POLICY LIMIT	 $ 1,000,000 $ 1,000,000 $ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
Re: Annual Street Striping, Legends and Marking Services - City of Montebello is named as additional insured's as respects general and auto liability as required per written contract or agreement. Insurance coverage includes waiver of subrogation per the attached endorsement(s).

CERTIFICATE HOLDER

City of Montebello
1600 West Beverly Blvd.
Montebello CA 90640

CANCELLATION 30 Day Notice of Cancellation

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED – PRIMARY AND NON-CONTRIBUTORY WITH OTHER INSURANCE

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

PROVISIONS

1. The following is added to Paragraph **A.1.c., Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

   This includes any person or organization who you are required under a written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to name as an additional insured for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent of that person's or organization's liability for the conduct of another "insured".

2. The following is added to Paragraph **B.5., Other Insurance** of **SECTION IV – BUSINESS AUTO CONDITIONS**:

   Regardless of the provisions of paragraph a. and paragraph **d.** of this part **5. Other Insurance,** this insurance is primary to and non-contributory with applicable other insurance under which an additional insured person or organization is the first named insured when the written contract or agreement between you and that person or organization, that is signed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, requires this insurance to be primary and non-contributory.

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This Endorsement Changes The Policy. Please Read It Carefully.

ADDITIONAL INSURED
BLANKET – YOUR WORK

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM

SCHEDULE

Name of Person or Organization: Any person or organization to whom or to which you are obligated by virtue of a written contract or by the issuance or existence of a written permit, to provide insurance such as is afforded by this policy.

SECTION II - WHO IS AN INSURED is amended to include as an additional insured the person(s) or organization(s) shown in the SCHEDULE, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations; and/or "your work" defined for the additional insured(s) designated above included in the "products-completed operations hazard".

This endorsement effective 4/19/2018
forms part of Policy Number LHA139987
issued to JACOB COPLENAS & MONICA COPLENAS, DBA: SAFE USA INC
by Landmark American Insurance Company

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This Endorsement Changes The Policy. Please Read It Carefully.

WAIVER OF TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE FORM
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE FORM

SCHEDULE

Name of Person or Organization:

Any Person or Organization As Required By Written Contract

The following is added to **SECTION IV – CONDITIONS, 8. TRANSFER OF RIGHTS OF RECOVERY AGAINST OTHERS TO US**:

We waive any right of recovery we may have against the person or organization shown in the SCHEDULE above because of payment we make for injury or damage arising out of your ongoing operations, "your product" or "your work" done under a written contract with that person or organization and included in the "product-completed operations hazard". This waiver applies only to the person or organization shown in the SCHEDULE above.

This endorsement effective 4/19/2018
forms part of Policy Number LHA139987
issued to JACOB COPLENAS & MONICA COPLENAS, DBA: SAFE USA INC
by Landmark American Insurance Company

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with its permission.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT – AGGREGATE LIMITS OF INSURANCE (PER PROJECT)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

The General Aggregate Limit under LIMITS OF INSURANCE (SECTION III) applies separately to each of your projects away from premises owned by or rented to you.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY – OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

The following is added to the **Other Insurance** Condition and supersedes any provision to the contrary:

Primary And Noncontributory Insurance

This insurance is primary to and will not seek contribution from any other insurance available to an additional insured under your policy provided that:

(1) The additional insured is a Named Insured under such other insurance; and

(2) You have agreed in writing in a contract or agreement that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

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PERFORMANCE BOND

(TO BE EXECUTED WITHIN 5 (FIVE) DAYS OF CONTRACT AWARD)

Annual Street Striping, Legends and Road Marking Services (Thermoplastic and/or Paint) **PROJECT**

C.I.P. # 1841-__-__

Bond # 100396843
Premium: $7,971.00. Premium based on final contract amount

KNOW ALL PERSONS BY THESE PRESENTS:

THAT WHEREAS the CITY of Montebello (Owner) has awarded to Safe USA, Inc. as principal hereinafter designated as the "Contractor," a contract to provide services for the * PROJECT, C.I.P. # 1841-__-__.

AND WHEREAS, the Contractor is required to furnish a bond in connection with said contract guaranteeing the faithful performance thereof;

NOW, THEREFORE, we, the undersigned Contractor and Surety, are held firmly bound unto the Owner in the penal sum of ** Dollars ($ 265,700.00), which is 100% percent of the total contract amount for the above stated project, to be paid to the Owner, its successors and assigns, for which payment well and truly to be made we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH:

That if said Contractor, 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 agreements in the foregoing contract and any alteration thereof made as therein provided on its 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 Owner, its officers, and agents, as therein stipulated, then this obligation shall become and be null and void; otherwise it shall be and remain in full force and effect. In case suit is brought upon this bond, the said surety will pay a reasonable attorney's fee to the Owner in an amount to be fixed by the court. Surety, for value received, hereby stipulates and agrees that no amendment, change, extension of time, alteration, or addition to said contract, and of any feature or item or items of performance required therein or thereunder, shall in any manner affect its obligations on or under this bond; and said surety does hereby waive notice of any such amendment, change, extension of time, alteration, or addition to said contract, and of any feature or item or items of performance required therein or thereunder.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on the 14th, day of June, 20 18.

CONTRACTOR
Safe USA, Inc.

Jacob Coplenas, Pres/CEO

SURETY
U.S. Specialty Insurance Company

Gabriel Hill, Attorney-in-Fact

Subscribed and sworn to this _____day of _____, 20____.

Notary Public _____

* Annual Street Striping, Legends and Road Marking Services (Thermoplastic and/or Paint)

** Two Hundred Sixty Five Thousand Seven Hundred and 00/1000

PAYMENT BOND

(TO BE EXECUTED WITHIN FIVE (5) DAYS OF CONTRACT AWARD)

Annual Street Striping, Legends and Road Marking Services (Thermoplastic and/or Paint) **PROJECT**

Bond # 100396843
Premium: Included

C.I.P. # 1841-__-__

WHEREAS, the CITYof Montebello (Owner) has awarded to Safe USA, Inc., as Contractor, a contract to provide services for the *_____PROJECT C.I.P. #1841-__-__.

AND WHEREAS, said Contractor is required to furnish a bond in connection with said contract, to secure the payment of claims of laborers, mechanics, materials persons, and other persons as provided by law;

NOW, THEREFORE, we, the undersigned Contractor and Surety, are held firmly bound unto the CITYof Montebello as Owner in the penal sum of **_____ Dollars ($ 265,700.00 _____) which is 100 percent of the total contract amount for the above stated project, for which payment well and truly to be made, we bind ourselves, our heirs, executors and administrators, successors and assigns, jointly and severally, firmly by these presents.

THE CONDITION OF THIS OBLIGATION IS SUCH:

That if said Contractor, its heirs, executors, administrators, successors, or assigns, or subcontractors, shall fail to pay any of the persons named in Civil Code Section 3181, or amounts due under the Unemployment Insurance Code with respect to work or labor performed by any such claimant, or any amounts required to be deducted, withheld, and paid over to the Employment Development Department from the wages of employees of the Contractor and its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code, with respect to such work and labor, that the surety or sureties herein will pay for the same in any amount not exceeding the sum specified in this bond, otherwise the above obligation shall be void. In case suit is brought upon this bond, the said surety will pay a reasonable attorney's fee to the Owner in an amount to be fixed by the court.

This bond shall insure to the benefit of any of the persons named in Civil Code Section 3181 as to give a right of action to such persons or their assigns in any suit brought upon this bond.

IN WITNESS WHEREOF, we have hereunto set our hands and seals on this 14th. day of June, 20 18.

CONTRACTOR
Safe USA, Inc.

Jacob Coplenas, Pres/CEO

SURETY
U.S. Specialty Insurance Company

Gabriel Hill, Attorney-in-Fact

Subscribed and sworn to this _____ day of _____, 20____.

Notary Public _____

* Annual Street Striping, Legends and Road Marking Services (Thermoplastic and/or Paint)
** Two Hundred Sixty Five Thousand Seven Hundred and 00/100 Dollars.

TOKIO MARINE HCC

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS:

That, U.S. SPECIALTY INSURANCE COMPANY (the "Company"), a corporation duly organized and existing under the laws of the State of Texas, and having its principal office in Houston, Harris County, Texas, does by these presents make, constitute and appoint,

GABRIEL HILL

its true and lawful Attorney-in-fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver bond number 100396843, issued in the course of its business and to bind the Company thereby, in an amount not to exceed Three million and 00/100 ($3,000,000.00). Said appointment is made under and by authority of the following resolutions of the Board of Directors of U. S. Specialty Insurance Company:

""*Be it Resolved,* that the President, any Vice-President, any Assistant Vice-President, any Secretary or any Assistant Secretary shall be and is hereby vested with full power and authority to appoint any one or more suitable persons as Attorney(s)-in-Fact to represent and act for and on behalf of the Company subject to the following provisions:

Attorney-in-Fact may be given full power and authority for and in the name of and on behalf of the Company, to execute, acknowledge and deliver, any and all bonds, recognizances, contracts, agreements or indemnity and other conditional or obligatory undertakings, including any and all consents for the release of retained percentages and/or final estimates on engineering and construction contracts, and any and all notices and documents canceling or terminating the Company's liability thereunder, and any such instruments so executed by any such Attorney-in-Fact shall be binding upon the Company as if signed by the President and sealed and effected by the Corporate Secretary.

Be it Resolved, that the signature of any authorized officer and seal of the Company heretofore or hereafter affixed to any power of attorney or any certificate relating thereto by facsimile, and any power of attorney or certificate bearing facsimile signature or facsimile seal shall be valid and binding upon the Company with respect to any bond or undertaking to which it is attached." Adopted by unanimous written consent in lieu of meeting on September 1st, 2011.

The Attorney-in-Fact named above may be an agent or a broker of the Company. The granting of this Power of Attorney is specific to this bond and does not indicate whether the Attorney-in-Fact is or is not an appointed agent of the Company.

IN WITNESS WHEREOF, U.S. Specialty Insurance Company has caused its seal to be affixed hereto and executed by its Senior Vice President on this 18th day of December 2017.

State of California
County of Los Angeles SS:

U.S. SPECIALTY INSURANCE COMPANY

By: _____
Adam S. Pessin, Senior Vice President

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.

On this 18th day of December 2017, before me, Patricia Kanegawa Perez, a notary public, personally appeared Adam S. Pessin, Senior Vice President of U.S. Specialty Insurance Company, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person 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)

PATRICIA KANEGAWA PEREZ
COMM. #2125219
Notary Public - California
Los Angeles County
My Comm. Expires Sep. 25, 2019

I, Kio Lo, Assistant Secretary of U.S. Specialty Insurance Company, do hereby certify that the Power of Attorney and the resolution adopted by the Board of Directors of said Company as set forth above, are true and correct transcripts thereof and that neither the said Power of Attorney nor the resolution have been revoked and they are now in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand this 14th day of June, 2018.

Bond No. 100396843

Agency No. 18488

_____
Kio Lo, Assistant Secretary

HCCSZZ POAUSSIC12/2017

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT CIVIL CODE § 1189

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

State of California
County of San Bernardino }

On June 14th, 2018 before me, Virginia Pinel, Notary Public
Date *Here Insert Name and Title of the Officer*

personally appeared Gustavo Ibarra
Name(s) of Signer(s)

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.

VIRGINIA PINEL
Commission # 2139014
Notary Public - California
San Bernardino County
My Comm. Expires Jan 2, 2020

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 _____
Signature of Notary Public

Place Notary Seal and/or Stamp Above

OPTIONAL

Completing this information can deter alteration of the document or fraudulent reattachment of this form to an unintended document.

Description of Attached Document

Title or Type of Document: _____

Document Date: _____ Number of Pages: _____

Signer(s) Other Than Named Above: _____

Capacity(ies) Claimed by Signer(s)

Signer's Name: _____	Signer's Name: _____
☐ Corporate Officer – Title(s): _____	☐ Corporate Officer – Title(s): _____
☐ Partner – ☐ Limited ☐ General	☐ Partner – ☐ Limited ☐ General
☐ Individual ☐ Attorney in Fact	☐ Individual ☐ Attorney in Fact
☐ Trustee ☐ Guardian of Conservator	☐ Trustee ☐ Guardian of Conservator
☐ Other: _____	☐ Other: _____
Signer is Representing: _____	Signer is Representing: _____

©2017 National Notary Association

ATTACHMENT B

CITY OF MONTEBELLO

AMENDMENT NO. 1
TO PROFESSIONAL SERVICES AGREEMENT NO. 3399
WITH SAFE USA, INC.

This Amendment No. 1 to the Professional Services Agreement ("Amendment No. 3399"), is made and entered into this __ day of _____ 2021, ("Effective Date") by and between the CITY OF MONTEBELLO, a California municipal corporation, (hereinafter referred to as the "City") and SAFE USA, INC., (hereinafter referred to as the "Consultant"). The City and the Consultant are sometimes hereinafter individually referred to as a "Party" and jointly as the "Parties".

RECITALS

WHEREAS, the Consultant and the City entered into that certain Agreement No. 3399 for design-build services last executed by the Parties on or about July 12, 2018 ("Agreement") with an initial term of three (3) years and option to exercise an additional (2-year) two-year extension; and

WHEREAS, the Parties being mutually satisfied with each other's performance, wish to exercise the option to extend the Term of the Agreement for an additional two (2) years commencing on _____, 2021 and expiring on ____, 2023.

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. Section 2 ("TERM") of the Agreement is amended to read as follows:

"Section 2. TERM.

The term of this Agreement shall commence on October 16, 2021 and shall continue in full force and effect through and including October 16, 2023, unless sooner terminated as provided in Section 7 ("Termination")."

SECTION 2. Section 1, paragraph "C" ("SERVICES/COMPENSATION") of the Agreement is amended to read as follows:

"C. CONTRACTOR shall be compensated for performance of the Professional Services as set forth in the Agreement, and inconsideration of the two-year (2-year) Term extension defined in Amendment No. 1, a project total amount not-to-exceed $265,700 ("Compensation"). Contractor shall

provide an itemized billing statement to the CITY each month for Professional Services performed. CONTRACTOR shall not incur fees or costs which exceed the Compensation without prior written consent of CITY."

SECTION 3. Except as expressly modified or supplemented by this Amendment No. 1, all other provisions of the Agreement, shall remain unaltered and in full force and effect. In the event of conflict between the provisions of this Amendment No.1 and the provisions of the Agreement, the provisions of this Amendment No. 1 shall control.

[*END OF AMENDMENT NO. 1*]

IN WITNESS WHEREOF, the Parties execute this Amendment No. 1 to take effect as of the Effective Date identified above.

("CITY")	("CONSULTANT")
CITY OF MONTEBELLO	**SAFE USA, INC.**
_____	_____
René Bobadilla, City Manager	Jacob Coplenas, CEO
Date: _____	Date: _____

ATTEST:

_____
Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

_____
Arnold M. Alvarez-Glasman, City Attorney

ITEM # 16

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Members of the City Council

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

BY: David Sosnowski, Director of Recreation and Community Services

SUBJECT: Utility Box Beautification Program Artwork Approval

DATE: September 8, 2021

RECOMMENDATION (S):

It is recommended that the City Council:

1) Approve artwork recommendations made by the Parks and Recreation Commission; and

2) Amend the Fiscal Year 2021-22 budget by increasing appropriations by $6,400 in Account No. 100-70-710-6040.10 (General Fund, Recreation, Other Contract Services); and

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

FISCAL IMPACT

At the April 28, 2021 City Council meeting, City Council authorized the implementation of the Utility Box Beautification Program and directed staff to return to City Council with a request to appropriate funds as necessary for the program. The Parks and Recreation Commission has recommended eight artwork submissions for approval. The cost estimate for the installation of artwork on each utility box ranges from Six Hundred Dollars ($600) to Eight Hundred Dollars ($800), depending upon the size of the utility boxes for a full vinyl wrap.

The total cost estimate for purchase and install of eight vinyl wraps is Six Thousand Four Hundred Dollars ($6,400). The City Council is being asked to amend the Fiscal Year 2021-22 adopted budget by increasing appropriations by $6,400 in the Recreation and Community Services budget, Account Number 100-70-710-6040.10 (Recreation, Other

Contract Services). With the approval of the City Council, staff applied for a Bloomberg Philanthropies Asphalt Art Initiative grant to potentially fund future utility box art projects. Grant awards are expected to be announced in late Fall of 2021.

BACKGROUND

The proposed Utility Box Beautification Program is a public art program designed to transform common traffic signal control boxes in the City into new distinctive works of art, creating a more vibrant, attractive cityscape. The Utility Box Beautification Program also aims to celebrate local artists and their artwork, act as a deterrent to graffiti, involve the community in the beautification of the City and create a sense of place and identity.

ANALYSIS

The City released a Call for Artists for residents in 4th through 8th grades. Interested artists were able to drop off their submissions at the Recreation Department office and submissions were due by August 9, 2021. On August 12, 2021, the Parks and Recreation Commission's Arts and Culture Sub-Committee reviewed the received artwork submissions and selected those that are to be recommended to City Council for final approval. A total of thirty four submissions were received. On August 19, 2021, the Parks and Recreation Commission approved the eight artwork recommendations made by the Arts and Culture Sub-Committee and made a recommendation to the City Council for final approval.

The current Call for Artists for the Utility Box Beautification Program aims to coincide with the City's 100-year anniversary celebration. The Call for Artists included suggested artwork categories for submissions that aim to highlight Montebello and its community. The three suggested categories were: 1) favorite Montebello memories, 2) family fun time at the park, 3) and Montebello through the years. These categories were taken into consideration when selecting artwork and entries were additionally scored based on the following equally weighted criteria: creativity and innovation of design, originality, artistry, visual impact, and community appropriateness and content.

The Parks and Recreation Commission has selected eight submissions for recommendation to City Council. The selected artwork followed all requirements and best demonstrated the above categories and criteria. The City plans to continue the program and has released a second Call for Artists on Wednesday, September 1, 2021 with the following timeline:

- September 1 – Release Call for Artists
- October 8 – Submittals Due to Recreation and Community Services Office
- October 21 – Recommendation made by Parks & Recreation Commission
- November 10 – City Council considers recommendations

SUMMARY

The City Council will consider approving artwork recommendations made by the Parks and Recreation Commission for the Utility Box Beautification Program and amend the FY 2021-22 budget by increasing appropriations by $6,400 in Account No. 100-70-710-6040.10 (General Fund, Recreation, Other Contract Services).

ATTACHMENT (S):

A. Attachment A – Utility Box Beautification Program Application
B. Attachment B – Selected Artwork Submissions

ATTACHMENT A

CITY OF MONTEBELLO

Utility Box Beautification Program

Call for Artists

Release Date:	June 17, 2021
Due By Date:	August 9, 2021
Announcement:	September 8, 2021

ATTACHMENT A

CITY OF MONTEBELLO
UTILITY BOX BEAUTIFICATION PROGRAM

The City of Montebello is issuing a Call for all School-Aged Artists in the 4th – 8th grades to participate in the Utility Box Beautification Program. Interested artists will need to complete an application to be reviewed and selected by the City of Montebello's Parks and Recreation Commission for consideration by the City Council. Up to twenty-five (25) participants will be selected and approved art work will be placed on one of seventy-nine (79) available utility boxes throughout the City of Montebello as a wrap.

I. BACKGROUND:

The Utility Box Beautification Program is a public art effort designed to transform common traffic control utility boxes in the City, into distinctive works of art, creating a more vibrant, attractive cityscape. The program also celebrates local artists and their artwork, acts as a deterrent to graffiti, and involves the City residents in contributing to the beautification of the city.

II. ARTIST GUIDELINES AND REQUIREMENTS:

A. Eligibility

1. All artists must attend a Montebello Unified School District school and be in grades 4th – 8th.
2. Entries must be the original design of the submitting artist.
3. Artwork must be suitable for viewing by all ages.
4. Art work should cover all exposed sides of the utility box using the attached template
5. Members of the Parks and Recreation Commission, Montebello City Council and their families are ineligible.

B. Artist Responsibilities

1. Artists must submit original copy/copies of art work wished to be considered to the Recreation and Community Services Department.
2. Artists may provide up 2 designs for consideration.

C. City Responsibilities

1. Provide approved templates of the utility boxes to all applicants.

CITY OF MONTEBELLO

UTILITY BOX BEAUTIFICATION PROGRAM

2. The City will contract with a third party vendor to convert artwork into a wrap and install on one of the utility boxes selected by the Parks and Recreation Commission.

3. The Parks and Recreation Commission shall review, approve and select artwork submitted by artists.

D. Materials

1. 8 ½ x17 in. template sheet provided by the Recreation & Community Services Department.

E. Suggested Artwork Categories:

1. Favorite Montebello memories
2. Family time fun at the Park
3. Montebello through the years

F. Criteria Used to Select Artwork

The Parks & Recreation Commission's Arts & Culture Sub-Committee will score entries based on the following equally weighted criteria:

1. Creativity and innovation of design
2. Originality
3. Artistry
4. Visual Impact
5. Community Appropriateness and Content

G. Artwork must not contain:

1. Written materials (words/sentences)
2. Political statements or persons
3. Religious references, symbols or numbers
4. Copyrighted or trademarked material
5. Corporate or organizational branding

H. Application Requirements

1. Print, complete and sign an application form, and:

CITY OF MONTEBELLO
UTILITY BOX BEAUTIFICATION PROGRAM

a. Include a detailed description describing your design theme. Indicate if your theme has specific relevance to the City of Montebello's history, culture and heritage or to a specific location. **This must be attached with your application**. Please limit description to one page or utilize the form field on the application.

b. Create full color, detailed concept drawings using the template provided.

c. Designs are accepted as a single sided full color drawing on 8.5 x 17 sheets using the template provided. Print identification at the bottom of each sheet as follows: **Artist Last Name, Artist 1st Initial**

I. Read and sign:

1. The Utility Box Program Participant Release of Liability form.

2. The Artist's Application Form.

J. Submission of Entry

1. Mail or deliver the signed application with the full color designs to the City of Montebello Recreation and Community Services Department. – 1700 West Victoria Ave.

2. Artist can submit up to 2 designs. Only 1 design per artist will be chosen at a time.

3. Entries must be postmarked, emailed or hand delivered no later than Monday, August 9, 2021 at 5:00 p.m. to be considered for approval at the August 19, 2021 Parks and Recreation Commission Meeting.

K. Selection Process and Criteria

1. Designs will be reviewed, approved and selected by the City of Montebello's Parks and Recreation Commission.

L. Questions

Contact: Nadine Hernandez by email only at nhernandez@cityofmontebello.com

ATTACHMENTS:

1. 8 ½ x 17 Design Template

2. Artist Application Form (Application and Diagram Template)

3. Art in Public Places- Utility Box Program Participant Release of Liability Form

ATTACHMENT A

CITY OF MONTEBELLO
UTILITY BOX BEAUTIFICATION PROGRAM APPLICATION

Instructions: This application must be filled out completely and submitted to the Recreation & Community Services Department along with artwork template and waiver, Attn**: Utility Box Beautification Program.**

Please write legibly in black or blue ink only. Do not use pencil or other ink colors. All blanks must be completed or have N/A written.

1. APPLICANT INFORMATION

Applicant Name _____

Applicant's Address _____

Phone Number _____

Email _____

School _____

Current Grade _____

2. SUBMITTAL DESCRIPTION
Indicate if your theme has specific relevance to the City of Montebello's history, culture, heritage, geography or to a specific location

_____

_____

_____

_____

_____

_____

_____

For Office Use Only:

Date Submitted: _____
Date of Approval: _____

CITY OF MONTEBELLO, CA

UTILITY BOX BEAUTIFICATION PROG

PARTICIPANT RELEASE OF LIABILITY FORM

PLEASE PRINT OR TYPE

ATTACHMENT A

NAME:_____**DATE:**_____
ADDRESS:_____**CITY/STATE/ZIP**_____
TELEPHONE#:_____ **AGE ( ) DOB** _____/_____ /_____

Participant does hereby release the City of Montebello, California, ("City") its City Council, representatives, employees, volunteers, agents and/or assigns, as well as all other participants, from any and all claims, obligations, causes of action, and liability of any kind, arising from the Participant's involvement in any events conducted as part of the Utility Box Art Beautification Program, or in connection with any work, labor, or services performed by the undersigned for and on behalf of any of the participants in events conducted and sponsored by the Utility Box Art Beautification Program, City, or otherwise.

This release is intended as a full and complete release covering any possible claims, contingent or otherwise, involving personal injury or property damage which may arise in connection with the Utility Box Art Beautification Program. This release includes, although it is not specifically limited to, any claim for any injuries or damages which the undersigned may suffer in connection with the Utility Box Art Beautification Program related actions in connection with any work, labor, or services performed by the undersigned for or on behalf of City or the Utility Box Art Beautification Program, regardless of whether the undersigned is actually participating in said activities, any injury to the person or damage to property which may be suffered by the undersigned as the result of or arising out of the Utility Box Art Beautification Program.

The consideration for this release is the undersigned's participation in the Utility Box Art Beautification Program, the permission granted by City to the undersigned to enter onto City property or to participate in events and activities sponsored by the Utility Box Art Beautification Program, and the permission granted by City to the undersigned to engage in any City sanctioned or sponsored events. To the extent permitted by law, Participant agrees to protect, defend, hold harmless, and indemnify City, its Council, officers, employees, volunteers and agents, from and against all claims, injury, liability, loss, cost, and expense, arising out of, occurring by reason of, or in any way connected with Participant's participation in the Utility Box Art Program, except for acts arising out of the sole negligence of City.

Signature: _____

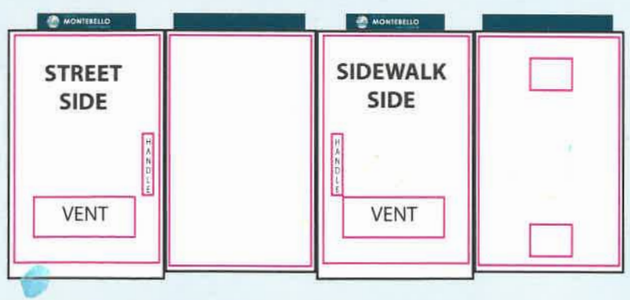
Print Name: _____ **Date:** _____

SMALL UTILITY BOX

ATTACHMENT B

City of MONTEBELLO CALIFORNIA





Please keep important artwork away from edges.
Be aware of handles and vent on template map.

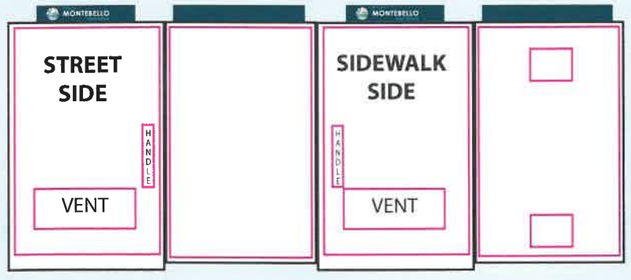
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SMALL UTILITY BOX

City of MONTEBELLO CALIFORNIA



City of MONTEBELLO CALIFORNIA

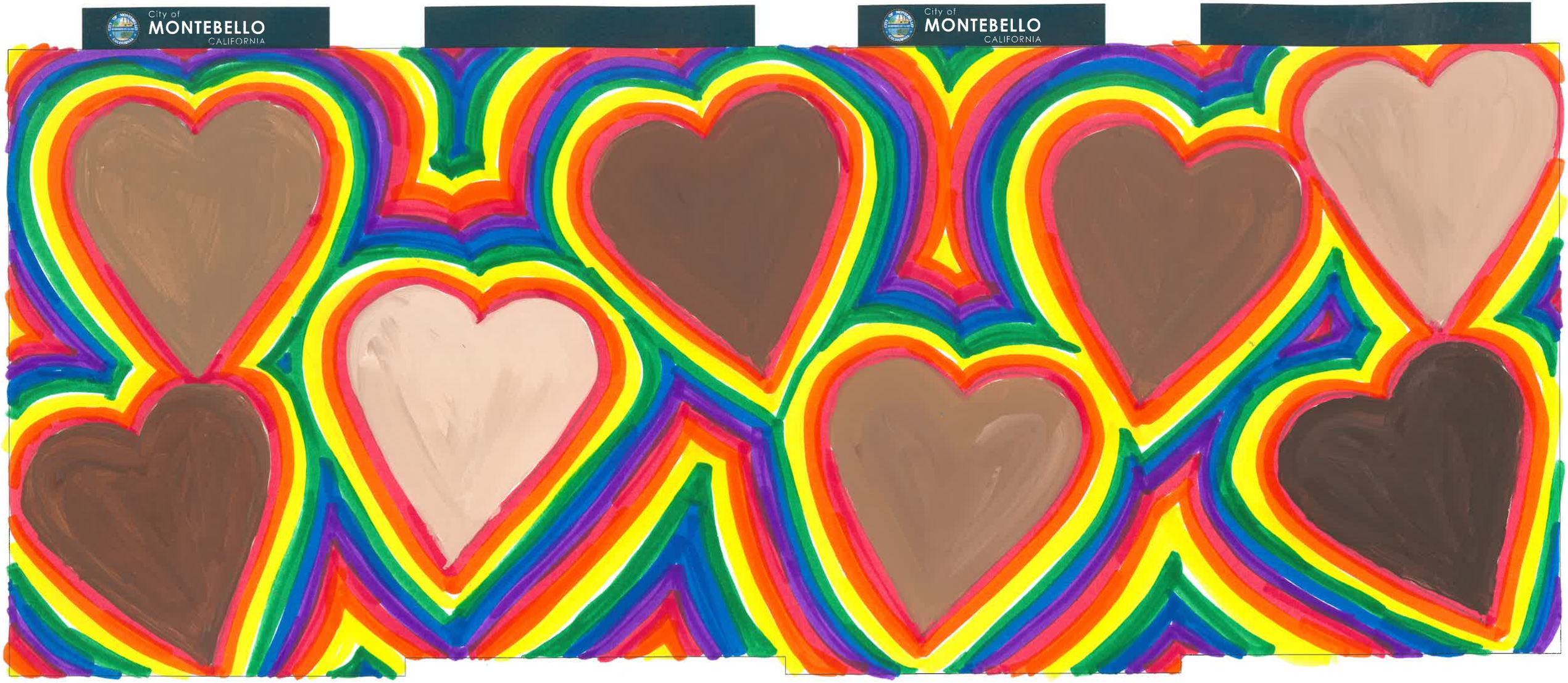


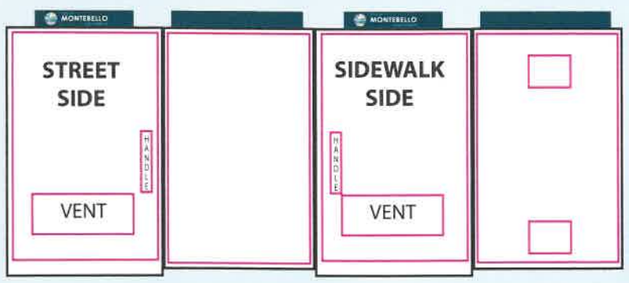
Please keep important artwork away from edges.
Be aware of handles and vent on template map.

Digital Media export at 300dpi print ready pdf or jpeg

CITY OF MONTEBELLO INCORPORATED OCT. 16, 1920 CALIFORNIA

SMALL UTILITY BOX

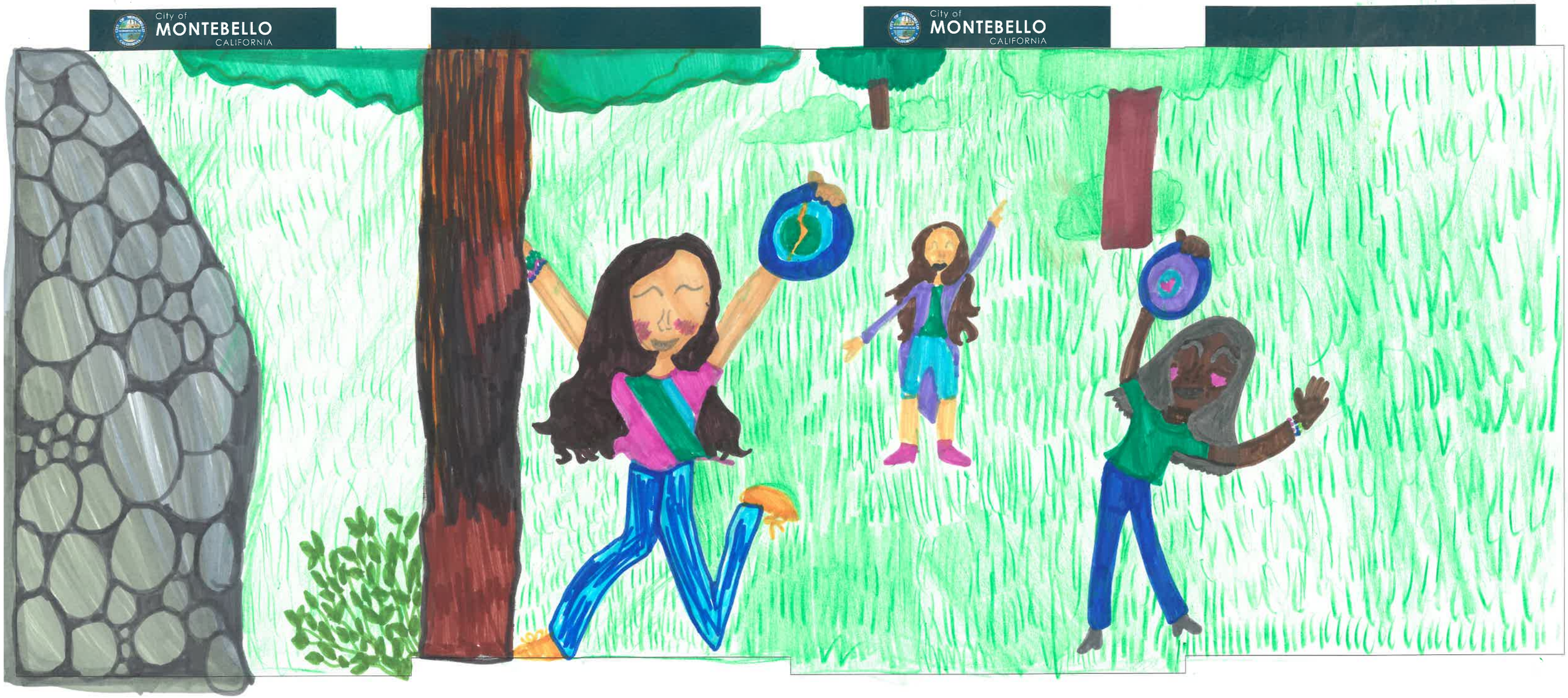


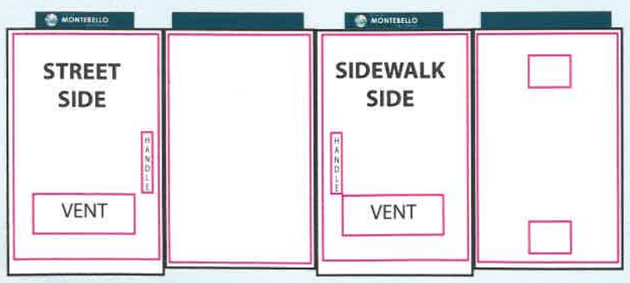


Please keep important artwork away from edges.
Be aware of handles and vent on template map.

Digital Media export at 300dpi print ready pdf or jpeg

SMALL UTILITY BOX





Please keep important artwork away from edges.
Be aware of handles and vent on template map.

Digital Media export at 300dpi print ready pdf or jpeg

SMALL UTILITY BOX

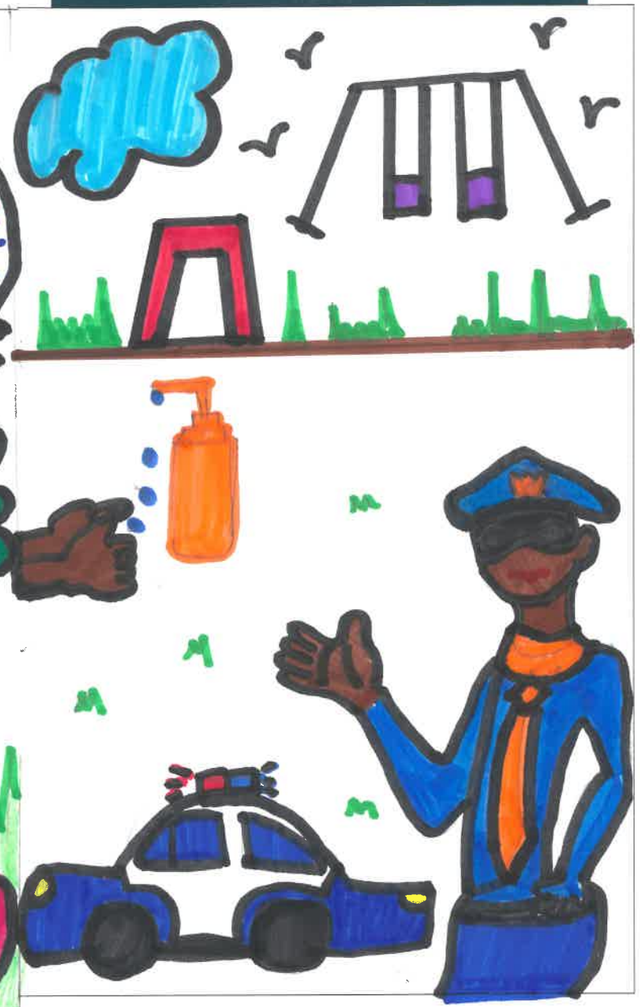
City of MONTEBELLO CALIFORNIA

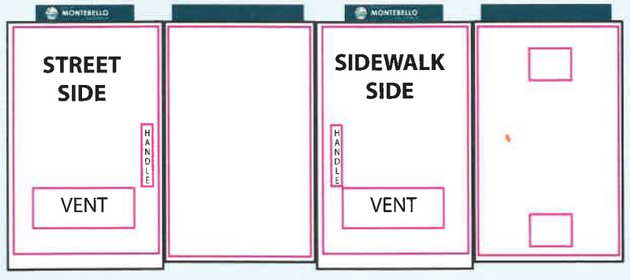




City of MONTEBELLO CALIFORNIA



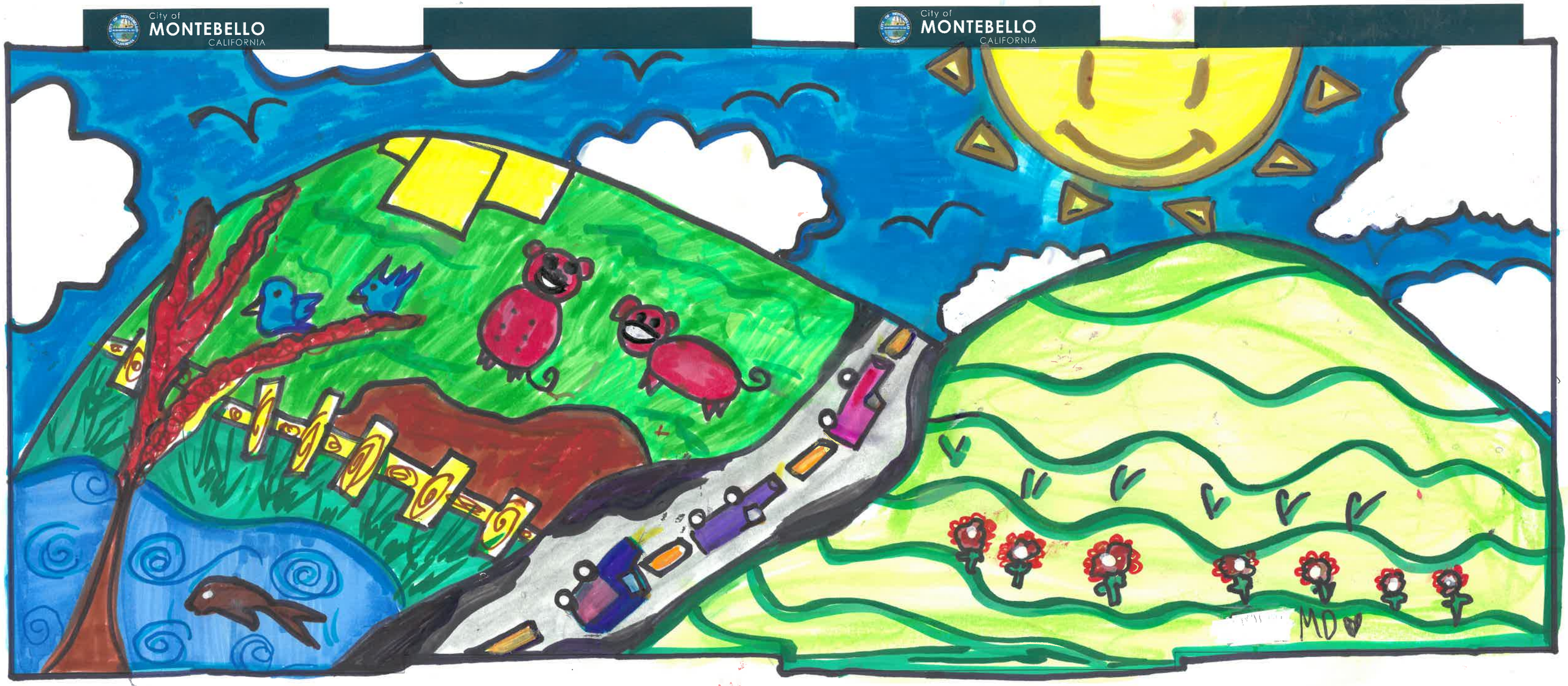


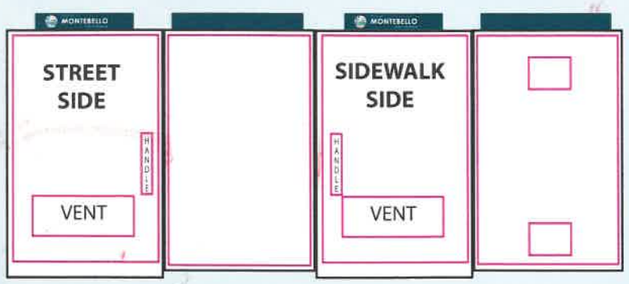


Please keep important artwork away from edges.
Be aware of handles and vent on template map.

Digital Media export at 300dpi print ready pdf or jpeg

SMALL UTILITY BOX





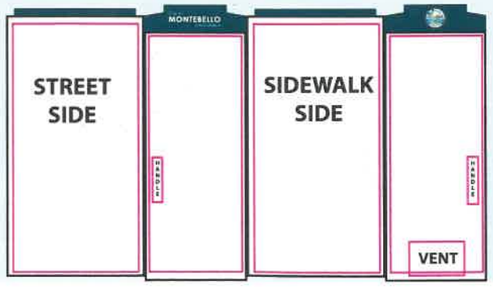
Please keep important artwork away from edges.
Be aware of handles and vent on template map.

Digital Media export at 300dpi print ready pdf or jpeg

LARGE UTILITY BOX

City of MONTEBELLO CALIFORNIA





Please keep important artwork away from edges.
Be aware of handles and vent on template map.

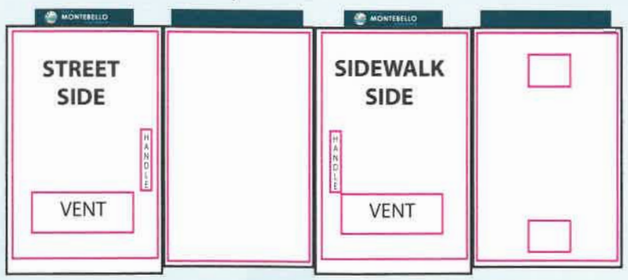
Digital Media export at 300dpi print ready pdf or jpeg

SMALL UTILITY BOX





Talyor Ranch Park



Please keep important artwork away from edges.
Be aware of handles and vent on template map.

Digital Media export at 300dpi print ready pdf or jpeg

ITEM #17

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: **Authorizing the Submission of an Application to the National Fitness Campaign**

DATE: September 8, 2021

RECOMMENDATION (S):

It is recommended that the City Council:

1) Authorize the submission of an application to the National Fitness Campaign Grant Program; and

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

FISCAL IMPACT

With Montebello City Council approval, staff will be applying for a potential funding opportunity through the National Fitness Campaign and the California Park and Recreation Society (CPRS). The City could potentially receive Twenty-Five Thousand Dollars ($25,000) of funding for the installation of a Fitness Court at City Park.

The National Fitness Campaign requires a total of One Hundred Thirty Three Thousand Eight Hundred Forty Seven Dollars and Sixteen Cents ($133,847.16) in funding, plus the cost of installation estimated to be Thirty Thousand Dollars ($30,000), for a total project cost of $163,847.16. If the City is awarded grant funding, staff plans to cover the additional costs of the Fitness Court by utilizing the City's Proposition 68 Per Capita grant funding. The City has One Hundred Seventy Seven Thousand Nine Hundred Twenty Two ($177,952) of funding available. City Council authorized the use of Proposition 68 funding at City Park at the October 14, 2020 City Council meeting. Additionally, the National Fitness Campaign assists with opportunities for sponsorships to lower the cost. Staff will return with a request to amend the budget if the grant application is successful, requesting appropriations for the purchase and installation (and all related costs) of a Fitness Court at City Park.

BACKGROUND

Staff is seeking authorization from the City Council to submit an application to the National Fitness Campaign Grant Program for the installation of a Fitness Court at Montebello City Park. The National Fitness Campaign is a nationwide initiative that was created to help plan and build healthy infrastructure in communities across the United States. The grant program is designed to provide funding to assist cities in bringing wellness infrastructure into their communities. The goal of the National Fitness Campaign is to support living a healthier, more active lifestyle.

The proposed installation of a Fitness Court at City Park aligns with the City's Parks Master Plan, which was adopted on July 28, 2021 and includes a Site Specific Plan for City Park. The City Park Site Specific Plan describes an "Area F" located on the south side of the park that includes plans for a large fitness pad area. This location contains the necessary space and is part of a larger vision for the entire area which includes multi-sports courts.

The National Fitness Campaign provides design services, campaign funding support, installation guidance, and a Fitness Court mobile app for Apple and Android smart phones. The Fitness Court features an outdoor bodyweight circuit-training system and provides a full-body workout to adults of all ability levels. It is constructed of durable materials and includes anti-graffiti laminate vinyl decals. The City will have the opportunity to design a custom vinyl wrap mural featuring local artists.

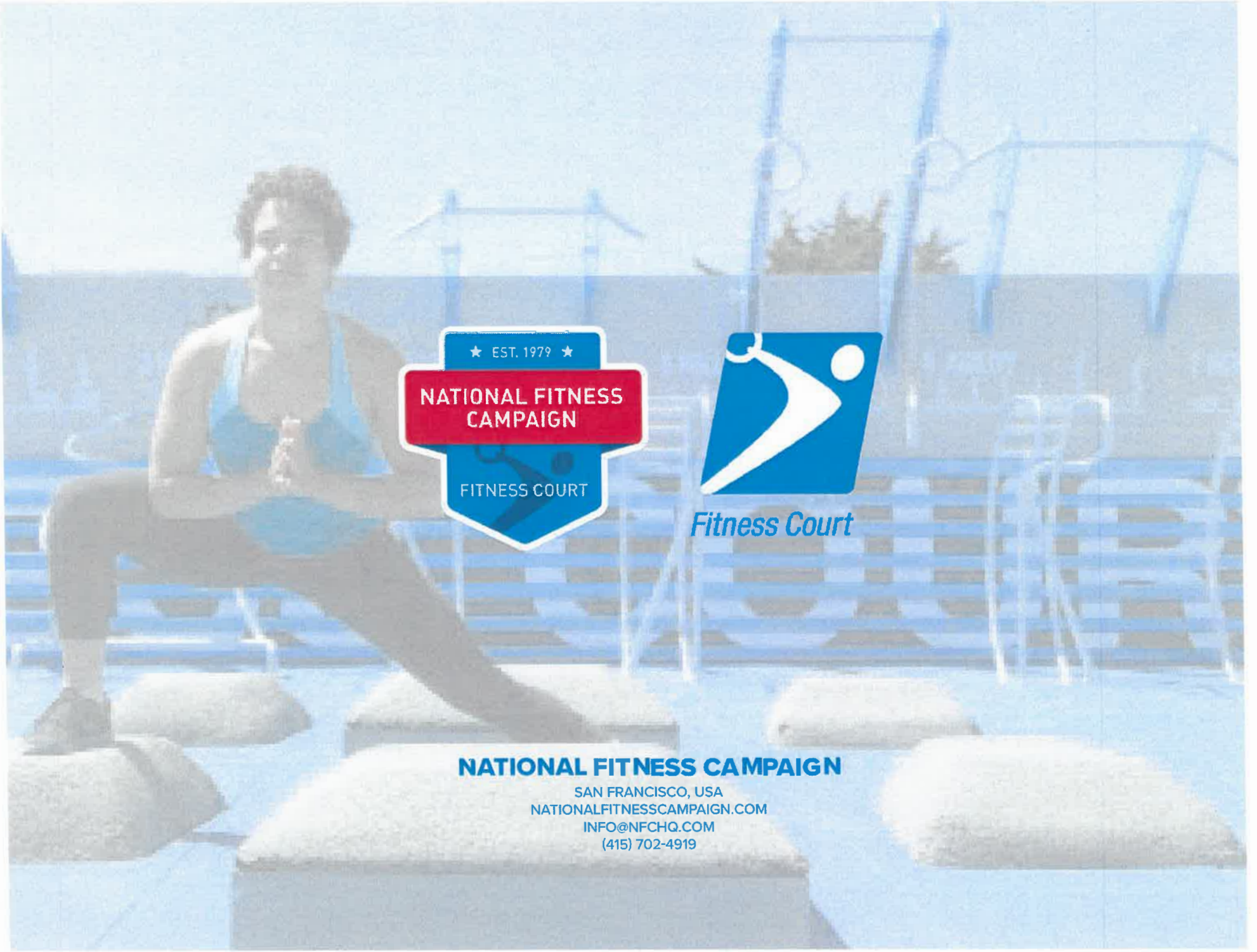
The purchase of the Fitness Court would also require the addition of accessible pathways to access the new area and requires the City to provide funding for installation costs. Installation costs include fitness court assembly and graphics installation. Staff plan to utilize Proposition 68 Per Capita grant funding to cover the associated costs. The project location of City Park serves a Severely Disadvantaged Community, as determined by the California Department of Parks and Recreation, and does not require a funding match.

SUMMARY

The City Council is being asked to authorize the submission of a grant application to the National Fitness Campaign for an outdoor Fitness Court as a part of the 2021 National Fitness Campaign.

ATTACHMENT (S):

A. Attachment A – National Fitness Campaign Brochure
B. Attachment B – Quote
C. Attachment C – Site Plan



NATIONAL FITNESS CAMPAIGN
SAN FRANCISCO, USA
NATIONALFITNESSCAMPAIGN.COM
INFO@NFCHQ.COM
(415) 702-4919



National Fitness Campaign

2022 STATE PROGRAM SUMMARY

NATIONAL FITNESS CAMPAIGN

CAMPAIGN STORY

Past, Present, Future

OUR MISSION

DESIGN HEALTHY INFRASTRUCTURE FOR CITIES TO
IMPROVE THE QUALITY OF LIFE FOR PEOPLE

THE PROBLEM

Preventable diseases like obesity continues to rise across America. The built environment can increase longevity.

WHO WE ARE

National Fitness Campaign is a San Francisco based social enterprise and consulting firm.

WHAT WE DO

NFC partners with cities, schools and state agencies who make health a priority to plan, build, fund and activate healthy infrastructure.

CAMPAIGN HISTORY

1979
FITNESS COURT INVENTED



1980-2000
CAMPAIGN EXPANDS

3 Countries • 10,000 FITNESS COURTS

2012
A NEW CAMPAIGN & WORLD CLASS TEAM

FITNESS COURT® DESIGN TEAM

2018 & PRESENT
NATIONWIDE CAMPAIGN LAUNCH

2022
EXPANSION TO 1,000 CITIES

1979 1980 2012 2018 2022







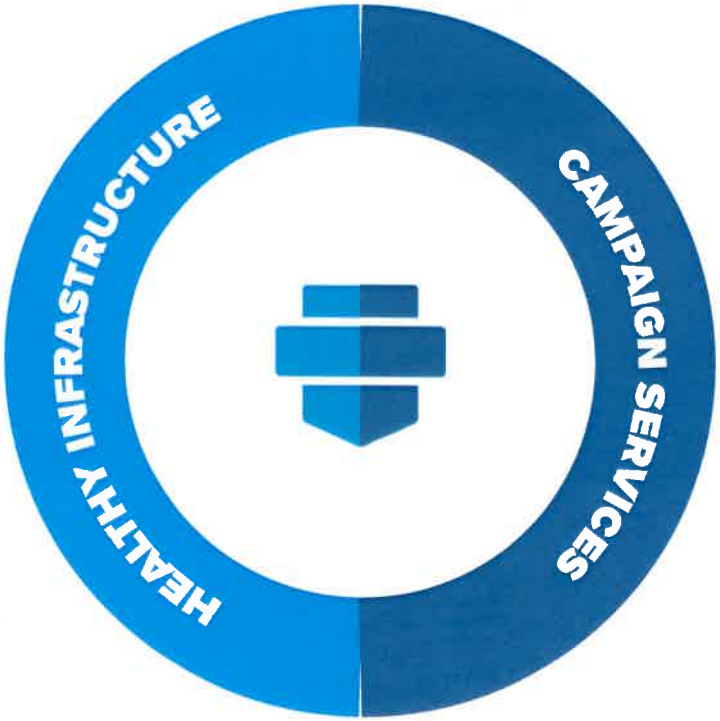




NATIONAL FITNESS CAMPAIGN

2022 CAMPAIGN ELEMENTS

HOLISTIC QUALITY OF LIFE INITIATIVE FOR CITIES



A Comprehensive Wellness Program

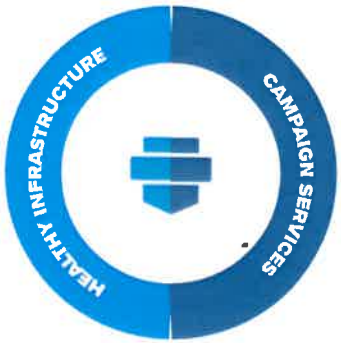
The Campaign is a collection of resources and services designed to activate, encourage and support participation in outdoor fitness activities. Our campaign is separated into two stages: Healthy Infrastructure & Campaign Services. All Cities and schools awarded in the program receive all products, tools and services described on this page and detailed in this executive summary document.





NFC : COMPREHENSIVE PROGRAM

CAMPAIGN SUMMARY





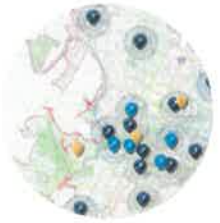
FITNESS COURT

21st Century Healthy Infrastructure

National Fitness Campaign's Fitness Court is the centerpiece to its holistic health and wellness initiative. The Fitness Court is an outdoor bodyweight circuit training center with functional fitness DNA. The best-in-class system provides a full-body workout to adults of all ability levels. With 7 functional fitness zones, the Fitness Court can be used in thousands of ways. The Fitness Court is the world's best outdoor gym!



7 Minutes 7 Movements



Strategic Planning Studies

Strategic Planning & Feasibility Study, Site Design Consulting



Campaign Funding Support

Sponsor Strategy, Best Practices, National Installation Team Support



Fitness Court App

Free digital App Delivering Programing, Workouts & Content



Ambassador Training

NFC Fitness Court Ambassador Training ACE Certified *(America Council of Exercise)*



Launch & Public Relations

Featured Stories Highlighted through Press and Local Media

FITNESS SEASON 2022

Annual Fitness Season

Spring/Summer/Fall national & local training, classes & challenges series



SPRING

World-class training videos will available on the Fitness Court App.



SUMMER

World-class training videos will available on the Fitness Court App.



FALL

The Fitness Season culminates with local, regional and national challenges for residents.

WORLD CLASS MATERIALS & SYSTEM

FITNESS COURT

Made & Manufactured in the USA

Designed by NFC in California.



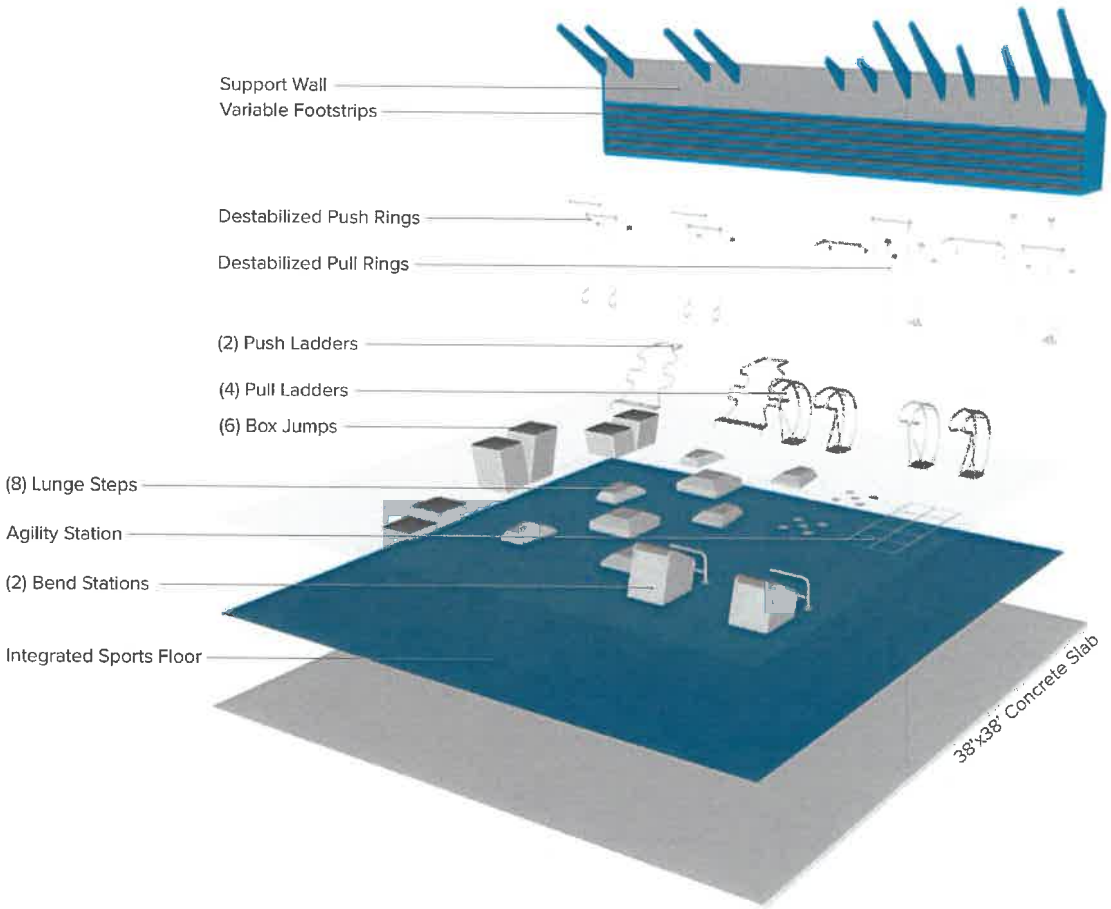
High Quality
Dual-layer powder-coating carbon steel



Durable Materials
Tamper-resistant, galvanized & stainless steel bolts and fittings.

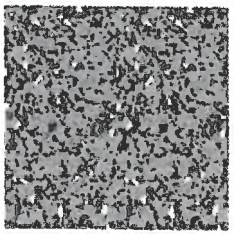


Best In Class
Anti-graffiti laminate vinyl decals



Each Fitness Court® includes an integrated sports floor made from durable 2'x2' tiles which adhere directly to the concrete slab. Available in our standard NFC Blue or Gray to match any custom design.


Top (Blue Option)


Top (Grey Option)


Bottom



NATIONAL FITNESS CAMPAIGN

CAMPAIGN NETWORK

Growing Network of Partners & Sponsors Nationwide



Join Over 1,000 Partners & Sponsors Nationwide

The new campaign is now operating in over 100 cities and colleges across the Nation. By the end of 2022, the program will be thriving in over 200 communities across 40 states. The Campaign's unique funding model brings partnerships and funding to cities and schools of all sizes.









ANNUAL HEALTHY INFRASTRUCTURE EDUCATIONAL WORKSHOP



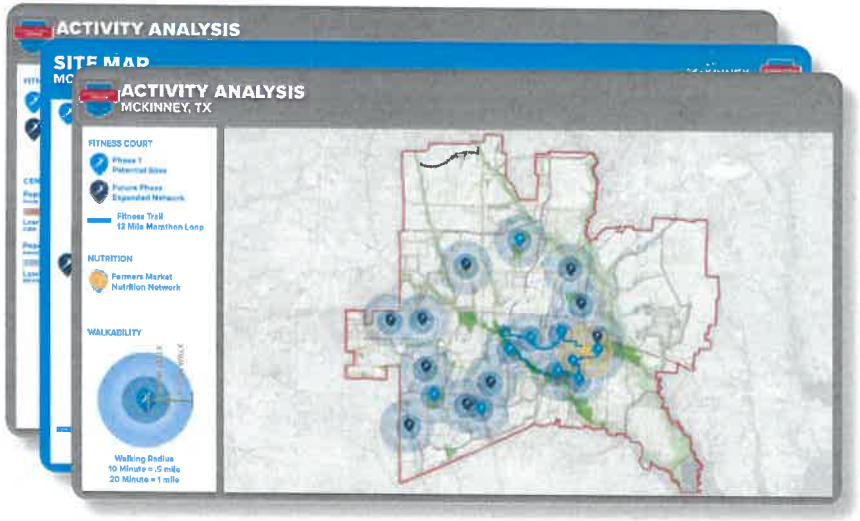
Data Mapping Tools, Analysis Methods, Healthy Infrastructure Planning

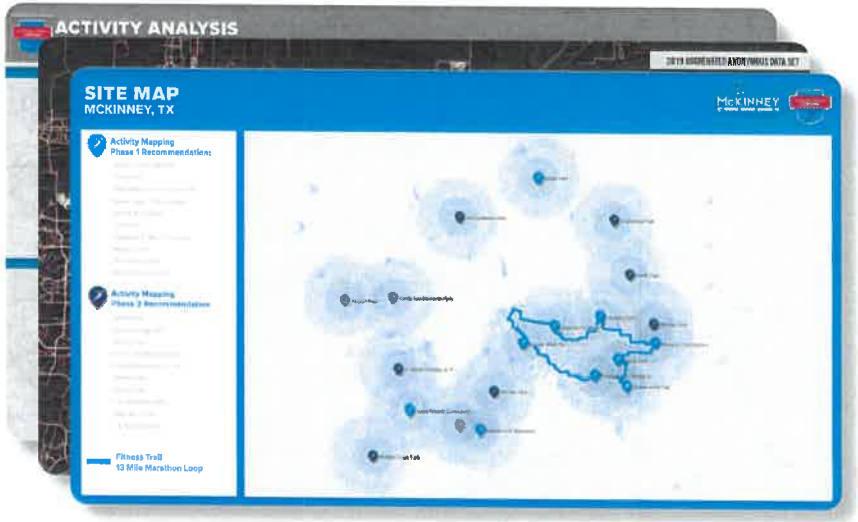
In recognition of the importance of continuing education and professional development and the extensive work supported by State Organizations, NFC proposes an innovative regional workshop series providing specialized training and education in the development of pedestrian infrastructure, healthy living policies and practices, and Fitness Court programming. These day-long programs will occur each Spring. The below information provides a tentative framework. NFC envisions close collaboration with state agencies to determine the structure and execution of the workshops.

NATIONAL FITNESS CAMPAIGN

2022



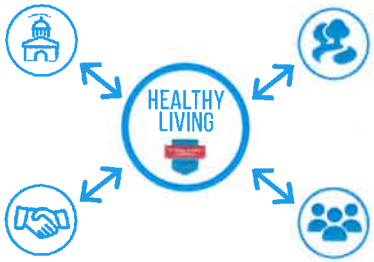




NFC 4-STEP PROGRAM ADOPTION PROCESS

GRANT FUNDING REQUIREMENTS

1



IS WELLNESS A PRIORITY

Is health & wellness a priority in your city or school? Does the campaign align with your local goals and local initiatives? Is there support from appropriate stakeholders?

- Mayor
- City Council
- Park Director
- Superintendent
- Principle
- PE / Coaches

2



SITE SELECTION

Main Criteria for Site Selections

1. Iconic Sites
Supports Success and Impact

2. Accessibility
Engage all Population Sectors

3. Connectivity
Program locations align with pedestrian infrastructure and trails systems.

3



PROGRAM FUNDING

Qualified cities/schools will receive $25,000 in Grant Funding from NFC for each Fitness Court and local Campaign. With variable funding models and opportunities for partnership development within your local and regional network, there are multiple ways to fund the Campaign. NFC is here to help!

4



PROGRAM TIMING

Application Deadline:
ROLLING AWARDS

Submit Matching Funding:
PER BUDGET CYCLE 2022

Program Launch:
PER AWARD PERIOD 2022

PROGRAM ADOPTION PROCESS

NATIONAL FITNESS CAMPAIGN

GRANT FUNDING AWARD

REQUIRED FUNDING FOR EACH SITE



FITNESS COURT & CAMPAIGN ECOSYSTEM

TOTAL FUNDING
REQUIRED PER FITNESS COURT

$140,000

+

COURT INSTALL

=

$25,000
GRANT FROM NFC

$115,000
LOCAL FUNDING MATCH (PLUS INSTALLATION)

INSTALLATION METHODS
CONCRETE SLAB + FITNESS COURT ASSEMBLY + GRAPHICS INSTALL

IN HOUSE OR **IN KIND** OR **BID OUT**

NFC 2022 CAMPAIGN SPECIFICATIONS

PROGRAM SUMMARY

2022 PROGRAM SUMMARY: ***All items and services below are delivered to approved partners as part of the 2022 Campaign.***

HEALTHY INFRASTRUCTURE

FITNESS COURT®

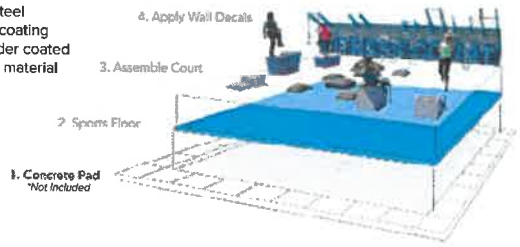
Fitness Court® Description:
32'x35' outdoor bodyweight circuit training system with the following components:
- Seven station circuit training system providing full-body workout modules
- Fitness Court body-weight training wall - 32'W x 2'D x 6' H with custom graphics
- Thirty pieces of body-weight fitness elements for simultaneous use by 28 users at one time. Fitness Elements anchored and grouped within seven stations.
- Bolts, attachments and anchors required for installation

Fitness Court Surface - Tile Surface Specifications
- Outdoor Sports Floor Size: 1,024 SF (32'x32')
- Color: NFC Blue
- Thickness: 1" Tiles
- ADA Border Included

Fitness Court Specifications:
- All structural components are made from high-grade carbon steel
- Structural components receive high-grade duel layer powder coating
- All cladding (skins) made from high-grade aluminum and powder coated
- Graphics and signage printed with anti-graffiti over-lamination material
- Manufactured in the United States
- Resilient to heavy, repeated daily use
- Over 30 individual pieces of equipment
- Powder-Coated Structural Components
- Galvanized fittings and bolts - *included*
- Stainless steel cables
- Full installation guide provided
- Warranty through NFC

Warranty + Maintenance
- Made for all climates
- Almost no moving parts (only cables)
- Equipment is anchor bolted into concrete
- Replacement parts available through NFC
- No requirement for disassembly in winter
- Maintenance guide, including touch-up paint & necessary tooling included

See Official Warranty for Full Coverage Detail



HEALTHY INFRASTRUCTURE DESIGN SERVICES

Strategic Planning & Feasibility Study
- City-wide impact analysis and master plan integration plan
- Site Design and Visibility Analysis

Custom Fitness Court Design Services & Construction & Installation Support
- Customized Fitness Court powder-coating and decal design - no two Fitness Courts are the same!
- stamped and certified design plans, concrete slab drawings, and contractor management are provided by the NFC Activation Team. With all ready-to-build plans included, most installations require less than 90 days to complete from ground-breaking to launch.
- NFC National Installation Partner Access - EIS (contracted separately)

GRANT FUNDING, CONSENSUS BUILDING, SPONSOR SUPPORT

NFC Grant Funding Qualification
- Access to qualify for NFC's Grant Funding through NFC's national partners to support seeding the program.

Consensus Building Consulting
- NFC has industry experts in project management, and from conception through execution, they will collaborate on an average of 2 intensive monthly planning calls to drive success.

Sponsor Strategy Consulting Support
- Up to 10 custom renderings provided by NFC Design Team to support outreach to local sponsors and partners. Up to 5 custom slide presentations provided for in-person meetings and internal stakeholder consensus-building.

CAMPAIGN SERVICES

FITNESS COURT® APP

The Fitness Court App
Free mobile app for iOS / Android teaches proper use, routines and challenges to all users

- **Classes:** schedule, run and track attendance using the Fitness Court App back-end scheduling tool, providing live class management through the OnSched platform. Training and basic setup provided by NFC within 30 days of launch event.
- **Learn:** video guides deliver workouts, and teach the basics for beginners on the Fitness Court. New content released quarterly, and updated by NFC National Training Team.
- **Train:** individual audio guides. New content released quarterly, updated by NFC National Training Team.
- **Challenge:** competitive tracking allows users to participate in timed, scored challenges, with an option to submit their scores to a national Leaderboard. Acts as a regional and national event qualification tool.

CERTIFIED AMBASSADOR TRAINING

Programming and Training Tools
Fitness Court Ambassadors build and sustain a healthy culture around the Fitness Court ecosystem

- **Learn:** education modules provided by the NFC Training Team are eligible for a range of industry certifications, are offered both in-person and remote, and provide a range of class templates, coaching tips and more to qualified Ambassadors. Partnership includes program vouchers for up to 12 individual Ambassadors per Fitness Court, individually eligible for up to 3 continuing education credits (CECs), approved through the American Council on Exercise (ACE).
- **Train:** classes, clinics and challenges become the building blocks of a Fitness Season, led by Ambassadors, that engage all ages and fitness levels. These guided workout options expand the user community and increase long-term usage and adoption.
- **Share:** continuous online and print storytelling, engagement and social connection further build out a healthy culture on each Fitness Court. Up to five local Ambassadors are eligible to attend an in-person regional training event of their choice in 2022. **Regional training schedule provided May 2022*

MEDIA, PRESS, & PROMOTIONS

Promotions and Marketing Package
Media support and community engagement materials excite users and strengthen program adoption

- **Custom Grant Announcement Kit:** promote the development of the program in your community with NFC support through traditional and social media channels - including a custom Press Release, site rendering, and outreach planning tools.
- **Launch Event Promotions Toolkit:** announce the launch of the Fitness Court on traditional media channels with a separate customized press release, outreach support and uniquely branded assets for social media.
- **NFC Website Feature Story:** NFC-hosted custom storytelling showcases the partnership and program development in your community.
- **Opening Day Launch Support:** NFC provides event management templates, guidance for launch event planning, and custom promotional materials (flyers, media assets).

FITNESS SEASON 2022

Annual Activation Series: 2022 Fitness Season
Bring the Latest Events & Programs to Your Fitness Court® this Year!

- Spring 2022 : 18 new workout routines & video tutorials introduced to the Fitness Court App, featuring pro trainer, Mark Lauren.
- Summer 2022: Classes and Clinics support ongoing programming for group exercise and app-based class
- Fall 2022: Challenge series builds competition & strengthens community. Marks the success of year's activation program for all users.
- Healthy Infrastructure Awards: annual recognition program highlighting exceptional partners and leaders nationwide, winners receive custom awards, decals and press support to announce

QUOTE

CPRS Montebello, CA 2021 Campaign

Date
Sep 2, 2021

Expiry
Feb 26, 2022

Quote Number
QU-0739

National Fitness Campaign
PO Box 2367
SAN FRANCISCO CA
94126
USA

Description	Quantity	Unit Price	Tax	Amount USD
Fitness Court and National Campaign Resources	1.00	128,000.00	10.25%	128,000.00
Premium Full Wrap Vinyl Mural with Custom Logo Integrated	1.00	8,500.00	10.25%	8,500.00
2021 Spring Material Cost Increase- Raw Steel	1.00	5,765.00	10.25%	5,765.00
Freight, Packing and Insurance for shipment	1.00	2,000.00	Tax Exempt	2,000.00
2021 State Program Grant Funding Award	1.00	(25,000.00)	Tax Exempt	(25,000.00)
			Subtotal	119,265.00
			TOTAL 10.25% 10.25%	14,582.16
			TOTAL USD	**133,847.16**

Terms

1. PAYMENT TERMS
Purchaser will pay Seller 100% of the Purchase Price within 30 days of the Delivery Date. Purchaser is responsible for payment of shipping costs, including packing, insurance and freight. These payment terms will apply unless other approved payment terms have been agreed to by both parties.
2. TAX EXEMPTION
This quoted total is based upon Purchaser's tax exempt status, for which verifying documentation must be provided to Seller. If Purchaser is not tax exempt, sales tax will be applied before Purchase Price is to be considered final or binding.

Area F: Fitness Pad & Sports Courts

The fitness pad and sports courts area are located on the western edge of the George Hensel Aquatic Center. This area consolidates the various court uses throughout the park into one central court area. The courts will include multi-sport line striping which may include futsal, tennis, volleyball, basketball and pickleball. The area may also accommodate a sprinting track which may also be utilized for programmed fitness classes such as CrossFit or for informal workouts. The area will include two handball courts to the south of the multi-sport facility. These courts make use of the wall from the aquatic center to not prohibit views into the park. At the southwest entry to the sports courts area there is a fitness pad which may include various outdoor fitness stations. This area also allows for warm up prior to entering the sports courts. A planting area is arranged at the visual entrance of the sports courts area which may feature a donor wall for potential donor support of this facility.



Multi-court sports court



IMPROVEMENT	DESCRIPTION
1	Large Fitness Area with Workout Stations, Central Seating, and an Accent Shade Tree
2	Accent Planting Area with Donor Wall
3	Handball Courts

IMPROVEMENT	DESCRIPTION
4	Multi-Sport Courts (Basketball, Volleyball, Tennis, Pickleball, Futsal)
5	Bio-Retention Area

Total Cost of Area F: $175,800 - $205,100

ITEM # 18

CITY OF MONTEBELLO

CITY COUNCIL AGENDA STAFF REPORT

TO: Honorable Mayor and City Council Members

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

BY: Adrianna Kendricks, Acting Director of Transportation

SUBJECT: **Approve Agreement No. 3897 with New Flyer of America, Inc., to Purchase Nine, Forty-Foot Compressed Natural Gas Transit Buses**

DATE: September 8, 2021

RECOMMENDATION (S):

It is recommended that the City Council:

1) Approve an Agreement with New Flyer of America, Inc. (New Flyer), to purchase nine (9), forty-foot (40') Compressed Natural Gas (CNG) transit buses; and

2) Authorize the Director of Transportation to approve change orders up to two percent of the contract amount; and

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

FISCAL IMPACT

Nine (9) CNG transit buses will be purchased using Federal Transit Administration (FTA) and Public Transportation Modernization, Improvement and Service Enhancement Account (PTMISEA) grant funds (The FTA grants are CA-90-Z085, CA-2019-33, CA-2019-033 Toll Credits). The funding sources were originally approved as part of the Transportation Department's Capital Improvement Program (CIP) budget for Fiscal Year 2018-2019. Two of the funding sources (PTMISEA grant and FTA Grant CA-9-Z085) are older grants and must be spent and closed. The project is also identified in the Los Angeles County Metropolitan Transportation Authority (Metro) Federal Transportation Improvement Program (FTIP) as project numbers LA0G1557 and LA0G821 respectively.

Currently, a total funding amount of $6,068,699 is available in the identified accounts. The estimated cost to purchase the nine buses is $5,993,982, and includes a two percent (2%) contingency. The table below indicates the four funding sources, the account number, and the amount to be spent from each funding source:

FUNDING SOURCES	ACCOUNT NUMBER		BALANCE
FTA Grant (CA-90-Z085)	270-9015-2015-006	$	242,771.00
PTMISEA Grant	270-9015-2015-006	$	70,625.00
FTA Grant (CA-2019-033)	270-9063-2018-006	$	4,544,469.00
FTA TDC (CA-2019-033)	270-9063-2018-006	$	1,136,117.00
TOTAL		**$**	**5,993,982.00**

A summary of the total project expenses, including the bus purchase, contingency allotment, contract deliverables, and taxes is shown below:

PROJECT EXPENSES		TOTAL
New Flyer Buses (9)	$	5,235,907.00
Training	$	48,162.00
Tools	$	55,781.00
Subtotal	$	5,339,850.00
Tax	$	547,335.00
Contingency (2% of the base amount)	$	106,797.00
TOTAL EXPENSES	**$**	**5,993,982.00**

BACKGROUND

Montebello Bus Lines (MBL) operates a transit fleet of sixty-seven (67) active 35ft-40ft buses (three electric (3), thirty-six hybrid (36), and twenty-eight (28) CNG buses) to provide service to over five million riders annually throughout 13 local communities. To ensure quality, reliable transportation service is provided to the City of Montebello (City) and surrounding communities, MBL continually assesses and evaluates its fleet's condition. In accordance with the City's Administrative Policy: Capital Asset Policy (VI-C-3), MBL staff recommends replacing nine (9) New Flyer, CNG transit buses (manufacturer year 2005 & 2008) that have surpassed the useful service life (twelve years) established by FTA.

MBL intends to purchase nine (9), forty-foot (40'), CNG buses from New Flyer to maintain its fleet operations. Over the past nine (9) months, staff conducted extensive research and analysis on the best methodology in acquiring aforesaid buses. These buses will be purchased through a procurement process outlined in Montebello Municipal Code (MMC) Section 3.20.125 – "Piggybacking Purchasing Agreement," as authorized under California Government Code section 54202 and is FTA approved. In accordance with MMC

3.20.125(A), the City will enter into a purchase agreement with New Flyer (attached hereto in substantial form as Attachment A) using the base pricing and terms established in the Washington State Transit Bus Cooperative Master Contract, No.06719-01 (Cooperative Contract No. 06719-01), with valid dates of April 1, 2021, to March 31, 2023 (Attachment B).

New Flyer has fully complied with the requirements, technical specifications, and supportive documentation of Cooperative Contract No. 06719-01, and all federal clauses (Attachment C) and procurement documents have been reviewed by MBL staff. Since MBL operates a fleet of New Flyer CNG powered transit buses, purchasing buses from the same manufacturer will continue to support the City's fleet standardization efforts. Furthermore, this purchase will contribute to reducing operational costs since the nine (9) buses will be new and all replacement parts are compatible with the City's current fleet.

If approved, all nine buses will be delivered to the City's Transportation Department on or before October 2022.

ANALYSIS

In accordance with MMC 3.20.125(A), the City will enter into a purchase agreement with New Flyer using Cooperative Contract No. 06719-01, provided that the estimated price of purchase is lower than the estimated price of purchase if made directly by the City.

Staff conducted a market price analysis to ensure the proposed purchase price provides the best value to the City. New Flyer's proposal and cost sheet were compared with MBL's previous bus purchase as well as comparable bus purchases from neighboring agencies and transit agencies with operational structures similar to MBL.

The data used in the analysis is illustrated in the table below:

MBL's Previous Bus Purchase			
2020 Bus Purchase	New Flyer 40'	▪ CAD/AVL ▪ Fareboxes	$ 717, 071

Comparable Bus Purchase from other Agencies			
San Diego, CA	New Flyer 40'	▪ CAD/AVL ▪ Custom APC ▪ Farebox	$632,000
Oceanside, CA	New Flyer 40'	▪ CAD/AVL ▪ Fareboxes	$564,000
Columbus, OH	New Flyer 40'	▪ Custom AVA/AVL/AVM systems ▪ New Flyer Connect	$591,000

Birmingham, AL	New Flyer 40’	▪ AVA/AVL systems and custom flooring ▪ Flush windows ▪ Sky view Roof Hatch	$599,000

New Flyer’s proposed Cost Sheet			
New Bus Purchase **(Cost per bus)**	New Flyer 40’	▪ CAD/AVL ▪ Custom APC ▪ Farebox	$581,768

Based on the analysis, staff recommends the City proceed with replacing nine (9) CNG buses based on the age and the current mileage of the buses. New Flyer has proposed a competitive total cost of $5,235,907 for the purchase (Attachment D).

Using the option to “piggyback” Cooperative Contract No. 06719-01, the City is able to select the appropriate buses for MBL’s operation, customize them as desired, and complete the purchase using a base price that is bid consistent with governmental purchasing guidelines. Since Cooperative Contract No. 06719-01 was bid on a large scale, the City is able to receive competitive pricing otherwise unavailable if the City purchased the buses directly from New Flyer. Furthermore, using the piggyback procurement process to purchase these buses will help improve the efficiency of MBL’s transit fleet at a fair market price.

SUMMARY

Staff recommends that the City Council approve an agreement with New Flyer of America, Inc., to purchase nine (9), forty-foot, compressed natural gas transit buses using the base pricing and terms established in the Washington State Transit Bus Cooperative Master Contract, No. 06719-01; authorize the Director of Transportation to approve change orders up to two (2%) of the contract amount as necessary; and direct staff to take such additional, and related, action that may be desirable.

ATTACHMENT(S):

A. Attachment A – Proposed Purchase Agreement with New Flyer of America, Inc.
B. Attachment B – Washington State Transit Bus Cooperative Master Contract
    - Transit Bus Cooperative Purchasing Agreement
    - Department of Enterprise Services Authorization to Purchase
    - California Department of General Services Approval Notice
C. Attachment C – Federal Required Clauses
D. Attachment D – New Flyer Proposal and Cost Sheet

CITY OF MONTEBELLO
PURCHASE AGREEMENT NO. 3897
WITH NEW FLYER OF AMERICA, INC.

THIS PURCHASE AGREEMENT ("Agreement") entered into on September 8, 2021, by and between the CITY OF MONTEBELLO, a California municipal corporation (hereinafter "CITY"), and NEW FLYER OF AMERICA, INC. (hereinafter "SELLER") (collectively referred to herein as the "Parties" and individually as the "Party"), is made with reference to the following:

RECITALS

WHEREAS, CITY desires to "piggyback" on an existing contract, as amended, between SELLER and THE STATE OF WASHINGTON ENTERPRISE SERVICES, pursuant to THE STATE OF WASHINGTON ENTERPRISE SERVICES issued a Competitive Solicitation No. 06719-01 "Procurement of 40-Foot Compressed Natural Gas (CNG) Coaches issued on March 4, 2020, and executed on April 1, 2021 (hereinafter "Washington State Transit Bus Cooperative Master Contract No. 06719-01");

WHEREAS, CITY seeks to procure from SELLER, and SELLER seeks to build and deliver to CITY nine, (9) new forty (40)-Foot, Compressed Natural Gas Powered Low Floor Transit Buses (hereinafter the "Bus") for the Montebello Bus Lines (hereinafter "MBL") through Washington State Transit Bus Cooperative Master Contract No. 06719-01;

WHEREAS, SELLER represents to CITY that it is fully qualified to provide the above-described services, that it is a validly existing corporation, formed and in good standing under the laws of the State of California and legally authorized to conduct the business in which it is currently engaged, and SELLER further represents it has the background, knowledge, experience and expertise necessary to provide CITY the Bus contemplated under this Agreement;

WHEREAS, SELLER represents to CITY that is in full compliance with the federal procurement requirements and has provided all required certifications as dictated by the Federal Transit Administration;

WHEREAS, the parties have negotiated upon the terms pursuant to which SELLER will provide such services and have herein reduced such terms to writing.

NOW, THEREFORE, in consideration of the mutual covenant and conditions contained herein, CITY and SELLER agree as follows:

1. INCORPORATION OF RECITALS AND EXHIBITS

The above "Recitals" constitute a material part hereof, and shall hereby be incorporated by reference as though fully set forth herein. Moreover, this Agreement consists of the following documents, in order of precedence, all of which as hereby referenced are incorporated herein and made part of this Agreement, and shall be the Entire Agreement between the Parties:

a. This Agreement, including any and all addenda or supplemental agreements.

b. SELLER'S Price Change Summary and Detail, modified specific to the Buses to be purchase by CITY (**Exhibit A**); Training (**Exhibit A.1**); Publications (**Exhibit A.2**); and Tools (**Exhibit A.3**).

c. Federal Requirements (**Exhibit B**).

d. Washington State Transit Bus Cooperative Master Contract No. 06719-01, as amended including all of the Contract Documents and Technical Specifications (hereinafter, the "Master Contract") (**Exhibit C**).

e. All other documents, including but not limited to all required bonds, insurance certificates, permits, notices, schedules, forms, certifications, and affidavits.

In the event of a conflict with the terms outlined in the Master Contract, this Agreement and the above-referenced Exhibits, in order of precedence, shall prevail.

2. SCOPE OF WORK

2.1. Nine, 40-Foot, Low-Floor Compressed Natural Gas Transit Bus. SELLER shall build and deliver nine (9), new, forty (40)-Foot Low-Floor Compressed Natural Gas Transit Buses as specifically described in this Agreement, and in accordance with the specifications and other project documents contained in the Washington State Transit Bus Cooperative Master Contract No. 06719-01 (**Exhibit C)**. In case of any conflict between the terms of these documents, the terms of this Agreement and the **"NEW FLYER'S Price Change Summary and Detail," Exhibits A and B**, shall control and prevail over Washington State Transit Bus Cooperative Master Contract No. 06719-01 (**Exhibit C**) and other exhibits.

As set forth in Master Contract and SELLER'S Price Change Summary and Detail (**Exhibits A** and **B**), the Buses shall contain Americans with Disabilities Act (ADA) Equipment.

2.2. All New Materials and Parts. SELLER shall utilize and incorporate all new material and parts into each of the equipment purchased pursuant to this Agreement.

2.3. Workmanship. SELLER covenants with CITY to furnish its best skill, judgment and efforts and to cooperate with the CITY and any other consultants or contractors engaged by CITY in providing the Bus. SELLER covenants to use its best efforts to perform its duties and obligation under this Agreement in an efficient, expeditious and economical manner, consistent with the best interests of CITY. Workmanship throughout the performance of this Agreement shall conform to the highest standard of commercially accepted practice of work.

3. COMPENSATION

3.1. Total Maximum Compensation. As compensation for the Buses, equipment, goods and services set forth in this Agreement (referred herein as the "Scope of Work" or "Work"), the CITY shall pay and SELLER agrees to accept, the prices set forth in the "SELLER'S Price Change Summary and Detail," **Exhibits A** and **B**. The total amount of the compensation to be paid hereunder for the satisfactory accomplishment and completion of all the Work set forth in this Agreement shall not exceed the following sums, unless agreed upon otherwise by both CITY and SELLER in writing:

a. Total cost for nine (9) Buses (including warranty, ADA equipment, and delivery) shall not exceed **Five Million, Nine Hundred Ninety-Three Thousand, Nine Hundred and Eighty Two dollars** ($5,993,982.00).

3.3. Payment to SELLER. CITY shall pay and SELLER shall accept the amounts set forth in the "SELLER'S Price Change Summary and Detail," **Exhibits A** and **B**, as full compensation for all costs and expenses of completing all Work set forth in this Agreement, including but not limited to all labor and material required, overhead, expenses, storage and shipping, risks and obligations, taxes (as applicable), fees and profit, and any unforeseen costs.

All payments shall be made as provided herein, less any additional moneys withheld as provided by Section 3.4 below.

The CITY shall make payments for the Buses in the following amounts:

a. With regard to the nine (9) Buses: One hundred percent (100%) of the unit price(s) upon the delivery and acceptance of each Bus to MLB's facility at **400 South Taylor Avenue, Montebello, California** and within thirty (30) calendar days of receipt of a proper invoice, provided that the CITY has the complete and full funding for this procurement as of that date;

3.4. Conditional Acceptance. In the event that any Bus does not meet all requirements and/or specifications for acceptance, CITY may, at its exclusive option, "conditionally accept" the Bus and place it into revenue service pending receipt of SELLER furnished materials and/or labor necessary to effectuate corrective action for acceptance of the Bus. For any conditionally accepted Bus, the payment shall be reduced by an "amount to be withheld" paid upon corrective action by SELLER. For the purposes of this Agreement, the "amount to be withheld" shall be equal to the estimated cost for parts and labor for the corrective action.

3.5. Spare Parts and/or Equipment. CITY shall make payments for spare parts and/or equipment at the unit prices itemized in the price proposal within thirty (30) calendar days after the delivery and acceptance of said spare parts and/or equipment and receipt of a proper invoice.

3.6. Final Payment. CITY shall make its final payment(s) of the total Agreement price(s) plus any moneys withheld, as described in subsections 3.3 and 3.4, above, upon receipt of a final proper invoice and the following:

a. Delivery and acceptance of all deliverables, including manuals and other documentation required by this Agreement, excluding training.
b. Rectification of any deficiencies found during the acceptance of the Bus.
c. Provision of any certifications as required by law and/or regulations.
d. Completion of post-delivery audits required under the Agreement.

4. DELIVERY AND ACCEPTANCE SCHEDULE

SELLER shall deliver and ensure acceptance of the Bus no later than the dates set forth in the following schedule:

ITEM	*COMPLETION DATE*
Delivery of nine (9) new 40-Foot Low-Floor Compressed Natural Gas Bus	October 29, 2022
CITY Acceptance	Ten (10) days after Delivery of Bus to CITY

All of the goods, equipment and services shall be furnished and delivered to the MLB facility described in Section 3.3 above, in first class condition, complete and ready for service by the Montebello Transportation Department and MBL. SELLER shall assume all costs and responsibility for delivery.

4.1. Intentionally deleted.

4.2. Unavoidable Delay. If SELLER is delayed at any time during the progress of the Work by the neglect or failure of CITY or by a cause described below, then the time for completion and/or affected delivery date(s) shall be extended by CITY subject to the following conditions:

a. The cause of the delay arises after the notice of award and neither was nor could have been anticipated by SELLER by reasonable investigation before such award; including acts of God, strikes, riots, of from other similar “force majeure” causes or events beyond SELLER’s control

b. SELLER demonstrates that the completion of the Work and/or affected delivery(s) will be actually and necessarily delayed;

c. The effect of such cause cannot be avoided or mitigated by the exercise of all reasonable precautions, efforts and measures whether before or after the occurrence of the cause of delay; and

d. SELLER makes written request and provides other information to CITY as described in “Notification of Contractor Delay”.

A delay meeting all the conditions of this Section shall be deemed an excusable delay. Any concurrent delay, which does not constitute an excusable delay, shall not be the sole basis for denying a request hereunder.

CITY reserves the right to rescind or shorten any extension previously granted, if subsequently CITY determines, that any information provided by SELLER in support of a request for an extension of time was erroneous; provided however, that such information or facts, if known, would have resulted in a denial of the request for an excusable delay. Notwithstanding the above, CITY shall not rescind or shorten any extension previously granted if SELLER acted in reliance upon the granting of such extension and such extension was based on information which, although later found to have been erroneous, was submitted in good faith by SELLER.

4.3. Notification of Contractor Delay. Notwithstanding "Unavoidable Delay" (Section 4.2 above), no extension or adjustment of time shall be granted unless: (1) written notice of the delay is filed with CITY within fourteen (14) calendar days after the commencement of the delay; and (2) a written application therefore, stating in reasonable detail the causes, the effect to date, and the probably future effect on the performance of SELLER under the Agreement, and the portion or portions of the Work affected is filed by SELLER with CITY within thirty (30) calendar days after the commencement of the delay. No such extension or adjustment shall be deemed a waiver of the rights of either party under this Agreement. CITY shall make its determination within thirty (30) calendar days after receipt of the application.

5. TRAINING

As set forth in the Training Proposal (**Exhibit A.1**), SELLER shall provide training to CITY's transportation personnel to ensure proper operation and maintenance of the Bus.

6. WARRANTY

As set forth in Master Contract, SELLER hereby warrants and guarantees to CITY that all of the goods and equipment of the Bus contemplated in this Agreement shall be free from defects in material and workmanship for the periods specified in **Exhibit C** with respect to the entire Bus, subsystems and/or components.

7. NONDISCRIMINATION

In the performance of this Agreement, SELLER represents and agrees that SELLER, its affiliates, subsidiaries, or holding companies do not and will not discriminate against any subcontractor, consultant, employee, or applicant for employment because of race, creed, color, religion, national origin, ancestry, sex, marital status, age, sexual orientation, handicap, or disability, in accordance with the requirements of state and federal. Such discrimination shall include, but not be limited to, the following: employment, upgrading, demotion, transfers, recruitment, recruitment advertising, layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

8. SUBCONTRACTORS

SELLER shall not subcontract any portion of the services to be performed under this Agreement without the prior written consent of CITY, which may be withheld for any reason or for no reason. Subcontracts, if any, shall contain a provision making them subject to all provisions in this Agreement. No person or firm whose name is included in the U.S. Comptroller General's Consolidated List of Persons or Firms Currently Debarred for Violation of Various Public Contracts Incorporating Labor Standards Provisions shall be eligible to subcontract on any portion of this Agreement.

9. PROHIBITION AGAINST TRANSFERS

SELLER shall not assign, sublease, or transfer this Agreement or any interest or obligations herein directly or indirectly, by operation of law or otherwise during the term of this Agreement or during the operation of any of the warranties set forth in Section 6 without the prior written consent of CITY. As a condition to any assignment or transfer, any prospective assignee or transferee shall also assume the obligations to CITY pursuant to this Agreement, including the warranties set forth in Section 6. Any attempt to assign, sublease, or transfer this Agreement without prior written consent of CITY shall be null and void, and any assignee, sublessee, or transferee shall acquire no right or interest by reason of such attempted assignment, or transfer.

The sale, assignment, transfer or other disposition of any of the issued and outstanding capital stock of SELLER, or of the interest of any general partner or joint venturer or syndicate member or covenant, if SELLER is a partnership or joint venture or syndicate or cotenancy, which shall result in changing the control of SELLER, shall be construed as an assignment of this Agreement. For purposes of this Agreement, "control" means the ownership fifty percent (50%) or more of the voting power of the corporation.

10. NOTICES

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 personally or on the second 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 West Beverly Boulevard
Montebello, CA 90640
(323) 887-1200

With a copy to:
City of Montebello – Montebello Bus Lines
Attn: Adrianna Kendricks, Acting Director of Transportation
400 South Taylor Avenue
Montebello, CA 90640
(323) 558 -1625 x 101
(323) 887- 4643 (Fax)
akendricks@cityofmontebello.com

If to SELLER:
NEW FLYER of America.
Attn: Jennifer McNeil
Vice President of Sales and Marketing
711 Kernaghan Avenue
Winnipeg, Manitoba
Canada R2C 3T4

11. INDEMNIFICATION

11.1. Indemnification for Acts or Omissions of SELLER. SELLER shall defend, indemnify, and hold harmless CITY, its elected and appointed officials, boards and commissions, officers, agents and employees (collectively hereinafter the "CITY") against any or all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, reasonable attorneys' fees, costs and expenses, which may accrue against the CITY arising out of, or resulting from the acts or omissions of SELLER or its officers, agents, employees, subcontractors or subconsultants, or related corporations attributable to its performance under this Agreement.

11.2. Indemnification for Claims Brought By Subconsultants of SELLER. In addition to Subsection 11.1, SELLER shall defend, indemnify, and hold harmless the CITY, from and against any and all proven third party damages, including reasonable attorneys' fees occurring or resulting to any and all persons, firms, or corporations employed or contracted by SELLER or its subcontractors or subconsultants in connection with its performance under this Agreement.

12. INSURANCE

During the Term of this Agreement, SELLER shall carry, maintain, and keep in full force and effect all of the following minimum scope of insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with SELLER's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

- **Commercial General Liability (CGL)**: Broad-form, Insurance Services Office Form CG 00 01 covering CGL on an "occurrence" basis for bodily injury and property damage, including premise-operations, products-completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury, and advertising injury, with limits no less than **Two Million Dollars and Zero Cents** ($2,000,000), combined single limits, per occurrence. If a general aggregate limit applies, the limit shall be twice the required occurrence limit.

- **Business Automobile Liability Insurance:** For owned vehicles, hired, and non-owned vehicles, Insurance Services Office Form Number CA 0001 covering, Code 1 (any auto), or if SELLER has no owned autos, Code 8 (hired) and 9 (non-owned), with limit no less than **One Million Dollars and Zero Cents** ($1,000,000.00) 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 **One Million Dollars and Zero Cents** ($1,000,000.00) per accident for bodily injury or disease. SELLER agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers for losses arising from work performed by SELLER for CITY and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.

By executing this Agreement, SELLER further certifies as follows:

I am aware of, and will comply with, Section 3700 of the Labor Code, requiring every employer to be insured against liability of Workers' Compensation or to undertake self-insurance before commencing any of the work contemplated herein.

- **Professional Errors and Omissions (E&O) Liability** insurance appropriate to the SELLER's profession, with limit no less than **Two Million Dollars and Zero Cents** ($2,000,000.00) per occurrence or claim, **Two Million Dollars and Zero Cents** ($2,000,000.00) aggregate. Architects' and engineers' coverage shall be endorsed to include professional liability. If the policy is written as a "claims made" policy, the retroactivity date shall be prior to the start of work set forth herein, SELLER shall obtain and maintain said E&O liability insurance during the Term of this Agreement and for five (5) years after completion of work hereunder. If coverage is canceled or non-renewed, and not replaced with another claims-made policy form with a retroactive date prior to the effective date of this Agreement, SELLER shall purchase "extended reporting" coverage for a min mum of five (5) years after completion of the work.

If SELLER maintains higher limits than the minimums shown above, CITY requires and shall be entitled to coverage for the higher limits maintained by SELLER. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to CITY.

SELLER shall require each of its subcontractors, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California, with a current rating of at least A:VII in the latest edition of Best's Insurance Guide, and approved by CITY.

Each insurance policy required herein shall state that coverage shall not be canceled, except after providing CITY thirty (30) days' (or ten [10] calendar days' for non-payment) prior written notice. SELLER agrees that if it does not keep the aforesaid insurance in full force and effect CITY may either: (i) immediately terminate this Agreement for Cause; or (ii) take out the necessary insurance and pay, at SELLER'S expense, the premium thereon.

At all times during the Term of this Agreement, SELLER shall maintain on file with CITY's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and naming CITY, its officers, agents, employees and volunteers as an additional insured. SELLER shall, prior to commencement of work under this Agreement, file with CITY's Risk Manager such certificate(s).

SELLER 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.

The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming CITY, its elected and appointed boards, officers, officials, 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 (30) days' prior written notice to CITY. SELLER 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.

Except for professional liability and workers' compensation policies, the policies herein are primary and non-contributing with any insurance that may be carried by CITY. Any insurance or self-insurance maintained by CITY, its officers, employees, agents or volunteers, shall be in excess of SELLER's insurance and shall not contribute with it.

All insurance coverage provided pursuant to this Agreement shall not prohibit SELLER, and SELLER's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. SELLER hereby waives all rights of subrogation against CITY. SELLER agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation, but this provision applies regardless of whether or not CITY has received a waiver if subrogation endorsement from the insurer.

Coverage not affected. Any failure to comply with the reporting provisions of the policies contemplated herein, shall not affect coverage provided to CITY, its elected and appointed boards, officers, officials, employees, agents and volunteers.

Coverage applies separately. SELLER's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by CITY. At the option of CITY, SELLER shall either reduce or eliminate the deductibles or self-insured retentions with respect to CITY, or SELLER shall procure a bond guaranteeing payment of losses and expenses.

Procurement of insurance by SELLER shall not be construed as a limitation of SELLER's liability or as fall performance of SELLER's duties to indemnify, hold harmless and defend under Section 9 of this Agreement.

CITY, its officers and employees shall not be responsible for any claims in law or in equity occasioned by failure of SELLER to comply with this section.

13. TERMINATION

13.1. Notice of Default and 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.

For any breach deemed by the non-defaulting party to constitute a material breach, the defaulting party is required to cure the breach within two (2) calendar days upon receipt of written notice. For any breach deemed by the non-defaulting party to constitute a nonmaterial breach, the defaulting party is obligated to cure such breach within ten (10) calendar days upon receipt of written notice. However, if the nature of the nonmaterial breach requires more than ten (10) days to cure, the defaulting party shall have thirty (30) days to diligently pursue and complete a cure.

In addition to any other available legal or equitable rights or remedies, if the default is not cured within the time periods described above, the non-defaulting party may terminate this Agreement by giving written notice thereof to the defaulting party, setting forth the effective date thereof.

13.2. Termination Without Cause. CITY shall have the option, at its sole discretion and without cause, of terminating this Agreement in whole, or in part, by giving ten (10) days written notice to SELLER as provided herein.

13.3. Payment Upon Termination.

If CITY terminates this Agreement as provided in Section 13.2, titled "Termination Without Cause", of this Agreement, CITY shall then provide to SELLER the part of Compensation which would otherwise be payable to SELLER for services completed as of the date of termination, including costs, contract close-out costs and profit on work performed, less the amount previously paid or withheld with respect to the Compensation. If CITY terminates this Agreement as provided in Section 13.1, titled "Notice of Default and Termination", of this Agreement, CITY shall then provide to SELLER the part of Compensation which would otherwise be payable to SELLER for services completed as of the date of termination, less the amount previously paid or withheld with respect to the Compensation, which shall not include costs, close-out costs or profit on work performed.

13.4. Expiration. After full acceptance of the single Bus contemplated in this Agreement by CITY, this Agreement shall expire upon full payment of the Compensation by CITY to SELLER. Notwithstanding the foregoing, the Warranty Agreement shall remain in effect despite expiration of this Agreement.

14. REMEDIES FOR BREACH OF CONTRACT

14.1. Litigation Expenses. If any legal action or other proceeding is brought by either Party for the enforcement of this Agreement or because of an alleged dispute, breach, default or misrepresentation in connection with any provisions of this Agreement, the successful or prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred in that action or proceeding, in addition to any other relief to which the prevailing party may be entitled.

14.2. Liability of SELLER. SELLER shall be responsible for all damages resulting in whole or in part from the acts or omissions of SELLER or its subconsultants or subcontractors. Nothing in this Agreement shall constitute a waiver or limitation of any legal rights or remedies which CITY may have under this Agreement or under applicable law.

14.3. Liability of CITY. CITY's contractual obligations to SELLER shall be limited to the payment of the Compensation provided for in this Agreement. In no event shall CITY be liable for any special, consequential, indirect or incidental damages arising out of or in connection with this Agreement unless otherwise specified herein.

15. DISPUTE RESOLUTION

Disputes regarding the interpretation or application of any provision of this Agreement shall, to the extent reasonably feasible, be resolved through good faith negotiations between the Parties. If any

legal action or proceeding is necessary to enforce any provision of this Agreement or for breach of this Agreement**,** the prevailing party shall be entitled to receive from the opposing party all costs and expenses and such amount as may be adjudged to be reasonable attorney's fees. The prevailing party shall be entitled to recover an amount equal to the fair market value of legal services provided by attorneys employed by the prevailing party as well as any attorneys' fees paid to outside attorneys in connection with the action.

16. GOVERNING LAW AND VENUE

This Agreement shall be construed in accordance with and governed by the laws of the State of California. Any lawsuit brought to enforce this Agreement shall be brought in the appropriate court in Los Angeles County, State of California.

17. COMPLIANCE

It is agreed that SELLER shall comply with and shall require its subcontractors to comply with all applicable local, state and federal laws and regulations including but not limited to those set forth to in the Master Contract.

18. DAYS

Any term in this Agreement referencing days of performance shall be deemed to be calendar days and not work (or business) days.

19. BINDING ON ASSIGNS

Each and all of the covenants and conditions of this Agreement shall be binding on and shall inure to the benefit of the successors and assigns of the respective Parties.

20. INDEPENDENT CONTRACTOR

SELLER is an independent contractor. As such, SELLER shall have no power or authority to incur any debt, obligation or liability on behalf of CITY. SELLER is not to be considered an agent or employee of CITY and is not entitled to participate in any pension plan, medical, or dental plans, or any other benefit provided by CITY for its employees.

21. SEVERABILITY

For purposes of this Agreement, if any provision of this Agreement is deemed to be invalid or illegal, the remaining provisions nevertheless will continue in full force and effect without being impaired or invalidated in any way.

22. TIME IS OF THE ESSENCE

Time is of the essence in this Agreement, and all Parties agree to execute all documents and to proceed with due diligence to complete all covenants and conditions set forth herein in a timely manner.

23. COUNTERPARTS

This Agreement may be signed in counterparts, each of which shall constitute an original and which collectively shall constitute one instrument.

24. CAPTIONS

The captions of the various articles and paragraphs of this Agreement are for the convenience and ease of reference only, and do not define, limit, augment or describe the scope, content or intent of this Agreement or any part or parts of this Agreement.

25. CONSTRUCTION

In all cases, the language in all parts of this Agreement shall be construed simply, according to its fair meaning and not strictly for or against any Party, it being agreed by the Parties or their agents having all participated in the preparation of this Agreement.

26. COOPERATION/FURTHER ACTS

The Parties shall fully cooperate with one another in attaining the purposes of this Agreement and, in connection therewith, shall take any such additional further acts and steps and sign such additional documents as may be necessary, appropriate and convenient as related to.

27. REFERENCES

All references to SELLER with respect to this Agreement shall include all personnel, employees, agents and subcontractors of SELLER.

28. WAIVER

A waiver by either Party of any breach or default of any term, covenant, or condition contained herein shall not be deemed to be a waiver of any subsequent breach or default of the same or any other term, covenant, or condition contained herein, whether of the same or a different character. No waiver, benefit, privilege or service voluntarily given or performed by one Party shall give the other any contractual right by custom, estoppel, or otherwise.

29. ENTIRE AGREEMENT; MODIFICATION

This Agreement in addition to the attached Exhibits, contains the entire agreement between CITY and SELLER and supersedes any prior or written statements or agreement between the Parties. This Agreement represents the full and complete understanding of every kind or nature whatsoever between the Parties hereto and all preliminary negotiations and agreements of whatsoever kind or nature are merged herein. No verbal agreement or implied covenant shall be held to vary the provisions hereof. No attempted waiver of any of the provisions herein, nor any change, amendment or modification of this Agreement shall be effective unless in writing and signed by the Party against whom the same is sought to be enforced.

30. RISK OF LOSS.

CITY shall assume risk of loss of the Bus on delivery. Prior to delivery, SELLER shall bear the risk of loss of the Buses.

31. TITLE.

Title to the Buses shall pass to CITY upon acceptance of the Bus by CITY.

32. PRICE ADJUSTMENTS DUE TO REGULATORY CHANGES.

Notwithstanding anything else to the contrary contained herein, in the event that a price adjustment is required in respect of changes that are mandatory as a result of legislation or regulations that become effective after the date of the proposal submission, such price adjustment shall be negotiated in good faith by the CITY and NEW FLYER.

33. SUBJECT DATA.

All "subject data". including specifications, technical data, records and reports, engineering drawings (including shop drawings and working drawings), manuals and instruction materials and computer or microprocessor software that is delivered or specified to be delivered under this Agreement shall remain the property of SELLER; provided however, the CITY shall have a royalty-free, non-exclusive, non-transferable and irrevocable license to use such subject data only for the purposes of operating and maintaining the Buses.

34. EFFECTIVE DATE.

Unless otherwise specified herein, this Agreement shall become effective as of the date on which the last of the Parties, whether SELLER or CITY, executes said Agreement.

35. SIGNATURES.

SELLER affirms that the signatures, titles, and seals set forth hereinafter in execution of this Purchase Agreement represents all individuals, firm members, partners, joint ventures, and/or corporate officers having principal interest herein.

[**SIGNATURE PAGE TO FOLLOW**]

IN WITNESS WHEREOF, the parties, through their respective authorized representatives, have executed this Agreement as of the date first written above.

CITY OF MONTEBELLO
("CITY")

_____
René Bobadilla, City Manager

Date: _____

NEW FLYER OF AMERICA INC.
("SELLER")

_____
Jennifer McNeil

Date: _____

ATTEST:

_____
Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

_____
Arnold M. Alvarez-Glasman, City Attorney

EXHIBIT A



Montebello BUS LINES

Montebello Bus Lines

Purchase of Nine (9) Heavy Duty CNG Transit Buses

NEW FLYER OF AMERICA

September 3, 2021

Mr. Jon Soria
Fleet Manager
Montebello Bus Lines
California

Subject: Quotation for 40-foot Heavy-Duty CNG Transit bus

Dear Mr. Soria,

New Flyer is pleased to update the March 2021 submitted option price quotation for the production of eight (8) to nine (9) 40-foot Heavy-Duty CNG Transit buses.

The proposed buses will be technically configured as per most recent SR-2524.

The price for nine (9) buses is **$571,238/bus**.

We want to take this opportunity to highlight key elements of our proposal:

Warranty: New Flyer exceeds industry standard warranties in many areas such as 5 year / 300.000 miles warranty for axle and our multiplex warranty is 3 years/150,000 miles. Please refer to the attached Warranty Document of our proposal for information regarding the warranty included in the base bus price. The above-mentioned bus price includes 5-year extended warranty for Engine and transmission, and 3-year extended warranty on HVAC.

Training: New Flyer Training is an organization within the New Flyer Customer Services group – a division of New Flyer Industries. Please refer to the attached Training Document of our proposal for our training proposal details and pricing. Priced outside the bus price.

Publications: Our New Flyer Publications professionals combine extensive, hands-on technical experience with exceptional writing, illustrating and publishing skills to create the industry's benchmark in maintenance manuals. Please refer to the attached Publications Document of our proposal for details. Base bus price includes publication as per attached.

Tooling and Diagnostics: Please refer to the attached Tooling and Diagnostics Document of our proposal for pricing. Priced outside the bus price.

Delivery Proposal: New Flyer is proposing delivery of the buses in Q4 2021.

This is a very important project to us as it allows us the opportunity to create a strong relationship with Montebello Bus Lines. It also affords us the opportunity to deliver to you, some of the most advanced vehiclesavailable in North America. We thank you for your interest in New Flyer products and look forward to working with you in the near future.

Please contact Cameron Huber, Business Segment Director at Cameron_Huber@newflyer.com with any questions.

Sincerely,

Cameron Huber

CAMERON HUBER, P.Eng

Business Segment Director

C 204.583.2333
Cameron_Huber@newflyer.com

New Flyer | MCI

Built to RELY ON®

CONTRACT DELIVERABLES LIST	Warranty
CUSTOMER NAME	Montebello
BUS MODEL	XN40
QUANTITY	9

MAJOR COMPONENT DESCRIPTION	BASE AND EXTENDED WARRANTY		COMMENTS
	PROVIDER	YEARS	
Base Bus Warranty	New Flyer of America	2	Excluding scheduled maintenance items, acts of nature, or normal consumables
Basic Bus Structure	New Flyer of America	3	Body, and body structure shall consist of the components that are bolted or riveted to the structure, such as, exterior panels, interior panels, roof, ceiling, and driver's barrier.
Chassis Structure (Integrity)	New Flyer of America	12	Consists of all components that are welded together to form the main frame (skeleton) and body construction. The structural integrity guarantee covers against a significant loss of structural integrity of the assembly or its functional performance due to non corrosion related failures.
Chassis Structure (Corrosion)	New Flyer of America	12	Consists of all components that are welded together to form the main frame (skeleton) and body construction. The corrosion guarantee covers against a significant loss of structural integrity of the assembly or its functional performance, resulting from a pertinent loss of cross-section due to corrosion caused by normal environmental elements but excludes corrosion caused by aggressive road de-icers such as Magnesium Chloride or equivalents, unless New Flyer approved preventative measures are taken. The warranty shall be void if the Agency fails to conduct corrosion inspections and scheduled preventive maintenance procedures as specified in the Contractor's maintenance manuals. The Agency shall maintain documentation, auditable by the Contractor, verifying service activities in conformance with the Contractor's maintenance manuals.
Engine	Cummins	5	All repairs/warranty claims need to be handled through the local authorized repair facility. When the 3 year extended warranty is purchased (5 years total) the following applies: Two Year Base (Full Coverage), years 3,4 & 5 covers components only as per manufacturer's warranty document.
Transmission	Allison	5	All repairs/warranty claims need to be handled through the local authorized repair facility. When the 3 year extended warranty is purchased (5 years total) the following applies: Two Year Base (Full Coverage), years 3,4 & 5 covers components only as per manufacturer's warranty document.
Axle (Front and Rear)	MAN	5	Excluding maintenance items & items that are not covered by the OEM's warranty. All friction materials are excluded from this limited warranty. Wear and third party items supplied with the axle (e.g. slack adjuster, seals and bearings, shocks, air bellows, radius rods, brake chambers) are not included in the 5 year warranty. Please see manufacturer's warranty document.
A/C	MCC	3	Some limitations and exclusions may apply - Please see manufacturer's warranty document. All repairs/warranty claims need to be handled through the local authorized repair facility.
Brake System	New Flyer of America	2	Friction Material Excluded
Destination Signs	AESYS	6	Some limitations and exclusions may apply - Please see manufacturer's warranty document. All repairs/warranty claims need to be handled through the local authorized repair facility.
Door Systems	Vapor	3	Excluding maintenance items & items that are not covered by the OEM's warranty
Air Compressor	Cummins	2	
Wheelchair Ramp	New Flyer of America	2	
Electrical System	Parker	3	Excluding maintenance items & items that are not covered by the OEM's warranty
LED Headlights	J.W.Speaker	6	Warranty covers parts only after 1st year.
Paint	Axalta	5	
Air Dryer	Bendix	2	
Alternator	EMP	2	
Charge Air Cooler	EMP	3	
Fire Suppression System	Amerex	3	Some limitations and exclusions may apply - Please see manufacturer's warranty document.
Hydraulic System	New Flyer of America	2	
Starter	New Flyer of America	2	
Towing	New Flyer of America	2	
Emission Control System	Cummins	5	Some limitations and exclusions may apply - Please see manufacturer's warranty document. All repairs/warranty claims need to be handled through the local authorized repair facility.
Power Steering System	New Flyer of America	2	
Radiator Fan Drive	EMP	3	
Tires	New Flyer of America	2	New Flyer Industries Limited warrants the tires installed as original equipment on this vehicle only against defects in materials and workmanship which cause the vehicle to fail to comply with applicable U.S. and Canadian greenhouse gas emission limits ("Warrantable Emissions Failures"). This vehicle emissions limited express warranty relating to original equipment tires is valid for two (2) years or 24,000 miles whichever occurs first.
Emissions-Related Warranty (Idle Reduction Systems)	New Flyer of America	5	Emissions-related warranty on Neutral-Idle or Start/Stop idle reduction systems, as defined by the U.S. EPA (not including Allison Standard FuelSense 2.0, Restricted Neutral-at-Stop (NAS), and "Auto-Neutral" functions)

Training Proposal

CONTRACT DELIVERABLES LIST	CUSTOMER TRAINING
CUSTOMER NAME	Montebello
BID/OPTION/SR NUMBER	2021-025
BUS MODEL	XN40
QUANTITY	9

New Flyer Supplied Training

DESCRIPTION	COMMENTS	QTY HRS.	TOTAL SELLING PRICE AT BID	REQUIREMENT	BILLABLE: Y/N
Operator Orientation		4	$986.85	Recommended	Y
Maintenance Orientation		4	$986.85	Recommended	Y
Multiplex System		24	$5,921.10	Recommended	Y
Entrance & Exit Doors w CLASS		8	$1,973.70	Recommended	Y
Wheelchair Ramp		4	$986.85	Recommended	Y
Brake Systems and Axles		16	$3,947.40	Recommended	Y
Air System and ABS		8	$1,973.70	Recommended	Y
Suspension and Steering		8	$1,973.70	Recommended	Y
Electric Fan Drive		4	$986.85	Recommended	Y
Coolant Loop Fill Procedure		4	$986.85	Recommended	Y
Towing		4	$986.85	Recommended	Y
Body and Structure		4	$986.85	Recommended	Y
CNG Fuel System		8	$1,973.70	Recommended	Y

OEM/Subcontractor Supplied Training

DESCRIPTION	COMMENTS	QTY HRS.	TOTAL SELLING PRICE AT BID	REQUIREMENT	BILLABLE: Y/N
Engine Maintenance		16	$7,020.00	Recommended	Y
Transmission Maintenance		16	$7,020.00	Recommended	Y
HVAC Maintenance		8	$4,050.00	Recommended	Y
Fire Suppression/Gas Detection		8	$2,700.00	Recommended	Y
Destination Sign		8	$2,700.00	Recommended	Y

Publications Proposal

CONTRACT DELIVERABLES SHEET		PUBLICATIONS
PRIMARY CUSTOMER NAME		Montebello
PUBLICATIONS CUSTOMER NAME		City of Montebello
BUS MODEL		XN40
QUANTITY		9

New Flyer Bus Publications

DESCRIPTION	QTY	CUSTOMER DELIVERY
Emergency Responder Guide (8.5x11 laminated paper)	9	With First Pilot Bus Delivery
Operator's Guide	9	With First Pilot Bus Delivery
Parts Manual	2	Within 30 Days AFTER Last Bus Delivery
Service Manual	2	Within 30 Days AFTER Last Bus Delivery
Vehicle System Drawings Manual (11x17 3-hole regular paper)	2	Within 30 Days AFTER Last Bus Delivery
Parts Manual Listing	1	Within 30 Days AFTER Last Bus Delivery
TIV USB	2	Within 30 Days AFTER Last Bus Delivery

OEM Supplier Publications

DESCRIPTION	QTY	CUSTOMER DELIVERY
Cummins L9N (CM2380) 2021EPA Engine OEM Vendor Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Fault Code Troubleshooting Manual (Vol 1 - 4)	2	"
Service Manual (Vol 1 - 2)	2	"
Operation & Maintenance Manual	2	"
Owners Manual	2	"
Allison Transmission B300/400/3400xFE Gen 5 OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Service Manual - Gen 4/5	2	"
Parts Manual - Gen 4/5	2	"
Troubleshooting Manual - Gen 4/5	2	"
Principals of Operation Manual - Gen 5	2	"
Quick-Tech Troubleshooting Guide - Gen 5	2	"
Mechanics Tips - Gen 5	2	"
Operator's Manual - Gen 5	2	"
MCC HVAC OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Unit Operation & Service Parts Manual	2	"
Compressor Operation & Service Parts Manual	2	"
EMP Cooling System OEM Manual (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
EMP MH4 Cooling System Service Manual	2	"
EMP MH4 Cooling System Troubleshooting Manual	2	"
WABCO ABS System OEM Manual (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
ABS Maintenance Manual	2	"

DESCRIPTION	QTY	CUSTOMER DELIVERY
Destination Sign OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
AESYS User Manual	2	"
AVA/AVL System OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Avail Service Manual	2	"
Arow Global Drivers Door System OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
DPS Service and Maintenance Manual	2	"
Amerex GD & FS System OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
V25ABC System Operation & Maintenance Manual	2	"
SafetyNet Controller Operation & Maintenance Manual	2	"
Vansco Multiplexing System OEM Manual (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Hardware User Guides	2	"
Software User Guides	2	"

Other New Flyer Costs

DESCRIPTION	QTY	CUSTOMER DELIVERY
Standard Labour Hours required for NF Bus Manual Set Publishing	400	N/A

CONTRACT DELIVERABLES LIST	DIAGNOSTICS & TOOLS
CUSTOMER NAME	Montebello
BID/OPTION/SR NUMBER	2021-025
TECHNICAL SUMMARY	Rev Draft
BUS MODEL	XN40
QUANTITY	8
ENGINE	Cummins L9N 280hp
ALTERNATOR	EMP
TRANSMISSION	Allison B400R
COOLING SYSTEM	EMP MH4
AXLES	MAN VOK07 Front, HY1350 Rear
LEVELING/KNEELING	Smartrider Lite
ABS	Meritor Wabco
AIR CONDITIONING	MCC, R134a
PLC	Vansco
DESTINATION SIGNS	Aesys
DOORS	Vapor ETO w CLASS
WHEELCHAIR RAMP	NF Standard
FIRE SUPPRESSION/GAS DETECTION	Amerex SafetyNet
APC	Infodev
AVA	Avail
FUEL MANAGEMENT SYSTEM	AIM-2

NOTE: TOOL KITS MAY BE SUBJECT TO CHANGE

***** All claims for concealed shortages must be reported within 20 days of shipment date. Shipping damages and / or loss must be noted on the delivering carrier waybill at the time of receipt of shipment. A copy of the carrier waybill and / or carrier inspection report must be submitted with your claim within 5 days of receipt of shipment to New Flyer Customer Service.***

PAGE REFERENCE	COMMENTS	DESCRIPTION	QUOTED PART #	BID QTY	EXTENDED SELLING PRICE	REQUIREMENT	BILLABLE: Y/N
		Diagnostic Equipment					
	for use with all diagnostic software	Panasonic FZ55 Toughbook Laptop	108658	**1**	$3,062.12	Recommended	Y
		Nexiq USB Link 2	6353474	**1**	$1,042.31	Recommended	Y
		Cummins Insite Lite (1-year subscription)	6339520	**1**	$1,075.88	Recommended	Y
	free download from Cummins website	Cummins Insite Software	NPN	**1**	$0.00	Recommended	Y
		Allison DOC Premium - 1st Yr subscription download	6469849	**1**	$1,103.83	Recommended	Y
	free download from EMP website	EMP Software	NPN	**1**	$0.00	Recommended	Y
		Meritor Wabco ABS Software	6334596	**1**	$391.23	Recommended	Y
		Valeo Diagnostic Software & Cables	6396448	**1**	$468.32	Recommended	Y
		Adapter - Diagnostic	6477477	**1**	$53.19	Recommended	Y
		Adapter Harness - Valeo Interface	6430418	**1**	$188.48	Recommended	Y
	free download from Parker-Vansco website	Vansco Software	NPN	**1**	$0.00	Recommended	Y
	free download from Parker-Vansco website	Smartrider Software	NPN	**1**	$0.00	Recommended	Y
		Vapor Class System Diagnostic Interface Kit	6358421	**1**	$96.82	Recommended	Y
	provided by Vapor at n/c	Vapor Class System Software	NPN	**1**	$0.00	Recommended	Y
	provided by Vapor at n/c	Vapor VETC2 Software	NPN	**1**	$0.00	Recommended	Y
		Tool/Adapter-Diagnostic,USB,MCC ECO Temp	20-16-0005	**1**	$216.89	Recommended	Y
		VerbaPlus - AESYS Programming Software	TBD	**1**	$489.04	Recommended	Y
		Amerex SafetyNet Software & Interface	6355551	**1**	$596.70	Recommended	Y
		Service Cable - Infodev	6479987	**1**	$174.66	Recommended	Y
		Ethernet Cable - Infodev	6479988	**1**	$20.97	Recommended	Y
		USB to RS232 Converter - Infodev	6479989	**1**	$76.86	Recommended	Y
		Special Tools					
		Kit - Lift Tow Universal	6396565	**1**	$198.81	Recommended	Y
		Kit - Lift Tow Receivers	6396567	**1**	$1,365.05	Recommended	Y
		Xcelsior Flat Tow adapter (2 pcs. Per set)	6395097	**1**	$773.17	Recommended	Y
		Jacking Adapters	434434	**1**	$946.28	Recommended	Y
		Repair Kit - Disc Brakes & Calipers	6408310	**1**	$3,191.58	Recommended	Y
		Torque Multiplier	6314711	**1**	$2,590.07	Recommended	Y
		Hub Repair Kit - MAN VOK-07 Frt Axle	6408311	**1**	$6,904.16	Recommended	Y
		Optional Hub Removal Hydraulic Tool Kit - MAN VOK-07	6458834	**1**	$4,439.96	Recommended	Y
		Hub Repair Kit - MAN HY1350 RR Axle	6408306	**1**	$4,561.29	Recommended	Y
		ABS Sensor R&R Kit - MAN HY1350 RR Axle	6408307	**1**	$767.14	Recommended	Y
		Pinion Seal Repair Kit - MAN HY1350 RR Axle	6444302	**1**	$2,187.45	Recommended	Y
		Differential Repair Kit - MAN HY1350 RR Axle	6444303	**1**	$6,628.47	Recommended	Y
		Coolant System Pressure Tester	660817	**1**	$832.05	Recommended	Y
		Kit - Coolant Pressure Fill	6484741	**1**	$2,601.03	Recommended	Y
		Adj Tool - Strg Gear Box Press Relief	6465265	**1**	$297.07	Recommended	Y
		Depth Punch - Strg Gear Box Press Relief	6465266	**1**	$271.30	Recommended	Y
		Flow Meter Tester - Strg Gear Box	140809	**1**	$560.32	Recommended	Y
		Puller Tool - Pitman Arm	6394270	**1**	$315.82	Recommended	Y
		Refractometer - DEF	6392284	**1**	$432.49	Recommended	Y
		Alignment Tool - Flex Connector	6360381	**1**	$706.52	Recommended	Y
		Eng/Trans Dolly - Universal	086444	**1**	$2,575.54	Recommended	Y
		Amerex Discharge Hose Blowout Adapter	052132	**1**	$114.44	Recommended	Y
		Amerex Fire Alarm/Simulator Module	135582	**1**	$274.64	Recommended	Y
		Amerex Calibration Kit - AMGaDS III	6459321	**1**	$1,306.15	Recommended	Y
		CNG Tank Valve Installation Tool	6467614	**1**	$1,882.79	Recommended	Y
					$55,780.88		

Sales Specialist
New Flyer

Darryl Desjarlais - Training Manager
Training
New Flyer

EXHIBIT B

FEDERAL REQUIREMENTS

1.1 Federal Funding, Incorporation of FTA Terms

The preceding provisions include, in part, certain standard terms and conditions required by the U.S. Department of Transportation ("DOT"), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in Federal Transit Administration ("FTA") Circular 4220.1F or its successors are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The CONTRACTOR shall not perform any act, fail to perform any act or refuse to comply with any AGENCY requests that would cause AGENCY to be in violation of the FTA terms and conditions.

1.2 Federal Changes

The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between AGENCY and FTA, as they may be amended or promulgated from time to time during the term of this Contract. CONTRACTOR'S failure to so comply shall constitute a material breach of this Contract.

1.3 No Government Obligation to Third Parties

The AGENCY and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a part to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, CONTRACTOR, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

1.4 Program Fraud and False or Fraudulent Statements or Related Acts

The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801, *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying Contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract of the FTA-assisted project for which this Contract work is being performed.

In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extend the Federal Government deems appropriate.

The CONTRACTOR also acknowledges that if it makes, or caused to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above two clauses in each sub-contract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clauses shall not be modified, except to identify the Sub-contractor who will be subject to the provisions.

1.5 Inspection and Retention of Records

The CONTRACTOR shall permit authorized representatives of the AGENCY, the FTA Administrator, and the Comptroller General of the United States to inspect and audit all data and records of the CONTRACTOR relating to its performance and its sub-contracts under this Contract from the date of the Contract through and until the expiration of three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case CONTRACTOR agrees to maintain same until the AGENCY, the FTA Administrator, and the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. The AGENCY retains ownership of all project documents and records maintained by the CONTRACTOR on behalf of the AGENCY.

1.6 Suspension and Debarment

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals, as such defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The CONTRACTOR is required to comply with 49 CFR 29, Subpart C and must include this requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the Bidder or Proposer certifies as follows:

The certification in this clause is **a** material representation of fact relied upon by the AGENCY. If it is later determined that the Bidder or Proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Bidder or Proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this proposal. The Bidder or Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

1.7 Termination

Pursuant to the Contract, in the event that either Party hereto fails or refuses to perform any of the provisions of this Contract 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.

For any breach deemed by the non-defaulting party to constitute a material breach, the defaulting party is required to cure the breach within five (5) calendar days upon receipt of written notice. For any breach deemed by the non-defaulting party to constitute a non-material breach, the defaulting party is obligated to cure such breach within ten (10) calendar days upon receipt of written notice. However, if the nature of the non-material breach requires more than ten (10) days to cure, the defaulting party shall have thirty (30) days to diligently pursue and complete a cure.

In addition to any other available legal or equitable rights or remedies, if the default is not cured within the time periods described above, the non-defaulting party may terminate this Contract by giving written notice thereof to the defaulting party, setting forth the effective date thereof.

The AGENCY shall have the option, at its sole discretion and without cause, of terminating this Contract in whole, or in part, by giving ten (10) business days' written notice to CONTRACTOR. Upon the termination of this Contract as provided herein, the AGENCY 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 AGENCY, the Parties agree that CONTRACTOR shall be reimbursed for any "non-refundable" costs that CONTRACTOR has incurred for its services under this Contract, provided that: (1) such "non-refundable" costs were incurred by the CONTRACTOR prior to the date of termination, and (2) that CONTRACTOR provides the AGENCY 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 Contract. CONTRACTOR agrees to cease all work under this Contract on or before the effective date of any notice of termination. Pursuant to the Contract, all AGENCY data, documents, objects, materials or other tangible things shall be returned to the AGENCY upon the termination or expiration of this Contract.

1.8 Civil Rights Requirements

During the performance of this Contract, the CONTRACTOR agrees as follows:

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Contract:

   (a) Race, Color, Creed, National Origin, Sex - The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or

termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) Age - The CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age.

(c) Disabilities - The CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

3. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

1.9 Disadvantaged Business Enterprise *(DBE)*

1. AGENCY Assurance: AGENCY shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract, or in the administration of its DBE Program.
AGENCY shall take all necessary and reasonable steps under Part 26, Title 49 of the Code of Federal Regulations (CFR), to ensure nondiscrimination in the award and administration of DOT-assisted contracts. AGENCY'S DBE Program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this Contract. Implementation of this DBE Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Contract. Upon notification to AGENCY of its failure to carry out its approved program, the DOT and/or the Federal Transit Administration (FTA) may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801 *et seq.).*

2. Annual Overall Goal: In accordance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," the AGENCY is required to establish an annual overall goal for the participation of DBEs in all contracts utilizing federal financial assistance. For the current fiscal year, the AGENCY has established a DBE participation goal of five percent (5%).

   AGENCY'S annual overall goal represents the amount of ready, willing, and able DBEs that are identified as available to participate in contracting opportunities, and is reflective of the amount of DBE participation AGENCY would expect absent the effects of discrimination.

3. Contract Goals: AGENCY intends to meet its goal to the maximum extent feasible through race-neutral measures, including the encouragement of DBE participation on contracts which have no specific DBE goal. Where race-neutral measures are inadequate to meet the annual overall goal, AGENCY will establish specific contract goals for particular projects with subcontracting opportunities.

   There is no DBE project goal established for this project. At this time AGENCY will meet DBE goal on federally assisted projects through race neutral measures. AGENCY supports the use of race neutral measures to facilitate participation by DBEs and other

small businesses, and encourages prime contractors to subcontract portions of their work that might otherwise perform with their own forces.

4. Good Faith Efforts: If a specific DBE participation goal is identified in the above Section 5.9.3, a proposer must demonstrate that it can meet this specified goal in the performance of this Contract in order for the proposal to be determined a responsive proposal. If a proposer cannot meet the specified goal, the proposer must demonstrate that it performed sufficient good faith efforts to meet the goal. A proposer who is not responsive shall be ineligible for award of contract.

Determination of Good Faith Efforts: If the amount of DBE participation does not meet the Contract-specific goal, the DBE Officer shall review the good faith effort report submitted by the proposer. The DBE Officer shall determine whether the proposer has performed the quality, quantity, and intensity of efforts that demonstrates a reasonably active and aggressive attempt to meet the Contract-specific goal.

The kinds of effort that will be considered demonstrative of "Good Faith Efforts" include, but are not limited to, the following: Whether the CONTRACTOR solicited through all reasonable and available means (e.g., attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified ***DBEs*** who have the capability to perform the work; whether the CONTRACTOR solicited interest within sufficient time to allow the DBEs to respond and, if appropriate steps were taken, to follow-up with interested DBEs; whether the CONTRACTOR selected portions of work to be performed by DBEs and, where appropriate, broke-out contract work items into economically feasible units to facilitate DBE participation even when the CONTRACTOR might otherwise prefer to perform these work items with its own forces; whether the CONTRACTOR negotiated in good faith with interested DBEs (evidence includes names, addresses, and phone numbers; description of information provided regarding plans and specifications; and evidence as to why additional agreements could not be reached); whether the CONTRACTOR made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; whether the CONTRACTOR made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance; whether the CONTRACTOR effectively used the services of available minority/women community organizations, contractors' groups, or other organizations to provide assistance; and whether other proposers on the procurement met the DBE goal.

Proposer's Right to Administrative Reconsideration: In the event that the DBE Officer determines that the responsible proposer has not met the Contract-specific goal, and has not demonstrated good faith efforts, the DBE Officer will notify the proposer in writing. The notification shall explain the basis and include the reasons for the determination, and shall inform the proposer of its right to submit further written documentation or appear before the Reconsideration Official prior to the time that a recommendation for award of contract is presented to the City Council. (The Reconsideration Official is a CITY representative who did not take part in the original determination.) After reconsideration, AGENCY shall provide the proposer with a written decision. The result of the reconsideration process is not appealable by the proposer.

In the event that the Reconsideration Official finds that the proposer has not met the Contract goal or demonstrated good faith efforts, AGENCY will deem said proposer not responsible and evaluate the proposer submitting the next proposal.

5. CONTRACTOR Compliance with AGENCY DBE Policy: It is the policy of AGENCY to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to AGENCY'S construction, procurement, and professional services activities. To this end, AGENCY has developed procedures to remove barriers to DBE participation in the proposal and award process and to assist DBEs to develop and compete successfully outside of the DBE program.

   In connection with the performance of this Contract, the CONTRACTOR will cooperate with AGENCY in meeting these commitments and objectives.

6. Required Proposal/Proposal Submittals: The CONTRACTOR shall submit with its Proposal the name and address of each Sub-contractor it intends to employ, a description of the work which the Sub-contractor is to do, the dollar amount of each Sub-contractor contract, and such other information as may be required in order that AGENCY'S approval may be obtained as to reliability and ability to perform the work **(Bidders List of Participating Firms).**

   In addition, proposer shall submit within five (5) days of proposal opening the names and addresses of all DBE firms that will participate in the Contract; a description of the work that each DBE will perform; the dollar amount of the participation of each DBE firm; written documentation of commitment to use DBE Subcontractors whose participation the CONTRACTOR submits to meet the Contract goal; and written confirmation from the DBE that it is participating in the Contract as provided in the CONTRACTOR's commitment. **(Statement of Disadvantaged Business Enterprise Participation)**

   AGENCY shall require that any DBEs listed by proposers for participation in the Contract be certified as eligible DBEs. AGENCY will accept current certifications by the DOT and its agencies, the Small Business Administration, or other DOT federal financial assistance recipients, as appropriate. **Within five (5) days of proposal opening, DBEs with current certification must attach a copy of their current Letter of Certification and a copy of their *current* Statement of Personal Net Worth.**

   AGENCY will require any firm listed, but not currently certified as a DBE, to submit the proper certification information within five (5) days of proposal opening in order to be included in the proposer's DBE achievement.

   CONTRACTOR Assurance: Pursuant to 49 CFR Part 26, the CONTRACTOR is required to make the following assurance in its agreement with AGENCY and to include this assurance in any agreements it makes with subcontractors in the performance of this Contract:

   "The CONTRACTOR or Sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR or Subcontractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as AGENCY deems appropriate."

8. Prompt Payment to Subcontractors: The CONTRACTOR must pay Subcontractors for satisfactory performance of their contracts no later than 15 days from the receipt of payment made to the CONTRACTOR by AGENCY. Prompt return of retainage payments from the CONTRACTOR to the Subcontractor will be made within 15 days after the Subcontractor's work is satisfactorily completed.

Any delay or postponement of payment among the parties may take place only for good cause and with AGENCY'S prior written approval. If the CONTRACTOR determines the work of the Subcontractor to be unsatisfactory, it must notify AGENCY'S DBE Officer immediately in writing and state the reasons. Failure by the CONTRACTOR to comply with this requirement will be construed to be a breach of contract and subject to contract termination.

Reports of Payment to DBE Sub-contractors: The DBE Officer will monitor the amount actually paid by the CONTRACTOR to Subcontractors, and will require the CONTRACTOR to provide monthly reports of payments to DBEs. A letter will be sent to the DBE Subcontractors to verify the dollar amount.

The amount awarded to the DBE, the amount paid to the DBE as stated by the CONTRACTOR, and the amount paid to the DBE as verified by the DBE, will be reported to the Federal Transit Administration (FTA).

10. Contract Change or Amendment: When a contract change or amendment is made, the CONTRACTOR will submit a statement to the DBE Officer regarding how the change may affect DBE subcontracting.

11. Reporting DBE Participation: The CONTRACTOR is required to report all **DBE** participation on their contract whether or not the contract contains a specified DBE goal. The CONTRACTOR is not to count participation of a DBE Subcontractor until the amount being counted has been paid to the DBE.

12. Counting DBE Participation toward the Contract Goal: Only the work actually performed by a **DBE** will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the CONTRACTOR or its affiliate) may also be counted.

Commercially Useful Function: Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Expenditures may only be counted if the DBE is performing a commercially useful function. A DBE should perform at least 30 percent of the total cost of its contract with its own work force. Decisions on commercially useful function are subject to review by the FTA, but are not administratively appealable to DOT.

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials and supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted.

13. DBE Replacement: The CONTRACTOR must make a good faith effort to replace a defaulting DBE Subcontractor with another certified DBE. The CONTRACTOR must immediately notify the DBE Officer of the DBE's inability to perform, and provide reasonable documentation. The CONTRACTOR must receive prior written approval on

the substitute DBE from AGENCY. The CONTRACTOR will provide copies of new or amended subcontracts and copies of the substitute DBE's current Letter of Certification and current Statement of Personal Net Worth.

If the CONTRACTOR proposes to replace a DBE Subcontractor with a non-DBE, sufficient good faith efforts documentation must be provided. If the CONTRACTOR fails or refuses to comply in the time specified, AGENCY will issue an order stopping all, or part of, payment/work until satisfactory action has been taken. If the CONTRACTOR still fails to comply, AGENCY may issue a termination for default proceeding.

14. Evaluation of Proposals with DBE Goals: After the proposal opening, or submission of proposals, the DBE Officer shall evaluate all proposals with regard to the DBE requirements to determine a recommendation for award of contract. The responsible proposer, who also meets the Contract-specific goal or demonstrates good faith efforts, shall be recommended for contract award. In the event that the proposer does not meet the Contract-specific goal or demonstrate good faith efforts, the DBE Officer shall evaluate the next proposal.

1.10 Buy America

The Buy America requirement provides that federal funds may not be obligated for mass transportation projects unless steel, cement, and manufactured products used in such projects are produced in the United States. The requirement will not apply in the following four cases:

A. When its application is against the public interest (as decided by the FTA Administration on a case-by-case basis).

When the required materials and products are not produced in the U.S. in sufficient quantities and of satisfactory quality.

C. When, in the procurement of buses and other rolling stock, the cost of the components which are produced in the U.S. is more than 60 percent of the cost of all components of the vehicle or equipment, and if the final assembly takes place in the U.S.

D. When the inclusion of domestic material will increase the over-all cost of the project Contract by more than 10 percent in the case of projects for the acquisition of buses and rolling stocks; and 25 percent in the case of all other projects.

The CONTRACTOR, who seeks to establish grounds for an exception, must seek the exception, in writing, to the Purchasing Manager at least fifteen (15) days prior to proposal opening.

When a petition for investigation has been filed with FTA before award, the AGENCY reserves the right to not make an award prior to the resolution of the investigation by FTA and when a request for investigation has been filed with FTA before the opening of proposals, the AGENCY reserves the right to not open proposals prior to the resolution of the investigation by FTA.

The CONTRACTOR and all Sub-contractor with contracts of $100,000 or more are required to certify compliance or non-compliance with this provision by submitting the attached **"Buy America Certificate",** with the proposal.

1.11 Remedies/Sanctions for Breach of Contract

Pursuant to the Contract, the AGENCY may terminate the Contract if the successful Proposer breaches the terms or violates the conditions of the Contract, and does not cure such breach or violation within the specified time period. The successful Proposer shall be liable for any and all costs incurred by AGENCY as a result of such default, including but not limited to re-procurement costs of the same or similar services defaulted by the successful Proposer under this Contract [49CFR 18.36(i)(2)1

1.12 Federal Prohibited Interest

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising therefrom {FTA Grant Agreement, Part II, Sec. 114 ([11])}.

1.13 Lobbying

CONTRACTORS who apply or bid for an award of $100,000 or more shall file the certification required by 49 C.F.R. Part 20, **"New Restrictions on Lobbying."** Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

If the successful offeror, and/or primary Sub-contractor, did engage in lobbying activities, then OMB Standard Form LLL "Disclosure of Lobbying Activities" must also be completed and submitted to AGENCY. Form is available upon request.

1.14 Clean Air Requirements

The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The CONTRACTOR agrees to report each violation to the AGENCY and understands and agrees that the AGENCY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The CONTRACTOR also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

1.15 Clean Water Requirements

The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* The CONTRACTOR agrees to report each violation to the AGENCY and understands and agrees that the AGENCY will, in turn, report each violation as required to assure notification **to** FTA and the appropriate EPA Regional Office.

The CONTRACTOR also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

1.16 Cargo Preference

The CONTRACTOR agrees to the following clauses for the purchase of equipment, materials or commodities that may be transported by ocean vessel in carrying out the project:

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

B. To furnish within 20 working days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590, and to AGENCY (through the CONTRACTOR in the case of a Sub-contractor's bill-of-lading).

C. To include these requirements in all sub-contracts issued pursuant to this Contract.

1.17 Fly America Requirements

The CONTRACTOR agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

1.18 State Labor Provisions/ Labor Compliance/ Contract Work Hours and Safety Standards Act

1. Prevailing Wage Rates: Attention is directed to the requirement that no less than the Prevailing Wage Rates shall be paid on this project. Certified Payrolls on AGENCY-approved State forms are required for all workmen. Rates of pay will be current State of California, as shown in the "General Prevailing Wage Rate" Manual as determined by the State Director of Industrial Relations.

   CONTRACTOR agrees to abide by the provisions of the State Labor Code, and to comply with the prevailing rates of wages and apprenticeship employment standards established by the State Director of Industrial Relations. FTA Grant Agreements, part II, section 119 (a).

Pursuant to the provisions of Section 1770 of the California Labor Code of the State of California, not less than the general prevailing rate of wages (which rate includes employer payments for health and welfare, vacation, pension and similar purposes) applicable to the work to be done, shall be maintained at all times during the course of the Contract. These rates are made a part of this Contract by reference. The CONTRACTOR shall comply with Section 177.5 of the Labor Code of State of California for all apprentice-able occupations.

2. Labor Compliance. It is the policy of AGENCY that all CONTRACTORS and Sub-contractors engaged in public works construction shall adhere to applicable laws and regulations. In accordance with this policy, for the duration of this Contract, AGENCY shall institute a labor compliance program to monitor compliance. The .CONTRACTOR shall cooperate fully with Labor Compliance monitoring efforts and the representatives engaged in this effort.

Because this project is subject to the provisions of State and Federal law governing public works contracts, all pertinent statutes and regulations are hereby incorporated by reference into this document as if set forth in their entirety, including Copeland Anti-Kickback Act requirements of 29 CFR part 3, Davis-Bacon and Related Act requirements of 29 CFR parts 1, 3, and 5, and Contract Work Hours and Safety Standards Act requirements of Section 107, 40 U.S.C. § 333 and 29 CFR part 1926. CONTRACTORS and Sub-contractors by entering into, or performing work under, this project agree to comply with all provisions of the law that apply to public works. It is the responsibility of the CONTRACTOR to obtain and adhere to the latest edition of the statutes and regulations **including, but not limited to, the following:**

A. **Apprentices -** All apprentices employed on this project shall be bona fide apprentices registered with the State of California, Division of Apprenticeship Standards.

B. **Certified Payroll -** All CONTRACTORS shall submit weekly certified payroll records for all laborers and mechanics furnishing labor to the project not later than ten calendar days after the closed payroll period.

Payment Of The Prevailing Wage - The CONTRACTOR and all Sub-contractors under him shall pay not less than the specified prevailing wage rate to all workmen employed in the execution of the contract.

Working Hours - The CONTRACTOR shall pay workers employed on the Contract not less than the appropriately specified straight time and overtime prevailing wages for all hours worked.

E. **Employee Interviews -** AGENCY, through its representatives, will conduct weekly on-site interviews of workers employed on the Contract. The interviews shall be conducted without the interference or obstruction of the CONTRACTOR. No worker who is interviewed is to be threatened, coerced, or intimidated.

Violations: AGENCY will take cognizance of violations of the prevailing wage and public works laws committed during the course of this Contract. Such evidence of violation may result in the assessment of penalties and forfeitures to the fullest extent allowed by law

until compliance has been strictly effectuated. AGENCY may suspend or terminate a contract, or debar a CONTRACTOR from future contracts, for breach of the Labor Compliance Requirements.

4. Contract Work Hours and Safety Standards Act

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

Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5, the CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5 in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5.

C. Withholding for unpaid wages and liquidated damages — AGENCY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b) (2) of 29 CFR Section 5.5.

D. Subcontracts - The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

E. Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the CONTRACTOR during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide

fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the CONTRACTOR shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. CONTRACTORS employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

1.19 Seismic Safety

The CONTRACTOR agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The CONTRACTOR also agrees to ensure that all work performed under this Contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

1.20 Safety and Health Regulation

The CONTRACTOR agrees to comply with Section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 333, and applicable U.S. Department of Labor regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the CONTRACTOR agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions. The CONTRACTOR also agrees to include the requirements of this section in each subcontract.

1.21 Federal Energy Conservation Requirements

The CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

1.22 Recycled Products

The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

The CONTRACTOR also agrees to include these requirements in each sub-contract.

5.23 Access Requirements for Individuals with Disabilities

The Prime CONTRACTOR and all Sub-contractors on this project are required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 *et seq.;* section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; section 16 of the Federal Transit Act, as amended, 49 U.S.C.A. § 1612; and the following regulations and any amendments thereto:

A. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

B. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

C. U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 38;

D. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

E. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

F. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19.

G. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

H. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

I. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

1.24 Privacy Act

The CONTRACTOR agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a.

The CONTRACTOR also agrees to include these requirements in each sub-

contract.

1.25 Prohibited Interest

No Council member, officer, or employee of the AGENCY or of a local Public Body during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the

proceeds thereof. If any such interest comes to the knowledge of any party at any time, a full and complete disclosure of all such information will be made in writing to the other parties, even if such interest would not be considered a conflict of interest under Article 4 of Chapter 1 of Division 4 of Title 1 (Sections 1090-1097) of the Government code of the State of California.

5.26 Drug-Free Workplace

The CONTRACTOR, and all Sub-contractors, must certify that they have a drug-free workplace and comply with Government Code Section 8355 **(Certification of Drug-Free Workplace).**

EXHIBIT C

WASHINGTON STATE TRANSIT BUS COOPERATIVE

STATE COOPERATIVE PURCHASING SCHEDULE

MASTER CONTRACT

NO. 06719-01

TRANSIT BUSES: HEAVY DUTY

35 FT DIESEL, 40 FT DIESEL, 60 FT DIESEL, 35 FT HYBRID, 40 FT HYBRID, 60 FT HYBRID, 35 FT CNG, 40 FT CNG, 60 FT CNG, 35 FT ELECTRIC, 40 FT ELECTRIC, 60 FT ELECTRIC, 40 FT HYDROGEN, 60 FT HYDROGEN CATEGORIES

For Use by Washington State Transit Bus Cooperative Participants

By and Between

STATE OF WASHINGTON

DEPARTMENT OF ENTERPRISE SERVICES

and

NEW FLYER OF AMERICA, INC.

Dated April 1, 2021

WASHINGTON STATE TRANSIT BUS COOPERATIVE

STATE COOPERATIVE PURCHASING SCHEDULE

MASTER CONTRACT

NO. 06719

TRANSIT BUS – HEAVY DUTY

35 FT DIESEL, 40 FT DIESEL, 60 FT DIESEL, 35 FT HYBRID, 40 FT HYBRID, 60 FT HYBRID, 35 FT CNG, 40 FT CNG, 60 FT CNG, 35 FT ELECTRIC, 40 FT ELECTRIC, 60 FT ELECTRIC, 40 FT HYDROGEN, 60 FT HYDROGEN CATEGORIES

This Master Contract ("Master Contract") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and New Flyer of America Inc., a North Dakota corporation ("Contractor") and is dated and effective as of April 1, 2021.

RECITALS

A. Whereas, pursuant to Legislative direction codified in RCW chapter 39.26, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish master contracts for goods and/or services for general use by Washington state agencies and certain other entities (eligible Participants).

B. Whereas, pursuant to RCW 39.26.060, Enterprise Services may develop, solicit, and establish cooperative purchasing agreements for procurement of any goods or services with one or more states, state agencies, local governments, local government agencies, federal agencies, or tribes located in the state, in accordance with an agreement entered into between the participants.

C. Whereas, pursuant to Section 3019 of the FAST Act, the State of Washington acting by and through Enterprise Services, may enter into a cooperative procurement contract with one or more vendors if the vendors agree to provide an option to purchase rolling stock and related equipment to such State government and any other participant and such State government acts throughout the term of the contract as the lead procurement agency.

D. The State of Washington, acting by and through Enterprise Services is a member of and the lead procurement for the Washington State Transit Bus Cooperative. The Washington State Transit Bus Cooperative is a cooperative purchasing agreement for eligible participants to procure transit buses through a competitively solicited and awarded Cooperative Master Contract.

E. Whereas, on behalf of the State of Washington, Enterprise Services, as part of a competitive governmental procurement, issued a Competitive Solicitation No. 06719-01 dated March 4, 2020 regarding Heavy Duty Transit Buses**.**

F. Whereas, Enterprise Services evaluated all responses to the Competitive Solicitation and identified Contractor as an apparent successful bidder.

G. Whereas, Enterprise Services has determined that entering into this Master Contract will meet the identified needs and be in the best interest of the State of Washington and the Washington State Transit Bus Cooperative.

H. Whereas, the purpose of this Master Contract is to enable eligible Participants to purchase Transit Buses as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. TERM.

The term of this Master Contract is twenty-four (24) months, commencing April 1, 2021 and ending March 31, 2023; Provided, however, that Enterprise Services at is sole discretion may extend the term for three (3) subsequent twelve (12) month extensions if Contractor is not in default; and provided further, that in no event shall such term be extended if Contractor cannot meet the required certifications of this Contract. The maximum contract term is sixty (60) months, ending March 31, 2026.

2. ELIGIBLE PARTICIPANTS. This Master Contract may be utilized by any of the following types of entities ("Participants"):

2.1. WASHINGTON STATE AGENCIES. All Washington state agencies, departments, offices, divisions, boards, and commissions.

2.2. WASHINGTON STATE INSTITUTIONS OF HIGHER EDUCATION (COLLEGES). Any the following institutions of higher education in Washington:

- State universities – i.e., University of Washington & Washington State University;
- Regional universities – i.e., Central Washington University, Eastern Washington University, & Western Washington University
- Evergreen State College;
- Community colleges; and
- Technical colleges.

2.3. MCUA PARTIES. Any of the following types of entities that have executed a Master Contract Usage Agreement with Enterprise Services:

- Political subdivisions (e.g., counties, cities, school districts, public utility districts) in the State of Washington;
- Federal governmental agencies or entities;
- Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
- Federally-recognized Indian Tribes located in the State of Washington.

2.4. TRANSIT BUS COOPERATIVE PARTIES. Any authorized entity that has executed a Washington State Transit Bus Cooperative Purchasing Agreement with Enterprise Services. The following types of

entities are anticipated to execute a Washington State Transit Bus Cooperative Purchasing Agreement:

- State agencies, local governments, local government agencies, or political subdivisions (e.g., counties, cities, school districts, public utility districts, ports) of any state or territory of the United States;
- Federal governmental agencies or entities located in any state or territory of the United States; and
- Federally-recognized Indian Tribes located in any state or territory of the United States

3. SCOPE – INCLUDED GOODS AND PRICE.

3.1. CONTRACT SCOPE. Pursuant to this Master Contract, Contractor is authorized to sell only those Transit Buses within the scope of their authorized goods meeting the requirements set forth in *Exhibit A – Included Transit Buses* for the prices set forth in *Exhibit B – Prices*. Contractor shall not represent to any Participant under this Master Contract that Contractor has contractual authority to sell any Transit Buses beyond those meeting the requirements set forth in *Exhibit A – Included Transit Buses*.

3.2. STATE'S ABILITY TO MODIFY SCOPE OF MASTER CONTRACT. Subject to mutual agreement between the parties, Enterprise Services reserves the right to modify the goods included in this Master Contract; *Provided*, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and *Provided further*, that any such modification must be within the scope of this Master Contract. Enterprise Services may, at any time, without notice to Contractor by written order designated or indicated to be a change order, make changes within the general scope of the contract to adjust the quantities of Transit Buses purchased under this Master Contract.

3.3. PARTICIPANT CHANGE ORDERS.

(a) Participants may, at any time, by written order designated or indicated to be a change order, make changes in their Purchase Order within the general scope of this Master Contract, including changes: (1) In the specifications; (2) In the method or manner of performance of the work; (3) In the price sheet to include additional options within the scope of the contract; (4) In the delivery performance of the work; or (5) In additional requirements for compliance with state or federal law.

(b) Any other written or oral order (which includes direction, instruction, interpretation, or determination) from the Participant that causes a change shall be treated as a change order under this clause; provided, that Contractor gives the Participant written notice stating (1) the date, circumstances, and source of the order and (2) that Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Participant shall be treated as a change under this clause or entitle Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the work under this Master Contract, whether or not changed by any such order, the Participant will make an equitable adjustment and modify the Purchase Order in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under this clause shall be made for any costs incurred more than twenty (20) days before Contractor

gives written notice as required. In the case of defective specifications for which the Participant is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) Contractor will assist Participant in obtaining all of the requested cost details as may be required for FTA assisted purchases. Failure to respond or provide needed details may be grounds for the Participant to cancel the purchase without penalty.

(f) The Contractor must assert its right to an adjustment under this clause within 30 days after

1. receipt of a written change order under paragraph (a) of this clause or

2. the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of proposal, unless this period is extended by the Participant. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(g) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Master Contract.

(h) This clause does not supersede FTA Circular C 4220.1F.

3.4. ECONOMIC ADJUSTMENT. Beginning twelve (12) months after the effective date of this Master Contract and for every annual anniversary thereafter, the prices set forth in *Exhibit B* shall be adjusted, based upon the percent changes (whether up or down) in the United States Department of Labor, Bureau of Labor and Statistics (BLS) indices described below, for the most recent year. The Index is the Producer Price Index for Truck and Bus Bodies, Series No. WPU 1413, published by the United States Department of Labor, Bureau of Labor Statistics, or if such Index is no longer in use, then such replacement that is most comparable to the Index as may be designated by the Bureau of Labor Statistics, or as agreed by the parties. Economic adjustment will lag one (1) calendar quarter past the Master Contract commencement date to allow for publication of BLS data. All calculations for the index shall be based upon the latest version of data published as of April 1st each year. Prices shall be adjusted on June 1st. If an index is recoded, that is the replacement is a direct substitute according to the BLS, this Master Contract will instead use the recode. If an index becomes unavailable, Enterprise Services shall substitute a proxy index. If there is not a direct substitute, the next higher aggregate index available will be used. The economic adjustment shall be calculated as follows:

New Price = Old Price x (Current Period Index/Base Period Index).

For certainty, notwithstanding anything else to the contrary contained herein, in the event that a price adjustment is required in respect of changes that are mandatory as a result of legislation or regulations that become effective after the date of the tender submission, such price adjustment shall be negotiated in good faith by the Participants and the Contractor.

3.5. PRICE CEILING. Although Contractor may offer lower prices to Participants, during the term of this Master Contract, Contractor guarantees to provide the Heavy Duty Transit Buses at no greater than the prices set forth in *Exhibit B – Prices for Heavy Duty Transit Buses* (subject to economic adjustment as set forth herein).

3.6. GOODS AND SERVICES ADDITION. Contractor may offer new goods and services within the scope of the authorized goods set forth in *Exhibit A – Included Transit Buses* to Participants to implement new technology solutions or meet specific Participant requirements. Goods and services added to purchase orders under the Master Contract must be commercially available at the time they are added and fall within the original scope of the Master Contract.

3.7. PRICING OF GOODS AND SERVICE ADDITIONS. Prices for additional Transit Bus goods and services performed under this Master Contract follow cost reimbursement rules under 4220.1F Ch VI, 2.c(1). Cost-reimbursement provides for payment of Contractor's allowable incurred costs, to the extent agreed to in the Contractor's agreement with the Participant. Participants are required to include FAR Part 31 cost principles in their cost reimbursement contracts for the purpose of determining allowable costs under the contract. Contract shall comply with Participants' requests in determining reasonable prices, including but not limited to providing a breakdown of relevant incurred costs or individual component pricing to Participant upon request. A dispute on the reimbursement costs will follow the dispute procedures of this Master Contract.

3.8. MASTER CONTRACT INFORMATION. Enterprise Services shall maintain and provide information regarding this Master Contract, including scope and pricing, to eligible Participants.

4. CONTRACTOR REPRESENTATIONS AND WARRANTIES. Contractor makes each of the following representations and warranties as of the effective date of this Master Contract and at the time any order is placed pursuant to this Master Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.

4.1. QUALIFIED TO DO BUSINESS. Contractor represents and warrants that it is in good standing and qualified to do business in the State of Washington, that it is registered with the Washington State Department of Revenue and the Washington Secretary of State, that it possesses and shall keep current all required licenses and/or approvals, and that it is current, in full compliance, and has paid all applicable taxes owed to the State of Washington. Contractor represents and warrants that it is or will be qualified to do business in other applicable states for purchases under this Master Contract with each of the Washington State Transit Bus Cooperative member states, including but not limited to Alaska, Idaho, Oregon, Colorado, Montana, and Nevada.

4.2. SUSPENSION & DEBARMENT. Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.

4.3. QUALITY OF GOODS OR SERVICES. Contractor represents and warrants that any Transit Bus sold pursuant to this Master Contract shall be merchantable, shall conform to this Master Contract and Participant's Purchase Order, shall be fit and safe for the intended purposes, shall be free from defects in materials and workmanship, and shall be produced and delivered in full compliance with applicable law. Contractor further represents and warrants it has clear title to the goods and that the same shall be delivered free of liens and encumbrances and that the same do not infringe any third party patent. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs. Whenever under the Master Contract or Purchase Order it is provided that Contractor shall furnish materials or manufactured components or shall do work for which no detailed specifications are set forth, the work

performed shall be in full conformity and harmony with the intent to secure the best standards of manufacture in the work as a whole or in part. No advantage shall be taken by Contractor in the omission of any part or detail which goes to make the Transit Buses complete and ready for service, even though such part or detail is not mentioned in the specifications or in Contractor's approved design.

4.4. EXECUTIVE ORDER 18-03 – WORKERS' RIGHTS (MANDATORY INDIVIDUAL ARBITRATION). Contractor represents and warrants, as previously certified in Contractor's bid submission, that Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Contract, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

4.5. OREGON REVISED STATUTE 279A.112. Contractor represents and warrants, as previously certified in Contractor's bid submission, that their firm has a written policy and practice preventing sexual harassment, sexual assault and discrimination against employees who are members of a protected class.

4.6. EMISSIONS INFORMATION. Contractor represents and warrants, as previously certified in Contractor's bid submission, that their firm has a written policy and practice to assess and provide accurate emission information on products to Participants.

4.7. SUSTAINABILITY POLICY. Contractor represents and warrants, as previously certified in Contractor's bid submission, that their firm has a written policy and practice, detailing own sustainability policies and programs in place and to provide services in line with the principles established therein.

4.8. PROCUREMENT ETHICS & PROHIBITION ON GIFTS. Contractor represents and warrants that it complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to Participants' employees.

4.9. WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS). Contractor represents and warrants that it is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of its information therein is current and accurate and that throughout the term of this Master Contract, Contractor shall maintain an accurate profile in WEBS.

4.10. STATEWIDE PAYEE DESK. Contractor represents and warrants that it is registered with the Statewide Payee Desk, which registration is a condition to payment.

4.11. COOPERATIVE MASTER CONTRACT PROMOTION; ADVERTISING AND ENDORSEMENT. Contractor represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this Master Contract with eligible Participants and to ensure that those entities that utilize this Master Contract are eligible Participants. Contractor understands and acknowledges that neither Enterprise Services nor Participants are endorsing Contractor's goods and/or services or suggesting that such goods and/or services are the best or only solution to their needs. Accordingly, Contractor represents and warrants that it shall make no reference to Enterprise Services, any Participant, or the State of Washington in any promotional material without the prior written consent of Enterprise Services.

4.12. MASTER CONTRACT TRANSITION. Contractor represents and warrants that, in the event this Master Contract or a similar contract resulting from the Cooperative, is transitioned to another contractor (e.g., Master Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist Enterprise Services for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

4.13. VEHICLE TITLE & REGISTRATION. Contractor represents and warrants that upon payment in full, Contractor shall convey to Participant all necessary paperwork, including a "manufacturer's statement of origin" (MSO) and applicable state title application to register the Transit Bus with the Participant's applicable state licensing authority at the time of acceptance. Title to the bus shall pass to the Participant upon acceptance of the bus by the Participant.

4.14. WAGE VIOLATIONS. Contractor represents and warrants that, during the term of this Master Contract and the three (3) year period immediately preceding the award of the Master Contract, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.

4.15. PAY EQUITY. Contractor represents and warrants that, among its workers, similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Master Contract and any Participant hereunder similarly may suspend or terminate its use of the Master Contract and/or any agreement entered into pursuant to this Master Contract.

4.16. SUBJECT DATA. All "subject data", including specifications, technical data, records and reports, engineering drawings (including shop drawings and working drawings), manuals and instruction materials and computer or microprocessor software that is delivered or specified to be delivered under this contract shall remain the property of the Contractor; provided however, the Participants shall have a royalty-free, non-exclusive, non-transferable and irrevocable license to use such subject data only for the purposes of operating and maintaining the Transit Buses. The Participants grant the Contractor the right to inspect, examine, download, and otherwise obtain any information or data available from components provided by the Contractor, including, but not limited to, any electronic control modules or other data-collection devices, to the extent necessary to enable the Contractor to perform reliability maintenance analysis, corrective action and/or other engineering-type work for the Transit Buses.

5. USING THE MASTER CONTRACT – PURCHASES.

5.1. ORDERING REQUIREMENTS. Participants shall order Transit Buses from this Master Contract, consistent with the terms hereof and by using any ordering mechanism agreeable both to Contractor and Participant but, at a minimum, including the use of a purchase order. When practicable, Contractor and Participant also shall use telephone orders, email orders, web-based orders, and similar procurement methods (collectively "Purchase Order"). All order documents must reference the Master Contract number. Consistent with Participant's procurement authority, Participant may propose and negotiate additional terms with the applicable Contractor to meet Participant's needs, subject to agreement with the applicable Contractor. Under no circumstances will Participant's agreements change or modify the contract obligations of this Master Contract. The terms of this Master Contract shall apply to any Purchase Order and, in the event of any conflict, the terms of this Master Contract shall prevail. Notwithstanding any provision to the contrary, in no event shall any 'click-agreement,' software or web-based application terms and conditions, or other agreement modify the terms and conditions of this Master Contract.

5.2. APPROVAL OF PURCHASES. Enterprise Services and, if the Participant is using FTA funds, the Participant's respective authorization authority for use of those FTA funds shall approve the Participant's initial Purchase Order. Enterprise Services shall review the Purchase Order and approve that the purchase is within the Scope of the Master Contract. The Participant's respective authorization authority for use of those FTA funds will approve the purchase according to their own policies and procedures. Participant and Contractor shall provide timely information as requested by Enterprise Services for the approval process.

5.3. CONTRACTOR COOPERATIVE USE APPROVAL. Pursuant to RCW 39.26.060, the intent of this Contract is to allow for cooperative procurement to the maximum extent possible. Accordingly, any authorized entity that has executed a Washington State Transit Bus Cooperative Purchasing Agreement with Enterprise Services may place orders under this Master Contract. Participation in the cooperative is voluntary. If agreed to by Contractor, this Contract may be used by any participant in the cooperative to procure the Transit Buses. Contractor has the right to refuse initial orders by cooperative participants on a capacity basis, if the Contractor cannot fulfill the complete order based on delivery deadlines. Orders under this Contract will be fulfilled on a first come, first serve basis of the initial order date. If Contractor rejects an order for capacity, Enterprise Services may request additional information from the Contract regarding Contractor's capacity to fulfill orders.

5.4. FTA PRE-AWARD AND POST-DELIVERY CERTIFICATIONS. Contractor shall take all reasonable steps assist Participants in completing all required pre-award and post-delivery certifications required by federal or state law or policy for purchases under this Master Contract. Contractor shall provide all requested information to complete the certifications in a reasonable time to ensure certifications are completed in a timely manner.

5.5. DELIVERY REQUIREMENTS. Contractor must ensure that delivery of Transit Buses will be made as required by this Master Contract, the Purchase Order used by Participants, or as otherwise mutually agreed in writing between the Participant and Contractor. The following apply to all deliveries:

(a) Contractor shall make all deliveries to the applicable delivery location specified in the Purchase Order by the delivery date. The delivery date must be within 18 months of the initial order date, as stated in the Purchaser Order or agreement between Participant and

Contractor; provided however that the Participant and Contractor may amend the delivery date by mutual agreement. Deliveries shall occur during Participant's normal work hours and within the time period mutually agreed in writing between Participant and Contractor at the time of order placement.

(b) Contractor shall deliver all buses with a full tank of fuel and clean inside and out. For any bus not meeting this requirement, Contractor will be assessed $300. When Transit Buses are delivered, certificates or releases signed by Participant simply acknowledge receipt of the Transit Buses and do not constitute acceptance by the Participant of the condition of the Transit Buses, or its conformance with the terms of the Master Contract or Participant's Purchase Order. Acceptance by Participant occurs subsequent to final inspection when Participant provides Contractor with a written Notice of Acceptance.

(c) Contractor shall ship or deliver all goods and/or services purchased pursuant to this Master Contract, freight charges prepaid by Contractor, FOB Participant's specified destination with all transportation and handling charges included. Contractor shall bear all risk of loss, damage, or destruction of the goods and/or services ordered hereunder that occurs prior to delivery, except loss or damage attributable to Participant's negligence. Contractor shall use a qualified and experienced common or contract carrier who is properly licensed and insured. Contractor shall make all arrangements for shipment.

(d) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Master Contract shall be identified by the Master Contract number set forth on the cover of this Master Contract and the applicable Participant's Purchase Order number. Packing lists shall be included with each shipment and clearly identify all contents and any backorders.

5.6. PROTOTYPE BUSES. If requested by Participant, Contractor shall produce one prototype bus for each type of bus with respect to the Purchase Order for inspection and testing at the Participant's facilities. The prototype bus will demonstrate that the bus fully meets all requirements of the Purchase Order. Contractor shall produce and deliver the prototype bus to Participant for inspection and testing a minimum of one-hundred twenty (120) days prior to initiation of any production activities for the remaining buses unless otherwise authorized in writing by Participant. The cost of transporting the prototype bus to and from the Participant's facilities shall be at the expense of Contractor. Contractor shall schedule the prototype review with the Participant when a vehicle has been completed with all equipment and furnishings installed, but early enough so design changes resulting from the review will not delay production or cause scrapping of production material.

In the event of nonconformity Participant shall, to the extent practicable, notify Contractor of said nonconformity. No later than seven (7) days after the end of the fourteen (14) day test, Participant shall issue a written report to the Contractor that advises the Contractor of any noncompliance issues and/or any proposed modifications or changes required on the remaining vehicles. Any failure by Participant to detect any defects or omissions in this testing period will in no way relieve Contractor from fully complying with the specifications of the Master Contract and Participant Order. All prototype buses shall be brought up to the final production bus configuration in all respects at no additional cost to Participant, except as may be agreed by change orders.

5.7. NOTIFICATION OF DELAY. Contractor shall provide prompt notice to Participant and Enterprise Services for any delay in the manufacturing process that will affect the expected delivery date. Contractor will provide notice of the delay within fourteen (14) days of discovery of the potential delay. This notice of delay must include a reasonable expectation of when the delay will be resolved, the reason for the delay, whether the delay will cause the delivery to exceed the delivery date, and any other applicable information regarding the delay.

- Participant shall provide Contractor with notice of acceptance of the reasonable delay or notice that the delay is determined to be non-excusable within seven (7) days of receipt of the notice of delay.
- If there is a dispute between Contractor and Participant as to whether the delay is reasonable, Contractor may appeal Participant's decision to Enterprise Services within seven (7) days of receipt of the notice that the delay is non-excusable. Enterprise Services will review the provided information and make a final determination as to whether the delay is reasonable or non-excusable. If a dispute remains after this procedure, parties shall follow the dispute resolution process of Section 16.
- Contractor shall promptly comply with any request from Enterprise Services or Participant for additional information in making the delay determination. A request for more information from Enterprise Services or Participant tolls the time for required response until the time that Contractor responds to the request for more information.
- Reasonable delay is a delay for which the Contractor is not responsible. A reasonable delay must arise from unforeseeable causes, be beyond the control of Contractor, and be without the fault of the Contractor. A reasonable delay will extend the delivery date by the agreed upon length of the delay. For certainty, the reasons for such reasonable delay shall include but not be limited to, the neglect or failure of the Participant or by delay or failure of the Contractor caused by an event beyond its control, including, but not limited to, natural disasters, floods, fires, acts of war or terrorism, labor shortages, strikes or lock-outs or shortages or loss of transportation, then the time for completion of the work and/or the delivery dates shall be extended by the Participant by a reasonable period of time after such event of delay has ended in order that the Contractor may complete the work or deliver the buses.
- Non-excusable delay is a delay for which Contractor is wholly or partially responsible. A non-excusable delay is a delay that arises from a foreseeable cause, is within the control of Contractor, or is due to the fault of Contractor. A non-excusable delay will not extend the agreed upon delivery date.

5.8. DELAY DAMAGES. Participant will be damaged by any failure on the part of Contractor to deliver the buses within the time specified in delivery date. The amount of damages for delay of beyond the delivery date is difficult if not impossible to ascertain. The amount of such damages Contractor shall pay to Participant is fixed at the amount of $250.00 per day for each bus not delivered in substantially good condition as inspected by the Participant. Participant may elect to deduct the amount of the damages from the amount due to Contractor under the Purchase Order or may notify Contractor of the amount due based on the delay. If Participant requires Contractor to pay the delay damages, Contractor shall pay the entire amount within thirty (30) days after receipt of a written demand by Participant. The payment of damages will be in lieu of any damages for any loss of profit, loss of revenue, loss of use, or for any other direct, indirect, special or consequential losses or damages of any kind that may be suffered by Participant arising at any time from the failure of Contractor to fulfill the delivery obligations in a timely manner.

5.9. INSPECTION AND ACCEPTANCE OF TRANSIT BUSES. Transit Buses purchased under this Master Contract are subject to Participant's reasonable inspection, testing, and approval at Participant's destination for a period of fourteen (14) days from the date that the Transit Buses are received at the place of delivery. Participant reserves the right to reject and refuse acceptance of Transit Buses that are not in accordance with this Master Contract and the Participant's Purchase Order during this inspection period. Representatives of Contractor may witness acceptance inspections and testing if so requested by Contractor. Participant retains the right to complete as thorough an inspection as it deems necessary to determine if each bus is in conformance with Master Contract and Purchase Orders requirements for configuration and performance parameters. Contractor shall coordinate and manage Contractor's post-delivery inspection process and notify the Participant of scheduling and availability of buses ready for pre-acceptance inspection. Acceptance by the Participant occurs when Participant provides Contractor with a written Notice of Acceptance, which will be subsequent to final inspection by responsible assigned employees of the Participant. All acceptances are subject to the warranty requirements of this Master Contract. For certainty, if the Transit Buses pass these tests or if the Participants do not notify the Contractor of non-acceptance within 14 calendar days after delivery of the Transit Buses, acceptance of the Transit Buses by the Participants shall be deemed to have occurred on the 14th day after delivery. Acceptance shall occur earlier if the Participants notify the Contractor of early acceptance or places the Transit Buses into revenue service.

5.10. INSPECTION DEFECTS. If there are any apparent defects in the goods and/or services within the inspection period, Participant will promptly notify Contractor. At Participant's option, and without limiting any other rights, Participant may:

- Require Contractor to repair or replace, at Contractor's expense, any or all of the damaged goods; or
- Require Contractor to refund the price of any or all of the damaged goods; or
- Participant may note any damage to the goods on the receiving report, decline acceptance, and deduct the cost of rejected goods from final payment.

Payment for any goods under such Purchase Order shall not be deemed acceptance of the goods. If Participant discovers defects during the inspection process, the requirement for timely delivery under 6.2(a) will continue to run until Contractor resolves the defects and provides Participant with the applicable goods free of defects. The period for the delivery date for the goods will be tolled for the length of time Participant was in the inspection period until the time that Participant provided notice of defect to Contractor.

5.11. POST-INSPECTION REPAIR BY CONTRACTOR. In the event of non-acceptance of the bus, Contractor must begin Work within five (5) working days after receiving notification from Participant of failure of acceptance tests. Participant shall make the bus available to complete repairs timely with the Contractor repair schedule. If Contractor fails or refuses to begin the repairs within five (5) days, then the repair work may be done by Participant's personnel with reimbursement by Contractor. Contractor shall provide, at its own expense, all spare parts, tools and space required to complete the repairs. At Participant's option, Contractor may be required to remove the bus from Participant's property while repairs are being made. If the bus is removed from Participant's property, then repair procedures must be diligently pursued by Contractor's representatives, and Contractor shall assume risk of loss while the bus is under its control. Upon completion of repairs, the forteen (14) calendar day acceptance period shall re-commence as per section 5.9.

5.12. CONTRACTOR SERVICE AND PARTS SUPPORT. For each Participant Order, Contractor shall supply Participant with a completed *Exhibit D - Contractor Service and Parts Support Data* with contact information on the representatives responsible for assisting Participant, as well as the location of the nearest distribution center, which shall furnish a complete supply of parts and components for the repair and maintenance of the buses to be supplied. Contractor shall also submit its policy on transportation charges for parts other than those covered by warranty.

5.13. PARTS AVAILABILITY GUARANTEE. Contractor guarantees to provide the spare parts, software, and all equipment necessary to maintain and repair the buses supplied under this Master Contract for a period of at least twelve (12) years after the date of acceptance. Parts will be interchangeable with the original equipment and will be manufactured in accordance with the quality assurance provisions of this Master Contract. Prices shall not exceed the Contractor's then-current published catalog prices.

Where the parts ordered by the Participant are not received within two (2) working days of the agreed-upon time and date and a bus procured under this Master Contract is out of service due to the lack of said ordered parts, then the Contractor shall provide the Participant, within eight (8) hours of the Participant's verbal or written request, the original suppliers' and/or manufacturers' parts numbers, company names, addresses, telephone numbers and contact persons' names for all of the specific parts not received by the Participant.

In the event Contractor fails to honor this parts guarantee or parts ordered by the Participant are not received within thirty (30) days of the agreed-upon delivery date, then Contractor shall provide to Participant, within seven (7) days of the Agency's verbal or written request, the design and manufacturing documentation for those parts manufactured by the Contractor and the original suppliers' and/or manufacturers' parts numbers, company names, addresses, telephone numbers and contact persons' names for all of the specific parts not received by the Participant. Contractor's design and manufacturing documentation provided to the Participant shall be for its sole use in regard to the buses procured under this Master Contract and for no other purpose.

5.14. TERMINATION FOR WITHDRAWAL OF FUNDING. If any Participant's expected or actual funding for purchases under this Master Contract are withdrawn, reduced, or limited in any way prior to the payment for the last bus accepted, Participant may, upon written notice to Contractor, terminate their Purchase Order for Transit Buses not yet accepted. If the Purchase Order is terminated as provided in this subsection: (1) Participant will be liable only for payment in accordance with the terms of this Contract for work performed satisfactorily up to the date of termination and materials on order that cannot be canceled; and (2) Contractor shall be released from any obligation to provide additional buses as are affected by the termination. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination

5.15. FACILITY INSPECTIONS. Contractor shall provide right of access to its facilities to Enterprise Services, any Enterprise Services agents, Participant, any of Participants agents, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

5.16. ON SITE REQUIREMENTS. While on Participant's premises, Contractor, its agents, employees, or subcontractors shall comply, in all respects, with Participant's physical, fire, access, safety, or other security requirements.

6. INVOICING & PAYMENT.

6.1. CONTRACTOR INVOICE. Contractor shall submit to Participant's designated invoicing contact properly itemized invoices. Such invoices shall itemize the following:

(a) Master Contract No. 06719

(b) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative)

(c) Contractor's Federal Tax Identification Number

(d) Date(s) of delivery

(e) Invoice amount; and

(f) Payment terms, including any available prompt payment discounts.

Contractor's invoices for payment shall reflect accurate Master Contract prices. Invoices will not be processed for payment until receipt of a complete invoice as specified herein.

6.2. PAYMENT. Payment is the sole responsibility of, and will be made by, the Participant. Payment is due within thirty (30) days of invoice. If Participant fails to make timely payment(s), Contractor may invoice Participant in the amount of one percent (1%) per month on the amount overdue or a minimum of $1. Payment will not be considered late if a check or warrant is mailed within the time specified. Contractor provides a prompt payment discount of 0.2192% for payments within 10 days of receipt of the invoice. This discount will only be provided for Participant payments within the stated time.

6.3. MILESTONE PAYMENTS. Participant and Contractor may condition payment on the achievement of various agreed upon milestones for the Transit Buses. Milestone payments will be mutually agreed upon by Participant and Contractor in regard to timing of milestone, acceptance of milestone, and amounts for milestone payments. Payment for milestones will follow the procedure for invoice payment.

6.4. OVERPAYMENTS. Contractor promptly shall refund to Participant the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to Contractor; *Provided*, however, that Participant shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely payment(s) or issuance of such credit memos, Participant may impose a one percent (1%) per month on the amount overdue thirty (30) days after notice to the Contractor.

6.5. NO ADVANCE PAYMENT. No advance payments shall be made for any goods or services furnished by Contractor pursuant to this Master Contract.

6.6. NO ADDITIONAL CHARGES. Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, or payment processing.

6.7. TAXES/FEES. Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Master Contract. Failure to do so shall constitute breach of this Master Contract. Unless otherwise agreed, Participant shall pay applicable sales tax imposed by the tax jurisdictions in which delivery occurs on purchased goods and/or services. Contractor, however, shall not make any charge for federal excise taxes and Participant agrees to furnish Contractor with an exemption certificate where appropriate.

7. CONTRACT MANAGEMENT.

7.1. CONTRACT ADMINISTRATION & NOTICES. Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of this Master Contract. Enterprise Services' contract administrator shall provide Master Contract oversight. Contractor's contract administrator shall be Contractor's principal contact for business activities under this Master Contract. The parties may change contractor administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services	**Contractor**
Attn: David Mgebroff Washington Dept. of Enterprise Services PO Box 41411 Olympia, WA 98504-1411	Attn:
Tel: (360) 407-8049	Tel:
Email: david.mgebroff@des.wa.gov	Email:

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

7.2. CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE. Contractor shall designate a customer service representative (and inform Enterprise Services of the same) who shall be responsible for addressing Participant issues pertaining to this Master Contract.

7.3. LEGAL NOTICES. Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services	**Contractor**
Attn: Legal Services Manager Washington Dept. of Enterprise Services PO Box 41411 Olympia, WA 98504-1411	Attn:
Email: greg.tolbert@des.wa.gov	Email:

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

8. CONTRACTOR SALES REPORTING; VENDOR MANAGEMENT FEE; & CONTRACTOR REPORTS.

8.1. MASTER CONTRACT SALES REPORTING. Contractor shall report total Master Contract sales quarterly to Enterprise Services, as set forth below.

(a) Master Contract Sales Reporting System. Contractor shall report quarterly Master Contract sales in Enterprise Services' Master Contract Sales Reporting System. Enterprise Services will provide Contractor with a login password and a vendor

number. The password and vendor number will be provided to the Sales Reporting Representative(s) listed on Contractor's Bidder Profile.

(b) Data. Each sales report must identify every authorized Participant by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized Participants specified herein during the term of the Master Contract. If there are no Master Contract sales during the reporting period, Contractor must report zero sales.

(c) Due dates for Master Contract Sales Reporting. Quarterly Master Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

FOR CALENDAR QUARTER ENDING	MASTER CONTRACT SALES REPORT DUE
March 31:	April 30
June 30:	July 31
September 30:	October 31
December 31:	January 31

8.2. VENDOR MANAGEMENT FEE. Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 0.15 percent on the purchase price for all Master Contract sales (the purchase price is the total invoice price less applicable sales tax).

(a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

> Amount owed to Enterprise Services = Total Master Contract sales invoiced (not including sales tax) x .00150.

(b) The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.

(c) Enterprise Services will invoice Contractor quarterly based on Master Contract sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference this Master Contract number, work request number (if applicable), the year and quarter for which the VMF is being remitted, and the Contractor's name as set forth in this Master Contract, if not already included on the face of the check.

(d) Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the VMF, may be cause for Master Contract suspension or termination or the exercise of other remedies provided by law. Without limiting any other available remedies, the Parties agree that Contractor's failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the

State to identify, process, and collect such sum, the sum of $200.00 or twenty-five percent (25%) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.

(e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Master Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.

8.3. ANNUAL MASTER CONTRACT SALES REPORT. Contractor shall provide to Enterprise Services a detailed annual Master Contract sales report. Such report shall include, at a minimum: Product description, part number or other Product identifier, per unit quantities sold, and Master Contract price. This report must be provided in an electronic format that can be read by MS Excel.

9. RECORDS RETENTION & AUDITS.

9.1. RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Contract and orders placed by Participants under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Participant against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

9.2. AUDIT. Enterprise Services reserves the right to audit, or have a designated third party audit, applicable records to ensure that Contractor has properly invoiced Participants and that Contractor has paid all applicable contract management fees. Accordingly, Contractor shall permit Enterprise Services, any Participant, and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Contract or orders placed by a Participant under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Participant against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved. The Participants and their representatives and agents agree to enter into a confidentiality agreement with the Contractor prior to commencing an audit, review or analysis in order to protect and maintain the confidentiality of the Contractor's information.

9.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any Participant, Contractor shall (a) reimburse Participants for any overpayments inconsistent with the terms of this Master Contract or orders, at a rate of 125% of such overpayments, found as a result of the examination of the Contractor's records; and (b) reimburse Enterprise Services for any underpayment of fees, at a rate of 125% of such fees found as a result of the examination of the Contractor's records (e.g., if Contractor underpays the Vendor Management Fee by $500, Contractor would be required to pay to Enterprise Services $500 x 1.25 = $625).

10. INSURANCE.

10.1. REQUIRED INSURANCE. During the Term of this Master Contract, Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*. All costs for insurance, including any payments of deductible amounts, shall be considered incidental to and included in the prices for goods/services and no additional payment shall be made.

10.2. WORKERS COMPENSATION. Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Enterprise Services may terminate this Master Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. In addition, Contractor waives its immunity under RCW Title 51 to the extent it is required to indemnify, defend, and hold harmless the State of Washington and its agencies, officials, agents, or employees.

11. WARRANTY.

11.1. CONTRACTOR WARRANTY. Warranties in this document are in addition to any statutory remedies or warranties imposed on Contractor. Consistent with this requirement, Contractor warrants and guarantees to Participant each complete Transit Bus and specific subsystems and components as follows.

Contractor warrants the Transit Buses are of good material and workmanship and agrees to promptly replace any part or parts, at no cost to the Participant, which by reason of defective materials or workmanship fail under normal use, free of negligence or accident during the applicable warranty period. Contractor warranties include the replacement of parts and services associated with the replacement and repair, including but not limited to any diagnostic, refurbishment, shipping, or travel costs.

Performance requirements based on design criteria will not be deemed a warranty item. Contractor shall insure in its procurement arrangements that the warranty requirements of this Master Contract are enforceable through and against the Contractor's suppliers, vendors, material men, and subcontractors. Any inconsistency or difference between the warranties extended to Participants by Contractor and those extended to Contractor by its suppliers, vendors, material men, and subcontractors, are at the risk and expense of Contractor. Such inconsistency or difference will not excuse Contractor's full compliance with its obligations under this Contract.

11.2. WARRANTY INFORMATION. Upon Participant's request, Contractor promptly shall provide complete copies of all written warranties or guarantees and documentation of any other arrangement relating to such warranties or guarantees extended by Contractor's suppliers, sub-suppliers, vendors, material men, and subcontractors covering parts, components, and systems utilized in the bus. Contractor shall ensure that such suppliers, sub-suppliers, vendors, material men, and subcontractors satisfactorily perform warranty related work when requested to do so by Participant.

11.3. SYSTEM WARRANTIES. The following systems are warranted to be free from defects and related defects for the years and mileage listed in the table below, whichever comes first. Each warranty is based on regular operation of the bus under the operating conditions prevailing in Participant's locale.

Warranty	Description	Years/Mileage
Complete Bus	Complete bus, propulsion system, components, major subsystems, and body and chassis structure	2 years, 100,000 miles; Class 1 or 2 Failures: 12 years, 500,000 miles
Body And Chassis Structure	Body, body structure, structural elements of the suspension and engine cradle	3 years, 150,000 miles
Body and Chassis Corrosion Failure or Fatigue Failure	Primary load-carrying members of the bus structure, including structural elements of the suspension	Class 1 or 2 Failures: 12 years, 500,000 miles
Propulsion System (Diesel, CNG, Hybrid)	engine, transmission or drive motors, and generators (for hybrid technology) and drive and non-drive axles	2 years, 100,000 miles
Propulsion System (Electric)	traction motors, traction motor controllers, transmission, drive motors, drive and non-drive axles, and any other propulsion system-related replacement component	5 years, 300,000 miles
Energy Storage System	traction battery, Battery Management System, and any other ESS-related replacement component	2 years, unlimited miles
Emission Control System	complete exhaust system, including catalytic converter (if required), after treatment device, components identified as emission control devices	5 years, 100,000 miles

The ESS is warranted to remain within warrantable end of life during the warranty period. The ESS original specified energy storage capacity and warrantable end of life, as a percentage of the original specified energy capacity, must be clearly defined by the Contractor. Acceptable methods for measuring or obtaining ESS storage capacity with respect to its original specified capacity must be clearly identified by the manufacturer. The manufacturer will propose the test method, and certify the results are true and accurate. The test will be performed according to a documented test procedure. Participant may engage third-parties for capacity testing.

11.4. SUBSYSTEMS WARRANTY. The Contractor warrants the following subsystems to be free from defects and related defects for at least two years or 100,000 miles, whichever comes first.

- Brake system: Foundation brake components, including advancing mechanisms, as supplied with the axles, excluding friction surfaces.
- Destination signs: All destination sign equipment for the front, side and rear signs, power modules and operator control.
- Heating, ventilating: Roof and/or rear main unit only, excluding floor heaters and front defroster.
- AC unit and compressor: Roof and/or rear main unit only, excluding floor heaters and front defroster.
- Door systems: Door operating actuators and linkages.
- Air compressor.
- Air dryer.
- Wheelchair lift and ramp system: Lift and/or ramp parts and mechanical only.

- Starter.
- Alternator: Alternator only. Does not include the drive system.
- Charge air cooler: Charge air cooler including core, tanks and including related surrounding framework and fittings.
- Fire suppression: Fire suppression system including tank and extinguishing agent dispensing system.
- Hydraulic systems: Including radiator fan drive and power steering as applicable.
- Propulsion cooling systems: Radiator including core, tanks and related framework, including surge tank. Transmission cooler.
- Power electronics: DC/DC converters, inverters, if supplied
- Passenger seating excluding upholstery.
- Fuel storage and delivery system.
- Surveillance system including cameras and video recorders.

Contractor warrants the following subsystems to be free from defects and related defects for at least 2 years or 100,000 miles, whichever comes first:

- Low voltage and high voltage electrical wiring and harnesses

11.5. SERIAL NUMBERS. Prior to final delivery of each bus, Contractor shall provide a complete electronic list of serialized units installed on each bus to facilitate warranty tracking. The list will include, but is not limited to the following:

- Engine
- Transmission or Traction Motor
- Alternator
- Starter
- Destination/Luminator (Major components)
- Drive axle and non-drive axle(s)
- DVR unit, supporting electronics (Monitors)
- Driver's seat
- Battery equalizer
- Radiator package
- Exhaust emission components
- A/C compressor and condenser/evaporator unit
- Power steering unit
- Fuel cylinders (if applicable)
- Air compressor
- Wheelchair ramp (if applicable)

Contractor shall provide updated serial numbers resulting from warranty campaigns. The format of the list will be approved by Participant prior to delivery of the first production bus.

11.6. EXTENSION OF WARRANTY. If, during the warranty period, repairs or modifications on any bus are made necessary by defective design, materials, or workmanship but are not completed due to lack of material or inability to provide the proper repair for thirty (30) calendar days, then the applicable warranty period shall be extended by the number of days equal to the delay period.

11.7. VOIDING OF WARRANTY. The warranty will not apply to the failure of any part or component of the bus that directly results from misuse, negligence, accident, or repairs not conducted in accordance with the Contractor-provided maintenance manuals and with workmanship performed by adequately trained personnel in accordance with recognized standards of the industry. The warranty will be void if Participant fails to conduct normal inspections and scheduled preventive maintenance procedures as recommended in the Contractor's maintenance manuals and if that omission caused the part or component failure. Participant should maintain documentation, auditable by Contractor, verifying service activities in conformance with the Contractor's maintenance manuals.

11.8. EXCEPTIONS AND ADDITIONS TO WARRANTY. Warranties will not apply to the following items:

- scheduled maintenance items
- normal wear-out items, such as brake linings, filters, belts, and wiper blades
- items furnished by Participant

Should Participant require the use of a specific product and has rejected Contractor's request for an alternate product, then the standard supplier warranty for that product will be the only warranty provided to Participant. This product will not be eligible under "Fleet Defects," below.

11.9. PASS-THROUGH/SUPERIOR WARRANTY. If any vendor to the Contractor offers, at no additional cost, a warranty on a component that is longer or more comprehensive than the required warranties on this Contract, Contractor shall inform Participant of the additional warranty and pass it through to Participant at no additional cost.

Contractor shall state in writing that Participant's warranty reimbursements will not be impacted. Contractor also shall state in writing any exceptions and reimbursement including all costs incurred in transport of vehicles and/or components. At any time during the warranty period, Contractor may request approval from Participant to assign its warranty obligations to others, but only on a case-by-case basis approved in writing by Participant. Otherwise, Contractor shall be solely responsible for the administration of the warranty as specified. Warranty administration by others does not eliminate the warranty liability and responsibility of Contractor.

11.10. FLEET DEFECTS. "Fleet Defect" means cumulative failures of twenty (20%) percent of the same components in the same or similar application in a minimum fleet size of twelve (12) or more buses where such items are covered by warranty. A Fleet Defect applies only to the base warranty period in for Complete Bus, Propulsion System, and Subsystems Warranty. When a Fleet Defect is declared, the remaining warranty period on that item/component is suspended. The warranty period does not resume until the Fleet Defect is corrected.

For the purpose of Fleet Defects, each order shall be treated as a separate bus fleet. In addition, if there is a change in a major component within the order, the buses containing the new major component will become a separate bus fleet for the purposes of determining Fleet Defects.

Contractor shall correct a Fleet Defect under the warranty provisions defined in Section 13 Repair Procedure. After correcting the Fleet Defect, Participant and Contractor shall mutually agree to and Contractor shall promptly undertake and complete a work program reasonably designed to prevent the occurrence of the same Fleet Defect in all other buses and spare parts purchased under the order. Where the specific Fleet Defect is solely attributed to particular identifiable parts, the work program will include redesign and/or replacement of only the defectively designed and/or manufactured parts. In all other cases, the work program will include inspection and/or correction of all the buses in the fleet via a mutually agreed-to arrangement. Contractor shall update, as necessary, technical support information (parts, service and operator's manuals) due to changes resulting from warranty repairs. Participant may immediately declare a defect in design resulting in a safety hazard to be a Fleet Defect. Contractor shall be responsible to furnish, install and replace all defective units.

The Fleet Defect warranty provisions do not apply to Participant-supplied items, such as radios, fare collection equipment, communication systems, and tires. In addition, Fleet Defects do not apply to interior and exterior finishes, hoses, fittings, and fabric.

12. REPAIR PROCEDURE.

12.1. REPAIR PERFORMANCE. Contractor is responsible for all warranty-covered repair work, including diagnostics of warranty covered parts. To the extent practicable, Participant will allow Contractor or its designated representative to perform repair work. At its discretion, Participant may perform such repair work if it determines it needs to do so based on transit service or other requirements. Contractor shall reimburse Participant for any warranty-covered repair work it performs. Minor/Major Warranty-covered repairs may be carried out by the Purchaser and reimbursed through New Flyer's on-line warranty system. New Flyer is available to assist in completing these warranty-covered repairs if needed. Whenever feasible and mutually beneficial, the Purchser may provide a work space for New Flyer to accomplish the repair onsite as needed. This allows us to work with the Purchaser to return the bus to revenue service as quickly as possible. If shop space is unavailable, New Flyer will utilize one of its three subcontractors (Top Tempo, Tri-State, Coach Retrofit) with their own service facilities within the State of Washington area to perform the repairs and get the buses back into revenue service as soon as possible. In addition, Contractor can utilize its service centers for repairs within the State of Washington as needed. Major Component Warranty repairs should be carried out by the equipment suppliers (Engine, Transmission, Propulsion System, High Voltage Batteries, HVAC and Destination Sign Suppliers) in order to adhere to their mandate that all warranty repairs be performed by an authorized dealer unless the Purchaser is an authorized warranty center. If the Purchaser elects to perform these repairs, without the written permission of the original equipment manufacturer, the remaining warranty coverage may be voided

12.2. REPAIRS BY THE CONTRACTOR. Participant shall notify Contractor's designated representative within thirty (30) days if Participant detects a defect within the warranty periods defined in this Master Contract or the applicable Participant Order. Contractor or its designated representative shall, if requested, begin repair work on warranty-covered repairs within five (5) calendar days after receiving notification of a defect from Participant. Participant will make the bus available to complete repairs timely with the Contractor's repair schedule.

Contractor shall provide at its own expense all spare parts, tools, and space required to complete repairs. At Participant's option, Contractor may be required to remove the bus from Participant's property while repairs are made. If the bus is removed from Participant's property, then repair procedures must be diligently pursued by Contractor's representative.

12.3. REPAIRS BY PARTICIPANT. If Participant performs the warranty-covered repairs, then it must correct or repair the defect and any related defects utilizing parts supplied by Contractor specifically for this repair. At its discretion, Participant may use Contractor-specified parts available from its own stock if deemed in its best interests. Parts supplied by Contractor may be remanufactured but must have the same form, fit and function, and warranty. The parts will be shipped prepaid to Participant from any source selected by Contractor within fourteen (14) days of receipt of the request for said parts and shall not be subject to a handling charge.

12.4. DEFECTIVE COMPONENT RETURN. Contractor may request that parts covered by the warranty be returned to the manufacturing plant. Contractor will pay the freight costs for this action.

12.5. FAILURE ANALYSIS. Upon specific request of Participant, Contractor will provide a failure analysis of Fleet Defect or safety-related parts, or major components, removed from buses under the terms of the warranty that could affect fleet operation. Such reports will be delivered within 60 days of the receipt of failed parts.

12.6. REIMBURSEMENT FOR LABOR AND OTHER RELATED COSTS. Contractor shall reimburse Participant for repair labor. The amount is determined by Participant for a qualified mechanic at a straight time wage rate per hour, which includes fringe benefits and overhead adjusted for Participant's most recently published rate in effect at the time the repair work is performed, plus the cost of towing the bus if such action was necessary and if the bus was in the normal service area. These wage and fringe benefit rates shall not exceed the rates in effect in Participant's service garage at the time the defect correction is made.

12.7. REIMBURSEMENT FOR PARTS. Contractor shall reimburse Participant for defective parts and for parts that must be replaced to correct the defect. The reimbursement will be at the current price at the time of repair and include taxes where applicable, plus fifteen (15) percent handling costs. Handling costs will not be paid if parts are supplied by Contractor and shipped to Participant.

12.8. REIMBURSEMENT REQUIREMENTS. Contractor shall respond to parts warranty claims with an accept/reject decision including necessary failure analysis no later than sixty (60) days after Participant submits the claim and defective part(s), when requested. Reimbursement for all accepted claims shall occur no later than sixty (60) days from the date of acceptance of a valid claim. Participant may dispute rejected claims or claims for which Contractor did not reimburse the full amount. Contractor and Participant will review disputed warranty claims during the following quarter to reach an equitable decision to permit the disputed claim to be resolved and closed. Contractor and Participant will review all claims at least once per quarter throughout the entire warranty period to ensure that open claims are being tracked and properly dispositioned.

12.9. WARRANTY AFTER REPLACEMENT/REPAIRS. If any component, unit, or subsystem is repaired, rebuilt, or replaced by Contractor or by Participant with the concurrence of Contractor, then the component, unit, or subsystem will have the unexpired warranty period of the original. Repairs will not be warranted if Contractor-provided or authorized parts are not used for the repair, unless Contractor has failed to respond within five days, in accordance with Section 13.2 Repairs by the Contractor.

If an item is declared to be a Fleet Defect, then the warranty stops with the declaration of the Fleet Defect. Once the Fleet Defect is corrected, the items shall have three (3) months or the remaining time and/or miles of the original warranty, whichever is greater. This remaining warranty period will begin on the repair/replacement date for corrected items on each bus if the repairs are completed by Contractor or on the date Contractor provides all parts to Participant if repairs are completed by Participant.

12.10. WARRANTY PROCESSING PROCEDURES. The following list represents information required by Contractor from the Participant for processing warranty claims. One failure per bus per claim is allowed.

- bus number and VIN
- total vehicle life mileage at time of repair
- date of failure/repair
- acceptance/in-service date
- Contractor part number and description
- component serial number
- description of failure
- all costs associated with each failure/repair (invoices may be required for third-party costs):
    - towing

- road calls
- labor
- materials
- parts
- handling
- troubleshooting time

The Participant's forms will be accepted by Contractor if all of the above information is included. Electronic submittal may be used if available between Contractor and Participant.

12.11. RETURN OF PARTS. When returning defective parts to Contractor, Participant will tag each part with the following:

- bus number and VIN
- claim number
- part number
- serial number (if available)

12.12. TIMEFRAME. Each claim must be submitted no more than thirty (30) days from the date of failure and/or repair, whichever is later. All defective parts must be returned to the Contractor, when requested, no more than forty-five (45) days from the date of repair.

13. QUALITY ASSURANCE

13.1. QUALITY ASSURANCE ORGANIZATION ESTABLISHMENT. Contractor shall establish and maintain an effective in-plant quality assurance organization.

13.2. QUALITY CONTROL. The quality assurance organization shall exercise quality control over all phases of production, from initiation of design through manufacture and preparation for delivery. The organization shall also control the quality of supplied articles.

13.3. AUTHORITY AND RESPONSIBILITY. The quality assurance organization shall have the authority and responsibility for reliability, quality control, inspection planning, establishment of the quality control system, and acceptance/rejection of materials and manufactured articles in the production of the transit buses.

13.4. MINIMUM FUNCTIONS. The quality assurance organization shall include the following minimum functions:

- Work instructions: The quality assurance organization shall verify inspection operation instructions to ascertain that the manufactured product meets all prescribed requirements.

- Records maintenance: The quality assurance organization shall maintain and use records and data essential to the effective operation of its program. These records and data shall be available for review by the resident inspectors. Inspection and test records for this procurement shall be available for a minimum of one year after inspections and tests are completed.

- Corrective action: The quality assurance organization shall detect and promptly ensure correction of any conditions that may result in the production of defective transit buses. These conditions may occur in designs, purchases, manufacture, tests or operations that culminate in defective supplies, services, facilities, technical data or standards.

13.5. BASIC STANDARDS AND FACILITIES. The following standards and facilities shall be basic in the quality assurance process:

- Configuration control: Contractor shall maintain drawings, assembly procedures and other documentation that completely describe a qualified bus that meets all of the options and special requirements of each Purchase Order. The quality assurance organization shall verify that each transit bus is manufactured in accordance with these controlled drawings, procedures and documentation.

- Measuring and testing facilities: Contractor shall provide and maintain the necessary gauges and other measuring and testing devices for use by the quality assurance organization to verify that the buses conform to all specification requirements. These devices shall be calibrated at established periods against certified measurement standards that have known, valid relationships to national standards.

- Production tooling as media of inspection: When production jigs, fixtures, tooling masters, templates, patterns and other devices are used as media of inspection, they shall be proved for accuracy at formally established intervals and adjusted, replaced or repaired as required to maintain quality.

- Equipment use by resident inspectors: Contractor's gauges and other measuring and testing devices shall be made available for use by the resident inspectors to verify that the buses conform to all specification requirements. If necessary, the Contractor's personnel shall be made available to operate the devices and to verify their condition and accuracy.

13.6. MAINTENANCE OF CONTROL. Contractor shall maintain quality control of purchases:

- Supplier control: Contractor shall require each supplier to maintain a quality control program for the services and supplies that it provides. Contractor's quality assurance organization shall inspect and test materials provided by suppliers for conformance to specification requirements. Materials that have been inspected, tested and approved shall be identified as acceptable to the point of use in the manufacturing or assembly processes. Controls shall be established to prevent inadvertent use of nonconforming materials.

- Purchasing data: Contractor shall verify that all applicable specification requirements are properly included or referenced in purchase orders of articles to be used on transit buses.

13.7. MANUFACTURING CONTROL. Contractor shall maintain quality control of production:

- Controlled conditions: Contractor shall ensure that all basic production operations, as well as all other processing and fabricating, are performed under controlled conditions. Establishment of these controlled conditions shall be based on the documented work instructions, adequate production equipment and special working environments if necessary.

- Completed items: A system for final inspection and test of completed transit buses shall be provided by the quality assurance organization. It shall measure the overall quality of each completed bus.

- Nonconforming materials: The quality assurance organization shall monitor the Contractor's system for controlling nonconforming materials. The system shall include procedures for identification, segregation and disposition.

- Statistical techniques: Statistical analysis, tests and other quality control procedures may be used when appropriate in the quality assurance processes.

- Inspection status: A system shall be maintained by the quality assurance organization for identifying the inspection status of components and completed transit buses. Identification may include cards, tags or other normal quality control devices.

13.8. Inspection System. The quality assurance organization shall establish, maintain and periodically audit a fully documented inspection system. The system shall prescribe inspection and test of materials, Work in process and completed articles. At a minimum, it shall include the following controls:

- Inspection personnel: Sufficient trained inspectors shall be used to ensure that all materials, components and assemblies are inspected for conformance with the qualified bus design.

- Inspection records: Acceptance, rework or rejection identification shall be attached to inspected articles. Articles that have been accepted as a result of approved materials review actions shall be identified. Articles that have been reworked to specified drawing configurations shall not require special identification. Articles rejected as unsuitable or scrap shall be plainly marked and controlled to prevent installation on the bus. Articles that become obsolete as a result of engineering changes or other actions shall be controlled to prevent unauthorized assembly or installation. Unusable articles shall be isolated and then scrapped. Discrepancies noted by the Contractor or resident inspectors during assembly shall be entered by the inspection personnel on a record that accompanies the major component, subassembly, assembly or bus from start of assembly through final inspection. Actions shall be taken to correct discrepancies or deficiencies in the manufacturing processes, procedures or other conditions that cause articles to be in nonconformity with the requirements of the Contract specifications. The inspection personnel shall verify the corrective actions and mark the discrepancy record. If discrepancies cannot be corrected by replacing the nonconforming materials, then the Agency shall approve the modification, repair or method of correction to the extent that the Contract specifications are affected.

- Quality assurance audits: The quality assurance organization shall establish and maintain a quality control audit program. Records of this program shall be subject to review by the Agency.

14. CLAIMS.

14.1. ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees, and agents in connection with its operations under this Master Contract. For certainty, the Participants shall assume risk of loss of the bus on delivery. Prior to delivery, the Contractor shall have risk of loss of the bus. Neither Enterprise Services nor any Participant has made any representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any Participant's property resulting directly or indirectly from its acts or omissions under this Master Contract.

14.2. THIRD-PARTY CLAIMS; INDEMNITY. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless Enterprise Services and any Participant and their employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and subcontractors under this Master Contract, except claims caused solely by Enterprise Services or any Participants' negligence. Contractor

shall take all steps needed to keep Participant's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

15. DISPUTE RESOLUTION.

15.1. DISPUTE PROCEDURE. The parties shall cooperate to resolve any dispute pertaining to this Master Contract efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior manager of each organization to attempt to resolve the dispute. In the event the parties cannot agree, either party may resort to court to resolve the dispute.

15.2. PERFORMANCE DURING DISPUTE. Unless otherwise directed by Enterprise Services, Contractor shall continue performance under this Master Contract while matters in dispute are being resolved.

16. SUSPENSION & TERMINATION.

16.1. SUSPENSION & TERMINATION FOR DEFAULT. Enterprise Services may suspend Contractor's operations under this Master Contract immediately by written cure notice of any default. In such case, the notice of suspension will state the time period in which cure is permitted and other appropriate conditions. Suspension shall continue until the default is remedied to Enterprise Services' reasonable satisfaction; *Provided*, however, that, if after thirty (30) days from such a suspension notice, Contractor remains in default, Enterprise Services may terminate Contractor's rights under this Master Contract. All of Contractor's obligations to Enterprise Services and Participants survive termination of Contractor's rights under this Master Contract, until such obligations have been fulfilled.

16.2. DEFAULT. Each of the following events shall constitute default of this Master Contract by Contractor:

(a) Contractor fails to perform or comply with any of the terms or conditions of this Master Contract including, but not limited to, Contractor's obligation to pay vendor management fees when due;

(b) Contractor breaches any representation or warranty provided herein; or

(c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.

16.3. REMEDIES FOR DEFAULT.

(a) Enterprise Services' rights to suspend and terminate Contractor's rights under this Master Contract are in addition to all other available remedies.

(b) In the event of termination for default, Enterprise Services may exercise any remedy provided by law including, without limitation, the right to procure for all Participants replacement goods and/or services. In such event, Contractor shall be liable to Enterprise Services for damages as authorized by law including, but not limited to, any price difference between the Master Contract price and the replacement or cover price.

16.4. LIMITATION ON DAMAGES. Notwithstanding any provision to the contrary, the parties agree that in no event shall any party or Participant be liable to the other for exemplary or punitive damages.

16.5. GOVERNMENTAL TERMINATION.

(a) Termination for Withdrawal of Authority. Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, Enterprise Services' procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract; *Provided*, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and *Provided further*, that such suspension or termination for withdrawal of authority shall not relieve any Participant from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Participant shall have any obligation or liability to Contractor.

(b) TERMINATION FOR CHANGE OF AUTHORITY. Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, federal procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract as a State Cooperative Purchasing Schedule under applicable federal law; Provided, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and Provided further, that such suspension or termination for withdrawal of authority shall not relieve any Participant from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Participant shall have any obligation or liability to Contractor.

(c) TERMINATION FOR PUBLIC CONVENIENCE. Enterprise Services, for public convenience, may terminate this Master Contract; *Provided*, however, that such termination for public convenience must, in Enterprise Services' judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for public convenience shall only be effective upon sixty (60) days prior written notice; and *Provided further*, that such termination for public convenience shall not relieve any Participant from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for public convenience, neither Enterprise Services nor any Participant shall have any obligation or liability to Contractor.

(d) PAYMENT UPON TERMINATION. In the event of termination for any reason under this Section 16, the Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination.

16.6. TERMINATION PROCEDURE. Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, Contractor shall deliver to Participants all goods and/or services that are complete (or with approval from Enterprise Services, substantially complete) and Participants shall inspect, accept, and pay for the same in accordance with this Master Contract and the applicable

Purchase Order. Unless directed by Enterprise Services to the contrary, Contractor shall not process any orders after notice of suspension or termination inconsistent therewith.

17. FTA ROLE IN DISPUTES, BREACHES, DEFAULTS, OR OTHER LITIGATION.

17.1. FTA INTEREST. The U.S. Federal Transit Administration ("FTA") has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the award, this Master Contract, and any amendments thereto including, but not limited to, a default, breach, major dispute, or litigation. Accordingly, FTA shall have the right to concur in such any settlement or compromise.

17.2. NOTIFICATION TO FTA. If a current or prospective legal matter that may affect the Federal Government emerges, Enterprise Services and Participant promptly shall notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which Enterprise Services and Participant are located.

1. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

2. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the award, this Master Contract, and any amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

3. If Enterprise Services or Participant have credible evidence that a Principal, Official, Employee, Agent, or Third Party Participant of Enterprise Services or Participant, or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, Enterprise Services and Participant promptly shall notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Enterprise Services and Participant are located.

17.3. FEDERAL INTEREST IN RECOVERY. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for this Master Contract.

18. GENERAL PROVISIONS.

18.1. TIME IS OF THE ESSENCE. Time is of the essence for each and every provision of this Master Contract.

18.2. COMPLIANCE WITH LAW. Contractor shall comply with all applicable law.

18.3. INTEGRATED AGREEMENT. This Master Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.

18.4. AMENDMENT OR MODIFICATION. Except as set forth herein, this Master Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party.

18.5. AUTHORITY. Each party to this Master Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter

into this Master Contract and that its execution, delivery, and performance of this Master Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

18.6. NO AGENCY. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Master Contract. Neither party is an agent of the other party nor authorized to obligate it.

18.7. ASSIGNMENT. Contractor may not assign its rights under this Master Contract without Enterprise Services' prior written consent and Enterprise Services may consider any attempted assignment without such consent to be void; *Provided*, however, that, if Contractor provides written notice to Enterprise Services within thirty (30) days, Contractor may assign its rights under this Master Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Master Contract notwithstanding any prior assignment of its rights.

18.8. BINDING EFFECT; SUCCESSORS & ASSIGNS. This Master Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

18.9. PUBLIC INFORMATION. This Master Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56. The Purchase Order and all related documents are subject to the public disclosure requirements of the Participant's jurisdiction.

18.10. ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS/SERVICES. Contractor irrevocably assigns to Enterprise Services, on behalf of the State of Washington, or any applicable Participant any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any Transit Buses provided in Washington for the purpose of carrying out the Contractor's obligations under this Master Contract, including, at Enterprise Services' option, the right to control any such litigation on such claim for relief or cause of action.

18.11. FEDERAL FUNDS. To the extent that any Participant uses federal funds to purchase goods and/or services pursuant to this Master Contract, such Participant shall specify, with its order, any applicable requirement or certification that must be satisfied by Contractor at the time the order is placed or upon delivery.

18.12. SEVERABILITY. If any provision of this Master Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Master Contract, and to this end the provisions of this Master Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Master Contract.

18.13. WAIVER. Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Master Contract, nor shall any purported oral modification or rescission of this Master Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation,

contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.

18.14. SURVIVAL. All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Master Contract shall survive and remain in effect following the expiration or termination of this Master Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.

18.15. GOVERNING LAW. The validity, construction, performance, and enforcement of this Master Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules. The validity, construction, performance, and enforcement of Purchase Orders shall be governed by and construed in accordance with the laws of the Participant's jurisdiction.

18.16. JURISDICTION & VENUE. In the event that any action is brought to enforce any provision of this Master Contract, the parties agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington. In the event that any action is brought to enforce any provision of a Purchase Order, the parties agree to submit to exclusive jurisdiction and venue in the Participant's jurisdiction.

18.17. ATTORNEYS' FEES. Should any legal action or proceeding be commenced by either party in order to enforce this Master Contract or any provision hereof, or in connection with any alleged dispute, breach, default, or misrepresentation in connection with any provision herein contained, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such action or proceeding, including costs of pursuing or defending any legal action, including, without limitation, any appeal, discovery, or negotiation and preparation of settlement arrangements, in addition to such other relief as may be granted.

18.18. FAIR CONSTRUCTION & INTERPRETATION. The provisions of this Master Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Master Contract. Each party hereto and its counsel has reviewed and revised this Master Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Master Contract. Each term and provision of this Master Contract to be performed by either party shall be construed to be both a covenant and a condition.

18.19. FURTHER ASSURANCES. In addition to the actions specifically mentioned in this Master Contract, the parties and any applicable Participant shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Master Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Master Contract.

18.20. EXHIBITS. All exhibits referred to herein are deemed to be incorporated in this Master Contract in their entirety.

18.21. CAPTIONS & HEADINGS. The captions and headings in this Master Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Master Contract nor the meaning of any provisions hereof.

18.22. ELECTRONIC SIGNATURES. A signed copy of this Master Contract or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Master Contract or such other ancillary agreement for all purposes.

18.23. COUNTERPARTS. This Master Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Master Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Master Contract.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
Department of Enterprise Services

By: Elena McGrew
Elena McGrew
Its: Enterprise Procurement Manager

NEW FLYER OF AMERICA INC.,
a North Dakota corporation

By: Jennifer McNeill
Jennifer McNeill
Its: Vice President, Sales and Marketing

NEW FLYER OF AMERICA INC.,
a North Dakota corporation

By: Chris Stoddart
Chris Stoddart
Its: President, New Flyer

WASHINGTON STATE TRANSIT BUS COOPERATIVE

STATE COOPERATIVE PURCHASING SCHEDULE

MASTER CONTRACT

NO. 06719-01

TRANSIT BUSES: HEAVY DUTY

35 FT DIESEL, 40 FT DIESEL, 60 FT DIESEL, 35 FT HYBRID, 40 FT HYBRID, 60 FT HYBRID, 35 FT CNG, 40 FT CNG, 60 FT CNG, 35 FT ELECTRIC, 40 FT ELECTRIC, 60 FT ELECTRIC, 40 FT HYDROGEN, 60 FT HYDROGEN CATEGORIES

For Use by Washington State Transit Bus Cooperative Participants

By and Between

STATE OF WASHINGTON

DEPARTMENT OF ENTERPRISE SERVICES

and

NEW FLYER OF AMERICA, INC.

Dated April 1, 2021

WASHINGTON STATE TRANSIT BUS COOPERATIVE

STATE COOPERATIVE PURCHASING SCHEDULE

MASTER CONTRACT

NO. 06719

TRANSIT BUS – HEAVY DUTY

35 FT DIESEL, 40 FT DIESEL, 60 FT DIESEL, 35 FT HYBRID, 40 FT HYBRID, 60 FT HYBRID, 35 FT CNG, 40 FT CNG, 60 FT CNG, 35 FT ELECTRIC, 40 FT ELECTRIC, 60 FT ELECTRIC, 40 FT HYDROGEN, 60 FT HYDROGEN CATEGORIES

This Master Contract ("Master Contract") is made and entered into by and between the State of Washington acting by and through the Department of Enterprise Services, a Washington State governmental agency ("Enterprise Services") and New Flyer of America Inc., a North Dakota corporation ("Contractor") and is dated and effective as of April 1, 2021.

RECITALS

A. Whereas, pursuant to Legislative direction codified in RCW chapter 39.26, Enterprise Services, on behalf of the State of Washington, is authorized to develop, solicit, and establish master contracts for goods and/or services for general use by Washington state agencies and certain other entities (eligible Participants).

B. Whereas, pursuant to RCW 39.26.060, Enterprise Services may develop, solicit, and establish cooperative purchasing agreements for procurement of any goods or services with one or more states, state agencies, local governments, local government agencies, federal agencies, or tribes located in the state, in accordance with an agreement entered into between the participants.

C. Whereas, pursuant to Section 3019 of the FAST Act, the State of Washington acting by and through Enterprise Services, may enter into a cooperative procurement contract with one or more vendors if the vendors agree to provide an option to purchase rolling stock and related equipment to such State government and any other participant and such State government acts throughout the term of the contract as the lead procurement agency.

D. The State of Washington, acting by and through Enterprise Services is a member of and the lead procurement for the Washington State Transit Bus Cooperative. The Washington State Transit Bus Cooperative is a cooperative purchasing agreement for eligible participants to procure transit buses through a competitively solicited and awarded Cooperative Master Contract.

E. Whereas, on behalf of the State of Washington, Enterprise Services, as part of a competitive governmental procurement, issued a Competitive Solicitation No. 06719-01 dated March 4, 2020 regarding Heavy Duty Transit Buses**.**

F. Whereas, Enterprise Services evaluated all responses to the Competitive Solicitation and identified Contractor as an apparent successful bidder.

G. Whereas, Enterprise Services has determined that entering into this Master Contract will meet the identified needs and be in the best interest of the State of Washington and the Washington State Transit Bus Cooperative.

H. Whereas, the purpose of this Master Contract is to enable eligible Participants to purchase Transit Buses as set forth herein.

AGREEMENT

NOW THEREFORE, in consideration of the mutual promises, covenants, and conditions set forth herein, the parties hereto hereby agree as follows:

1. TERM.

The term of this Master Contract is twenty-four (24) months, commencing April 1, 2021 and ending March 31, 2023; Provided, however, that Enterprise Services at is sole discretion may extend the term for three (3) subsequent twelve (12) month extensions if Contractor is not in default; and provided further, that in no event shall such term be extended if Contractor cannot meet the required certifications of this Contract. The maximum contract term is sixty (60) months, ending March 31, 2026.

2. ELIGIBLE PARTICIPANTS. This Master Contract may be utilized by any of the following types of entities ("Participants"):

2.1. WASHINGTON STATE AGENCIES. All Washington state agencies, departments, offices, divisions, boards, and commissions.

2.2. WASHINGTON STATE INSTITUTIONS OF HIGHER EDUCATION (COLLEGES). Any the following institutions of higher education in Washington:

- State universities – i.e., University of Washington & Washington State University;
- Regional universities – i.e., Central Washington University, Eastern Washington University, & Western Washington University
- Evergreen State College;
- Community colleges; and
- Technical colleges.

2.3. MCUA PARTIES. Any of the following types of entities that have executed a Master Contract Usage Agreement with Enterprise Services:

- Political subdivisions (e.g., counties, cities, school districts, public utility districts) in the State of Washington;
- Federal governmental agencies or entities;
- Public-benefit nonprofit corporations (i.e., § 501(c)(3) nonprofit corporations that receive federal, state, or local funding); and
- Federally-recognized Indian Tribes located in the State of Washington.

2.4. TRANSIT BUS COOPERATIVE PARTIES. Any authorized entity that has executed a Washington State Transit Bus Cooperative Purchasing Agreement with Enterprise Services. The following types of

entities are anticipated to execute a Washington State Transit Bus Cooperative Purchasing Agreement:

- State agencies, local governments, local government agencies, or political subdivisions (e.g., counties, cities, school districts, public utility districts, ports) of any state or territory of the United States;
- Federal governmental agencies or entities located in any state or territory of the United States; and
- Federally-recognized Indian Tribes located in any state or territory of the United States

3. SCOPE – INCLUDED GOODS AND PRICE.

3.1. CONTRACT SCOPE. Pursuant to this Master Contract, Contractor is authorized to sell only those Transit Buses within the scope of their authorized goods meeting the requirements set forth in *Exhibit A – Included Transit Buses* for the prices set forth in *Exhibit B – Prices*. Contractor shall not represent to any Participant under this Master Contract that Contractor has contractual authority to sell any Transit Buses beyond those meeting the requirements set forth in *Exhibit A – Included Transit Buses*.

3.2. STATE'S ABILITY TO MODIFY SCOPE OF MASTER CONTRACT. Subject to mutual agreement between the parties, Enterprise Services reserves the right to modify the goods included in this Master Contract; *Provided*, however, that any such modification shall be effective only upon thirty (30) days advance written notice; and *Provided further*, that any such modification must be within the scope of this Master Contract. Enterprise Services may, at any time, without notice to Contractor by written order designated or indicated to be a change order, make changes within the general scope of the contract to adjust the quantities of Transit Buses purchased under this Master Contract.

3.3. PARTICIPANT CHANGE ORDERS.

(a) Participants may, at any time, by written order designated or indicated to be a change order, make changes in their Purchase Order within the general scope of this Master Contract, including changes: (1) In the specifications; (2) In the method or manner of performance of the work; (3) In the price sheet to include additional options within the scope of the contract; (4) In the delivery performance of the work; or (5) In additional requirements for compliance with state or federal law.

(b) Any other written or oral order (which includes direction, instruction, interpretation, or determination) from the Participant that causes a change shall be treated as a change order under this clause; provided, that Contractor gives the Participant written notice stating (1) the date, circumstances, and source of the order and (2) that Contractor regards the order as a change order.

(c) Except as provided in this clause, no order, statement, or conduct of the Participant shall be treated as a change under this clause or entitle Contractor to an equitable adjustment.

(d) If any change under this clause causes an increase or decrease in Contractor's cost of, or the time required for, the performance of any part of the work under this Master Contract, whether or not changed by any such order, the Participant will make an equitable adjustment and modify the Purchase Order in writing. However, except for an adjustment based on defective specifications, no adjustment for any change under this clause shall be made for any costs incurred more than twenty (20) days before Contractor

gives written notice as required. In the case of defective specifications for which the Participant is responsible, the equitable adjustment shall include any increased cost reasonably incurred by the Contractor in attempting to comply with the defective specifications.

(e) Contractor will assist Participant in obtaining all of the requested cost details as may be required for FTA assisted purchases. Failure to respond or provide needed details may be grounds for the Participant to cancel the purchase without penalty.

(f) The Contractor must assert its right to an adjustment under this clause within 30 days after

1. receipt of a written change order under paragraph (a) of this clause or

2. the furnishing of a written notice under paragraph (b) of this clause, by submitting to the Contracting Officer a written statement describing the general nature and amount of proposal, unless this period is extended by the Participant. The statement of proposal for adjustment may be included in the notice under paragraph (b) above.

(g) No proposal by the Contractor for an equitable adjustment shall be allowed if asserted after final payment under this Master Contract.

(h) This clause does not supersede FTA Circular C 4220.1F.

3.4. ECONOMIC ADJUSTMENT. Beginning twelve (12) months after the effective date of this Master Contract and for every annual anniversary thereafter, the prices set forth in *Exhibit B* shall be adjusted, based upon the percent changes (whether up or down) in the United States Department of Labor, Bureau of Labor and Statistics (BLS) indices described below, for the most recent year. The Index is the Producer Price Index for Truck and Bus Bodies, Series No. WPU 1413, published by the United States Department of Labor, Bureau of Labor Statistics, or if such Index is no longer in use, then such replacement that is most comparable to the Index as may be designated by the Bureau of Labor Statistics, or as agreed by the parties. Economic adjustment will lag one (1) calendar quarter past the Master Contract commencement date to allow for publication of BLS data. All calculations for the index shall be based upon the latest version of data published as of April 1st each year. Prices shall be adjusted on June 1st. If an index is recoded, that is the replacement is a direct substitute according to the BLS, this Master Contract will instead use the recode. If an index becomes unavailable, Enterprise Services shall substitute a proxy index. If there is not a direct substitute, the next higher aggregate index available will be used. The economic adjustment shall be calculated as follows:

New Price = Old Price x (Current Period Index/Base Period Index).

For certainty, notwithstanding anything else to the contrary contained herein, in the event that a price adjustment is required in respect of changes that are mandatory as a result of legislation or regulations that become effective after the date of the tender submission, such price adjustment shall be negotiated in good faith by the Participants and the Contractor.

3.5. PRICE CEILING. Although Contractor may offer lower prices to Participants, during the term of this Master Contract, Contractor guarantees to provide the Heavy Duty Transit Buses at no greater than the prices set forth in *Exhibit B – Prices for Heavy Duty Transit Buses* (subject to economic adjustment as set forth herein).

3.6. GOODS AND SERVICES ADDITION. Contractor may offer new goods and services within the scope of the authorized goods set forth in *Exhibit A – Included Transit Buses* to Participants to implement new technology solutions or meet specific Participant requirements. Goods and services added to purchase orders under the Master Contract must be commercially available at the time they are added and fall within the original scope of the Master Contract.

3.7. PRICING OF GOODS AND SERVICE ADDITIONS. Prices for additional Transit Bus goods and services performed under this Master Contract follow cost reimbursement rules under 4220.1F Ch VI, 2.c(1). Cost-reimbursement provides for payment of Contractor's allowable incurred costs, to the extent agreed to in the Contractor's agreement with the Participant. Participants are required to include FAR Part 31 cost principles in their cost reimbursement contracts for the purpose of determining allowable costs under the contract. Contract shall comply with Participants' requests in determining reasonable prices, including but not limited to providing a breakdown of relevant incurred costs or individual component pricing to Participant upon request. A dispute on the reimbursement costs will follow the dispute procedures of this Master Contract.

3.8. MASTER CONTRACT INFORMATION. Enterprise Services shall maintain and provide information regarding this Master Contract, including scope and pricing, to eligible Participants.

4. CONTRACTOR REPRESENTATIONS AND WARRANTIES. Contractor makes each of the following representations and warranties as of the effective date of this Master Contract and at the time any order is placed pursuant to this Master Contract. If, at the time of any such order, Contractor cannot make such representations and warranties, Contractor shall not process any orders and shall, within three (3) business days notify Enterprise Services, in writing, of such breach.

4.1. QUALIFIED TO DO BUSINESS. Contractor represents and warrants that it is in good standing and qualified to do business in the State of Washington, that it is registered with the Washington State Department of Revenue and the Washington Secretary of State, that it possesses and shall keep current all required licenses and/or approvals, and that it is current, in full compliance, and has paid all applicable taxes owed to the State of Washington. Contractor represents and warrants that it is or will be qualified to do business in other applicable states for purchases under this Master Contract with each of the Washington State Transit Bus Cooperative member states, including but not limited to Alaska, Idaho, Oregon, Colorado, Montana, and Nevada.

4.2. SUSPENSION & DEBARMENT. Contractor represents and warrants that neither it nor its principals or affiliates presently are debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in any governmental contract by any governmental department or agency within the United States.

4.3. QUALITY OF GOODS OR SERVICES. Contractor represents and warrants that any Transit Bus sold pursuant to this Master Contract shall be merchantable, shall conform to this Master Contract and Participant's Purchase Order, shall be fit and safe for the intended purposes, shall be free from defects in materials and workmanship, and shall be produced and delivered in full compliance with applicable law. Contractor further represents and warrants it has clear title to the goods and that the same shall be delivered free of liens and encumbrances and that the same do not infringe any third party patent. The rights and remedies of the parties under this warranty are in addition to any other rights and remedies of the parties provided by law or equity, including, without limitation, actual damages, and, as applicable and awarded under the law, to a prevailing party, reasonable attorneys' fees and costs. Whenever under the Master Contract or Purchase Order it is provided that Contractor shall furnish materials or manufactured components or shall do work for which no detailed specifications are set forth, the work

performed shall be in full conformity and harmony with the intent to secure the best standards of manufacture in the work as a whole or in part. No advantage shall be taken by Contractor in the omission of any part or detail which goes to make the Transit Buses complete and ready for service, even though such part or detail is not mentioned in the specifications or in Contractor's approved design.

4.4. EXECUTIVE ORDER 18-03 – WORKERS' RIGHTS (MANDATORY INDIVIDUAL ARBITRATION). Contractor represents and warrants, as previously certified in Contractor's bid submission, that Contractor does NOT require its employees, as a condition of employment, to sign or agree to mandatory individual arbitration clauses or class or collective action waivers. Contractor further represents and warrants that, during the term of this Contract, Contractor shall not, as a condition of employment, require its employees to sign or agree to mandatory individual arbitration clauses or class or collective action waivers.

4.5. OREGON REVISED STATUTE 279A.112. Contractor represents and warrants, as previously certified in Contractor's bid submission, that their firm has a written policy and practice preventing sexual harassment, sexual assault and discrimination against employees who are members of a protected class.

4.6. EMISSIONS INFORMATION. Contractor represents and warrants, as previously certified in Contractor's bid submission, that their firm has a written policy and practice to assess and provide accurate emission information on products to Participants.

4.7. SUSTAINABILITY POLICY. Contractor represents and warrants, as previously certified in Contractor's bid submission, that their firm has a written policy and practice, detailing own sustainability policies and programs in place and to provide services in line with the principles established therein.

4.8. PROCUREMENT ETHICS & PROHIBITION ON GIFTS. Contractor represents and warrants that it complies fully with all applicable procurement ethics restrictions including, but not limited to, restrictions against Contractor providing gifts or anything of economic value, directly or indirectly, to Participants' employees.

4.9. WASHINGTON'S ELECTRONIC BUSINESS SOLUTION (WEBS). Contractor represents and warrants that it is registered in Washington's Electronic Business Solution (WEBS), Washington's contract registration system and that, all of its information therein is current and accurate and that throughout the term of this Master Contract, Contractor shall maintain an accurate profile in WEBS.

4.10. STATEWIDE PAYEE DESK. Contractor represents and warrants that it is registered with the Statewide Payee Desk, which registration is a condition to payment.

4.11. COOPERATIVE MASTER CONTRACT PROMOTION; ADVERTISING AND ENDORSEMENT. Contractor represents and warrants that it shall use commercially reasonable efforts both to promote and market the use of this Master Contract with eligible Participants and to ensure that those entities that utilize this Master Contract are eligible Participants. Contractor understands and acknowledges that neither Enterprise Services nor Participants are endorsing Contractor's goods and/or services or suggesting that such goods and/or services are the best or only solution to their needs. Accordingly, Contractor represents and warrants that it shall make no reference to Enterprise Services, any Participant, or the State of Washington in any promotional material without the prior written consent of Enterprise Services.

4.12. MASTER CONTRACT TRANSITION. Contractor represents and warrants that, in the event this Master Contract or a similar contract resulting from the Cooperative, is transitioned to another contractor (e.g., Master Contract expiration or termination), Contractor shall use commercially reasonable efforts to assist Enterprise Services for a period of sixty (60) days to effectuate a smooth transition to another contractor to minimize disruption of service and/or costs to the State of Washington.

4.13. VEHICLE TITLE & REGISTRATION. Contractor represents and warrants that upon payment in full, Contractor shall convey to Participant all necessary paperwork, including a "manufacturer's statement of origin" (MSO) and applicable state title application to register the Transit Bus with the Participant's applicable state licensing authority at the time of acceptance. Title to the bus shall pass to the Participant upon acceptance of the bus by the Participant.

4.14. WAGE VIOLATIONS. Contractor represents and warrants that, during the term of this Master Contract and the three (3) year period immediately preceding the award of the Master Contract, it is not determined, by a final and binding citation and notice of assessment issued by the Washington Department of Labor and Industries or through a civil judgment entered by a court of limited or general jurisdiction, to be in willful violation of any provision of Washington state wage laws set forth in RCW chapters 49.46, 49.48, or 49.52.

4.15. PAY EQUITY. Contractor represents and warrants that, among its workers, similarly employed individuals are compensated as equals. For purposes of this provision, employees are similarly employed if the individuals work for the same employer, the performance of the job requires comparable skill, effort, and responsibility, and the jobs are performed under similar working conditions. Job titles alone are not determinative of whether employees are similarly employed. Contractor may allow differentials in compensation for its workers based in good faith on any of the following: a seniority system; a merit system; a system that measures earnings by quantity or quality of production; a bona fide job-related factor or factors; or a bona fide regional difference in compensation levels. A bona fide job-related factor or factors may include, but not be limited to, education, training, or experience that is: consistent with business necessity; not based on or derived from a gender-based differential; and accounts for the entire differential. A bona fide regional difference in compensation level must be consistent with business necessity; not based on or derived from a gender-based differential; and account for the entire differential. Notwithstanding any provision to the contrary, upon breach of warranty and Contractor's failure to provide satisfactory evidence of compliance within thirty (30) days, Enterprise Services may suspend or terminate this Master Contract and any Participant hereunder similarly may suspend or terminate its use of the Master Contract and/or any agreement entered into pursuant to this Master Contract.

4.16. SUBJECT DATA. All "subject data", including specifications, technical data, records and reports, engineering drawings (including shop drawings and working drawings), manuals and instruction materials and computer or microprocessor software that is delivered or specified to be delivered under this contract shall remain the property of the Contractor; provided however, the Participants shall have a royalty-free, non-exclusive, non-transferable and irrevocable license to use such subject data only for the purposes of operating and maintaining the Transit Buses. The Participants grant the Contractor the right to inspect, examine, download, and otherwise obtain any information or data available from components provided by the Contractor, including, but not limited to, any electronic control modules or other data-collection devices, to the extent necessary to enable the Contractor to perform reliability maintenance analysis, corrective action and/or other engineering-type work for the Transit Buses.

5. USING THE MASTER CONTRACT – PURCHASES.

5.1. ORDERING REQUIREMENTS. Participants shall order Transit Buses from this Master Contract, consistent with the terms hereof and by using any ordering mechanism agreeable both to Contractor and Participant but, at a minimum, including the use of a purchase order. When practicable, Contractor and Participant also shall use telephone orders, email orders, web-based orders, and similar procurement methods (collectively "Purchase Order"). All order documents must reference the Master Contract number. Consistent with Participant's procurement authority, Participant may propose and negotiate additional terms with the applicable Contractor to meet Participant's needs, subject to agreement with the applicable Contractor. Under no circumstances will Participant's agreements change or modify the contract obligations of this Master Contract. The terms of this Master Contract shall apply to any Purchase Order and, in the event of any conflict, the terms of this Master Contract shall prevail. Notwithstanding any provision to the contrary, in no event shall any 'click-agreement,' software or web-based application terms and conditions, or other agreement modify the terms and conditions of this Master Contract.

5.2. APPROVAL OF PURCHASES. Enterprise Services and, if the Participant is using FTA funds, the Participant's respective authorization authority for use of those FTA funds shall approve the Participant's initial Purchase Order. Enterprise Services shall review the Purchase Order and approve that the purchase is within the Scope of the Master Contract. The Participant's respective authorization authority for use of those FTA funds will approve the purchase according to their own policies and procedures. Participant and Contractor shall provide timely information as requested by Enterprise Services for the approval process.

5.3. CONTRACTOR COOPERATIVE USE APPROVAL. Pursuant to RCW 39.26.060, the intent of this Contract is to allow for cooperative procurement to the maximum extent possible. Accordingly, any authorized entity that has executed a Washington State Transit Bus Cooperative Purchasing Agreement with Enterprise Services may place orders under this Master Contract. Participation in the cooperative is voluntary. If agreed to by Contractor, this Contract may be used by any participant in the cooperative to procure the Transit Buses. Contractor has the right to refuse initial orders by cooperative participants on a capacity basis, if the Contractor cannot fulfill the complete order based on delivery deadlines. Orders under this Contract will be fulfilled on a first come, first serve basis of the initial order date. If Contractor rejects an order for capacity, Enterprise Services may request additional information from the Contract regarding Contractor's capacity to fulfill orders.

5.4. FTA PRE-AWARD AND POST-DELIVERY CERTIFICATIONS. Contractor shall take all reasonable steps assist Participants in completing all required pre-award and post-delivery certifications required by federal or state law or policy for purchases under this Master Contract. Contractor shall provide all requested information to complete the certifications in a reasonable time to ensure certifications are completed in a timely manner.

5.5. DELIVERY REQUIREMENTS. Contractor must ensure that delivery of Transit Buses will be made as required by this Master Contract, the Purchase Order used by Participants, or as otherwise mutually agreed in writing between the Participant and Contractor. The following apply to all deliveries:

(a) Contractor shall make all deliveries to the applicable delivery location specified in the Purchase Order by the delivery date. The delivery date must be within 18 months of the initial order date, as stated in the Purchaser Order or agreement between Participant and

Contractor; provided however that the Participant and Contractor may amend the delivery date by mutual agreement. Deliveries shall occur during Participant's normal work hours and within the time period mutually agreed in writing between Participant and Contractor at the time of order placement.

(b) Contractor shall deliver all buses with a full tank of fuel and clean inside and out. For any bus not meeting this requirement, Contractor will be assessed $300. When Transit Buses are delivered, certificates or releases signed by Participant simply acknowledge receipt of the Transit Buses and do not constitute acceptance by the Participant of the condition of the Transit Buses, or its conformance with the terms of the Master Contract or Participant's Purchase Order. Acceptance by Participant occurs subsequent to final inspection when Participant provides Contractor with a written Notice of Acceptance.

(c) Contractor shall ship or deliver all goods and/or services purchased pursuant to this Master Contract, freight charges prepaid by Contractor, FOB Participant's specified destination with all transportation and handling charges included. Contractor shall bear all risk of loss, damage, or destruction of the goods and/or services ordered hereunder that occurs prior to delivery, except loss or damage attributable to Participant's negligence. Contractor shall use a qualified and experienced common or contract carrier who is properly licensed and insured. Contractor shall make all arrangements for shipment.

(d) All packing lists, packages, instruction manuals, correspondence, shipping notices, shipping containers, and other written materials associated with this Master Contract shall be identified by the Master Contract number set forth on the cover of this Master Contract and the applicable Participant's Purchase Order number. Packing lists shall be included with each shipment and clearly identify all contents and any backorders.

5.6. PROTOTYPE BUSES. If requested by Participant, Contractor shall produce one prototype bus for each type of bus with respect to the Purchase Order for inspection and testing at the Participant's facilities. The prototype bus will demonstrate that the bus fully meets all requirements of the Purchase Order. Contractor shall produce and deliver the prototype bus to Participant for inspection and testing a minimum of one-hundred twenty (120) days prior to initiation of any production activities for the remaining buses unless otherwise authorized in writing by Participant. The cost of transporting the prototype bus to and from the Participant's facilities shall be at the expense of Contractor. Contractor shall schedule the prototype review with the Participant when a vehicle has been completed with all equipment and furnishings installed, but early enough so design changes resulting from the review will not delay production or cause scrapping of production material.

In the event of nonconformity Participant shall, to the extent practicable, notify Contractor of said nonconformity. No later than seven (7) days after the end of the fourteen (14) day test, Participant shall issue a written report to the Contractor that advises the Contractor of any noncompliance issues and/or any proposed modifications or changes required on the remaining vehicles. Any failure by Participant to detect any defects or omissions in this testing period will in no way relieve Contractor from fully complying with the specifications of the Master Contract and Participant Order. All prototype buses shall be brought up to the final production bus configuration in all respects at no additional cost to Participant, except as may be agreed by change orders.

5.7. NOTIFICATION OF DELAY. Contractor shall provide prompt notice to Participant and Enterprise Services for any delay in the manufacturing process that will affect the expected delivery date. Contractor will provide notice of the delay within fourteen (14) days of discovery of the potential delay. This notice of delay must include a reasonable expectation of when the delay will be resolved, the reason for the delay, whether the delay will cause the delivery to exceed the delivery date, and any other applicable information regarding the delay.

- Participant shall provide Contractor with notice of acceptance of the reasonable delay or notice that the delay is determined to be non-excusable within seven (7) days of receipt of the notice of delay.
- If there is a dispute between Contractor and Participant as to whether the delay is reasonable, Contractor may appeal Participant's decision to Enterprise Services within seven (7) days of receipt of the notice that the delay is non-excusable. Enterprise Services will review the provided information and make a final determination as to whether the delay is reasonable or non-excusable. If a dispute remains after this procedure, parties shall follow the dispute resolution process of Section 16.
- Contractor shall promptly comply with any request from Enterprise Services or Participant for additional information in making the delay determination. A request for more information from Enterprise Services or Participant tolls the time for required response until the time that Contractor responds to the request for more information.
- Reasonable delay is a delay for which the Contractor is not responsible. A reasonable delay must arise from unforeseeable causes, be beyond the control of Contractor, and be without the fault of the Contractor. A reasonable delay will extend the delivery date by the agreed upon length of the delay. For certainty, the reasons for such reasonable delay shall include but not be limited to, the neglect or failure of the Participant or by delay or failure of the Contractor caused by an event beyond its control, including, but not limited to, natural disasters, floods, fires, acts of war or terrorism, labor shortages, strikes or lock-outs or shortages or loss of transportation, then the time for completion of the work and/or the delivery dates shall be extended by the Participant by a reasonable period of time after such event of delay has ended in order that the Contractor may complete the work or deliver the buses.
- Non-excusable delay is a delay for which Contractor is wholly or partially responsible. A non-excusable delay is a delay that arises from a foreseeable cause, is within the control of Contractor, or is due to the fault of Contractor. A non-excusable delay will not extend the agreed upon delivery date.

5.8. DELAY DAMAGES. Participant will be damaged by any failure on the part of Contractor to deliver the buses within the time specified in delivery date. The amount of damages for delay of beyond the delivery date is difficult if not impossible to ascertain. The amount of such damages Contractor shall pay to Participant is fixed at the amount of $250.00 per day for each bus not delivered in substantially good condition as inspected by the Participant. Participant may elect to deduct the amount of the damages from the amount due to Contractor under the Purchase Order or may notify Contractor of the amount due based on the delay. If Participant requires Contractor to pay the delay damages, Contractor shall pay the entire amount within thirty (30) days after receipt of a written demand by Participant. The payment of damages will be in lieu of any damages for any loss of profit, loss of revenue, loss of use, or for any other direct, indirect, special or consequential losses or damages of any kind that may be suffered by Participant arising at any time from the failure of Contractor to fulfill the delivery obligations in a timely manner.

5.9. INSPECTION AND ACCEPTANCE OF TRANSIT BUSES. Transit Buses purchased under this Master Contract are subject to Participant's reasonable inspection, testing, and approval at Participant's destination for a period of fourteen (14) days from the date that the Transit Buses are received at the place of delivery. Participant reserves the right to reject and refuse acceptance of Transit Buses that are not in accordance with this Master Contract and the Participant's Purchase Order during this inspection period. Representatives of Contractor may witness acceptance inspections and testing if so requested by Contractor. Participant retains the right to complete as thorough an inspection as it deems necessary to determine if each bus is in conformance with Master Contract and Purchase Orders requirements for configuration and performance parameters. Contractor shall coordinate and manage Contractor's post-delivery inspection process and notify the Participant of scheduling and availability of buses ready for pre-acceptance inspection. Acceptance by the Participant occurs when Participant provides Contractor with a written Notice of Acceptance, which will be subsequent to final inspection by responsible assigned employees of the Participant. All acceptances are subject to the warranty requirements of this Master Contract. For certainty, if the Transit Buses pass these tests or if the Participants do not notify the Contractor of non-acceptance within 14 calendar days after delivery of the Transit Buses, acceptance of the Transit Buses by the Participants shall be deemed to have occurred on the 14th day after delivery. Acceptance shall occur earlier if the Participants notify the Contractor of early acceptance or places the Transit Buses into revenue service.

5.10. INSPECTION DEFECTS. If there are any apparent defects in the goods and/or services within the inspection period, Participant will promptly notify Contractor. At Participant's option, and without limiting any other rights, Participant may:

- Require Contractor to repair or replace, at Contractor's expense, any or all of the damaged goods; or
- Require Contractor to refund the price of any or all of the damaged goods; or
- Participant may note any damage to the goods on the receiving report, decline acceptance, and deduct the cost of rejected goods from final payment.

Payment for any goods under such Purchase Order shall not be deemed acceptance of the goods. If Participant discovers defects during the inspection process, the requirement for timely delivery under 6.2(a) will continue to run until Contractor resolves the defects and provides Participant with the applicable goods free of defects. The period for the delivery date for the goods will be tolled for the length of time Participant was in the inspection period until the time that Participant provided notice of defect to Contractor.

5.11. POST-INSPECTION REPAIR BY CONTRACTOR. In the event of non-acceptance of the bus, Contractor must begin Work within five (5) working days after receiving notification from Participant of failure of acceptance tests. Participant shall make the bus available to complete repairs timely with the Contractor repair schedule. If Contractor fails or refuses to begin the repairs within five (5) days, then the repair work may be done by Participant's personnel with reimbursement by Contractor. Contractor shall provide, at its own expense, all spare parts, tools and space required to complete the repairs. At Participant's option, Contractor may be required to remove the bus from Participant's property while repairs are being made. If the bus is removed from Participant's property, then repair procedures must be diligently pursued by Contractor's representatives, and Contractor shall assume risk of loss while the bus is under its control. Upon completion of repairs, the forteen (14) calendar day acceptance period shall re-commence as per section 5.9.

5.12. CONTRACTOR SERVICE AND PARTS SUPPORT. For each Participant Order, Contractor shall supply Participant with a completed *Exhibit D - Contractor Service and Parts Support Data* with contact information on the representatives responsible for assisting Participant, as well as the location of the nearest distribution center, which shall furnish a complete supply of parts and components for the repair and maintenance of the buses to be supplied. Contractor shall also submit its policy on transportation charges for parts other than those covered by warranty.

5.13. PARTS AVAILABILITY GUARANTEE. Contractor guarantees to provide the spare parts, software, and all equipment necessary to maintain and repair the buses supplied under this Master Contract for a period of at least twelve (12) years after the date of acceptance. Parts will be interchangeable with the original equipment and will be manufactured in accordance with the quality assurance provisions of this Master Contract. Prices shall not exceed the Contractor's then-current published catalog prices.

Where the parts ordered by the Participant are not received within two (2) working days of the agreed-upon time and date and a bus procured under this Master Contract is out of service due to the lack of said ordered parts, then the Contractor shall provide the Participant, within eight (8) hours of the Participant's verbal or written request, the original suppliers' and/or manufacturers' parts numbers, company names, addresses, telephone numbers and contact persons' names for all of the specific parts not received by the Participant.

In the event Contractor fails to honor this parts guarantee or parts ordered by the Participant are not received within thirty (30) days of the agreed-upon delivery date, then Contractor shall provide to Participant, within seven (7) days of the Agency's verbal or written request, the design and manufacturing documentation for those parts manufactured by the Contractor and the original suppliers' and/or manufacturers' parts numbers, company names, addresses, telephone numbers and contact persons' names for all of the specific parts not received by the Participant. Contractor's design and manufacturing documentation provided to the Participant shall be for its sole use in regard to the buses procured under this Master Contract and for no other purpose.

5.14. TERMINATION FOR WITHDRAWAL OF FUNDING. If any Participant's expected or actual funding for purchases under this Master Contract are withdrawn, reduced, or limited in any way prior to the payment for the last bus accepted, Participant may, upon written notice to Contractor, terminate their Purchase Order for Transit Buses not yet accepted. If the Purchase Order is terminated as provided in this subsection: (1) Participant will be liable only for payment in accordance with the terms of this Contract for work performed satisfactorily up to the date of termination and materials on order that cannot be canceled; and (2) Contractor shall be released from any obligation to provide additional buses as are affected by the termination. The Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination

5.15. FACILITY INSPECTIONS. Contractor shall provide right of access to its facilities to Enterprise Services, any Enterprise Services agents, Participant, any of Participants agents, or to any other authorized agent or official of the state of Washington or the federal government, at all reasonable times, in order to monitor and evaluate performance, compliance, and/or quality assurance under this Contract.

5.16. ON SITE REQUIREMENTS. While on Participant's premises, Contractor, its agents, employees, or subcontractors shall comply, in all respects, with Participant's physical, fire, access, safety, or other security requirements.

6. INVOICING & PAYMENT.

6.1. CONTRACTOR INVOICE. Contractor shall submit to Participant's designated invoicing contact properly itemized invoices. Such invoices shall itemize the following:

(a) Master Contract No. 06719

(b) Contractor name, address, telephone number, and email address for billing issues (i.e., Contractor Customer Service Representative)

(c) Contractor's Federal Tax Identification Number

(d) Date(s) of delivery

(e) Invoice amount; and

(f) Payment terms, including any available prompt payment discounts.

Contractor's invoices for payment shall reflect accurate Master Contract prices. Invoices will not be processed for payment until receipt of a complete invoice as specified herein.

6.2. PAYMENT. Payment is the sole responsibility of, and will be made by, the Participant. Payment is due within thirty (30) days of invoice. If Participant fails to make timely payment(s), Contractor may invoice Participant in the amount of one percent (1%) per month on the amount overdue or a minimum of $1. Payment will not be considered late if a check or warrant is mailed within the time specified. Contractor provides a prompt payment discount of 0.2192% for payments within 10 days of receipt of the invoice. This discount will only be provided for Participant payments within the stated time.

6.3. MILESTONE PAYMENTS. Participant and Contractor may condition payment on the achievement of various agreed upon milestones for the Transit Buses. Milestone payments will be mutually agreed upon by Participant and Contractor in regard to timing of milestone, acceptance of milestone, and amounts for milestone payments. Payment for milestones will follow the procedure for invoice payment.

6.4. OVERPAYMENTS. Contractor promptly shall refund to Participant the full amount of any erroneous payment or overpayment. Such refunds shall occur within thirty (30) days of written notice to Contractor; *Provided*, however, that Participant shall have the right to elect to have either direct payments or written credit memos issued. If Contractor fails to make timely payment(s) or issuance of such credit memos, Participant may impose a one percent (1%) per month on the amount overdue thirty (30) days after notice to the Contractor.

6.5. NO ADVANCE PAYMENT. No advance payments shall be made for any goods or services furnished by Contractor pursuant to this Master Contract.

6.6. NO ADDITIONAL CHARGES. Unless otherwise specified herein, Contractor shall not include or impose any additional charges including, but not limited to, charges for shipping, handling, or payment processing.

6.7. TAXES/FEES. Contractor promptly shall pay all applicable taxes on its operations and activities pertaining to this Master Contract. Failure to do so shall constitute breach of this Master Contract. Unless otherwise agreed, Participant shall pay applicable sales tax imposed by the tax jurisdictions in which delivery occurs on purchased goods and/or services. Contractor, however, shall not make any charge for federal excise taxes and Participant agrees to furnish Contractor with an exemption certificate where appropriate.

7. CONTRACT MANAGEMENT.

7.1. CONTRACT ADMINISTRATION & NOTICES. Except for legal notices, the parties hereby designate the following contract administrators as the respective single points of contact for purposes of this Master Contract. Enterprise Services' contract administrator shall provide Master Contract oversight. Contractor's contract administrator shall be Contractor's principal contact for business activities under this Master Contract. The parties may change contractor administrators by written notice as set forth below.

Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services	**Contractor**
Attn: David Mgebroff Washington Dept. of Enterprise Services PO Box 41411 Olympia, WA 98504-1411	Attn:
Tel: (360) 407-8049	Tel:
Email: david.mgebroff@des.wa.gov	Email:

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

7.2. CONTRACTOR CUSTOMER SERVICE REPRESENTATIVE. Contractor shall designate a customer service representative (and inform Enterprise Services of the same) who shall be responsible for addressing Participant issues pertaining to this Master Contract.

7.3. LEGAL NOTICES. Any legal notices required or desired shall be in writing and delivered by U.S. certified mail, return receipt requested, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

Enterprise Services	**Contractor**
Attn: Legal Services Manager Washington Dept. of Enterprise Services PO Box 41411 Olympia, WA 98504-1411	Attn:
Email: greg.tolbert@des.wa.gov	Email:

Notices shall be deemed effective upon the earlier of receipt when delivered, or, if mailed, upon return receipt, or, if emailed, upon transmission to the designated email address of said addressee.

8. CONTRACTOR SALES REPORTING; VENDOR MANAGEMENT FEE; & CONTRACTOR REPORTS.

8.1. MASTER CONTRACT SALES REPORTING. Contractor shall report total Master Contract sales quarterly to Enterprise Services, as set forth below.

(a) Master Contract Sales Reporting System. Contractor shall report quarterly Master Contract sales in Enterprise Services' Master Contract Sales Reporting System. Enterprise Services will provide Contractor with a login password and a vendor

number. The password and vendor number will be provided to the Sales Reporting Representative(s) listed on Contractor's Bidder Profile.

(b) Data. Each sales report must identify every authorized Participant by name as it is known to Enterprise Services and its total combined sales amount invoiced during the reporting period (i.e., sales of an entire agency or political subdivision, not its individual subsections). The "Miscellaneous" option may be used only with prior approval by Enterprise Services. Upon request, Contractor shall provide contact information for all authorized Participants specified herein during the term of the Master Contract. If there are no Master Contract sales during the reporting period, Contractor must report zero sales.

(c) Due dates for Master Contract Sales Reporting. Quarterly Master Contract Sales Reports must be submitted electronically by the following deadlines for all sales invoiced during the applicable calendar quarter:

FOR CALENDAR QUARTER ENDING	MASTER CONTRACT SALES REPORT DUE
March 31:	April 30
June 30:	July 31
September 30:	October 31
December 31:	January 31

8.2. VENDOR MANAGEMENT FEE. Contractor shall pay to Enterprise Services a vendor management fee ("VMF") of 0.15 percent on the purchase price for all Master Contract sales (the purchase price is the total invoice price less applicable sales tax).

(a) The sum owed by Contractor to Enterprise Services as a result of the VMF is calculated as follows:

> Amount owed to Enterprise Services = Total Master Contract sales invoiced (not including sales tax) x .00150.

(b) The VMF must be rolled into Contractor's current pricing. The VMF must not be shown as a separate line item on any invoice unless specifically requested and approved by Enterprise Services.

(c) Enterprise Services will invoice Contractor quarterly based on Master Contract sales reported by Contractor. Contractors are not to remit payment until they receive an invoice from Enterprise Services. Contractor's VMF payment to Enterprise Services must reference this Master Contract number, work request number (if applicable), the year and quarter for which the VMF is being remitted, and the Contractor's name as set forth in this Master Contract, if not already included on the face of the check.

(d) Failure to accurately report total net sales, to submit a timely usage report, or remit timely payment of the VMF, may be cause for Master Contract suspension or termination or the exercise of other remedies provided by law. Without limiting any other available remedies, the Parties agree that Contractor's failure to remit to Enterprise Services timely payment of the VMF shall obligate Contractor to pay to Enterprise Services, to offset the administrative and transaction costs incurred by the

State to identify, process, and collect such sum, the sum of $200.00 or twenty-five percent (25%) of the outstanding amount, whichever is greater, or the maximum allowed by law, if less.

(e) Enterprise Services reserves the right, upon thirty (30) days advance written notice, to increase, reduce, or eliminate the VMF for subsequent purchases, and reserves the right to renegotiate Master Contract pricing with Contractor when any subsequent adjustment of the VMF might justify a change in pricing.

8.3. ANNUAL MASTER CONTRACT SALES REPORT. Contractor shall provide to Enterprise Services a detailed annual Master Contract sales report. Such report shall include, at a minimum: Product description, part number or other Product identifier, per unit quantities sold, and Master Contract price. This report must be provided in an electronic format that can be read by MS Excel.

9. RECORDS RETENTION & AUDITS.

9.1. RECORDS RETENTION. Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Contract and orders placed by Participants under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall retain such records for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Participant against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved.

9.2. AUDIT. Enterprise Services reserves the right to audit, or have a designated third party audit, applicable records to ensure that Contractor has properly invoiced Participants and that Contractor has paid all applicable contract management fees. Accordingly, Contractor shall permit Enterprise Services, any Participant, and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and/or transcribe Contractor's books, documents, papers and records directly pertinent to this Master Contract or orders placed by a Participant under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following expiration or termination of this Master Contract or final payment for any order placed by a Participant against this Master Contract, whichever is later; *Provided*, however, that if any litigation, claim, or audit is commenced prior to the expiration of this period, such period shall extend until all such litigation, claims, or audits have been resolved. The Participants and their representatives and agents agree to enter into a confidentiality agreement with the Contractor prior to commencing an audit, review or analysis in order to protect and maintain the confidentiality of the Contractor's information.

9.3. OVERPAYMENT OF PURCHASES OR UNDERPAYMENT OF FEES. Without limiting any other remedy available to any Participant, Contractor shall (a) reimburse Participants for any overpayments inconsistent with the terms of this Master Contract or orders, at a rate of 125% of such overpayments, found as a result of the examination of the Contractor's records; and (b) reimburse Enterprise Services for any underpayment of fees, at a rate of 125% of such fees found as a result of the examination of the Contractor's records (e.g., if Contractor underpays the Vendor Management Fee by $500, Contractor would be required to pay to Enterprise Services $500 x 1.25 = $625).

10. INSURANCE.

10.1. REQUIRED INSURANCE. During the Term of this Master Contract, Contractor, at its expense, shall maintain in full force and effect the insurance coverages set forth in *Exhibit C – Insurance Requirements*. All costs for insurance, including any payments of deductible amounts, shall be considered incidental to and included in the prices for goods/services and no additional payment shall be made.

10.2. WORKERS COMPENSATION. Contractor shall comply with applicable workers compensation statutes and regulations (e.g., RCW Title 51, Industrial Insurance). If Contractor fails to provide industrial insurance coverage or fails to pay premiums or penalties on behalf of its employees as may be required by law, Enterprise Services may terminate this Master Contract. This provision does not waive any of the Washington State Department of Labor and Industries (L&I) rights to collect from Contractor. In addition, Contractor waives its immunity under RCW Title 51 to the extent it is required to indemnify, defend, and hold harmless the State of Washington and its agencies, officials, agents, or employees.

11. WARRANTY.

11.1. CONTRACTOR WARRANTY. Warranties in this document are in addition to any statutory remedies or warranties imposed on Contractor. Consistent with this requirement, Contractor warrants and guarantees to Participant each complete Transit Bus and specific subsystems and components as follows.

Contractor warrants the Transit Buses are of good material and workmanship and agrees to promptly replace any part or parts, at no cost to the Participant, which by reason of defective materials or workmanship fail under normal use, free of negligence or accident during the applicable warranty period. Contractor warranties include the replacement of parts and services associated with the replacement and repair, including but not limited to any diagnostic, refurbishment, shipping, or travel costs.

Performance requirements based on design criteria will not be deemed a warranty item. Contractor shall insure in its procurement arrangements that the warranty requirements of this Master Contract are enforceable through and against the Contractor's suppliers, vendors, material men, and subcontractors. Any inconsistency or difference between the warranties extended to Participants by Contractor and those extended to Contractor by its suppliers, vendors, material men, and subcontractors, are at the risk and expense of Contractor. Such inconsistency or difference will not excuse Contractor's full compliance with its obligations under this Contract.

11.2. WARRANTY INFORMATION. Upon Participant's request, Contractor promptly shall provide complete copies of all written warranties or guarantees and documentation of any other arrangement relating to such warranties or guarantees extended by Contractor's suppliers, sub-suppliers, vendors, material men, and subcontractors covering parts, components, and systems utilized in the bus. Contractor shall ensure that such suppliers, sub-suppliers, vendors, material men, and subcontractors satisfactorily perform warranty related work when requested to do so by Participant.

11.3. SYSTEM WARRANTIES. The following systems are warranted to be free from defects and related defects for the years and mileage listed in the table below, whichever comes first. Each warranty is based on regular operation of the bus under the operating conditions prevailing in Participant's locale.

Warranty	Description	Years/Mileage
Complete Bus	Complete bus, propulsion system, components, major subsystems, and body and chassis structure	2 years, 100,000 miles; Class 1 or 2 Failures: 12 years, 500,000 miles
Body And Chassis Structure	Body, body structure, structural elements of the suspension and engine cradle	3 years, 150,000 miles
Body and Chassis Corrosion Failure or Fatigue Failure	Primary load-carrying members of the bus structure, including structural elements of the suspension	Class 1 or 2 Failures: 12 years, 500,000 miles
Propulsion System (Diesel, CNG, Hybrid)	engine, transmission or drive motors, and generators (for hybrid technology) and drive and non-drive axles	2 years, 100,000 miles
Propulsion System (Electric)	traction motors, traction motor controllers, transmission, drive motors, drive and non-drive axles, and any other propulsion system-related replacement component	5 years, 300,000 miles
Energy Storage System	traction battery, Battery Management System, and any other ESS-related replacement component	2 years, unlimited miles
Emission Control System	complete exhaust system, including catalytic converter (if required), after treatment device, components identified as emission control devices	5 years, 100,000 miles

The ESS is warranted to remain within warrantable end of life during the warranty period. The ESS original specified energy storage capacity and warrantable end of life, as a percentage of the original specified energy capacity, must be clearly defined by the Contractor. Acceptable methods for measuring or obtaining ESS storage capacity with respect to its original specified capacity must be clearly identified by the manufacturer. The manufacturer will propose the test method, and certify the results are true and accurate. The test will be performed according to a documented test procedure. Participant may engage third-parties for capacity testing.

11.4. SUBSYSTEMS WARRANTY. The Contractor warrants the following subsystems to be free from defects and related defects for at least two years or 100,000 miles, whichever comes first.

- Brake system: Foundation brake components, including advancing mechanisms, as supplied with the axles, excluding friction surfaces.
- Destination signs: All destination sign equipment for the front, side and rear signs, power modules and operator control.
- Heating, ventilating: Roof and/or rear main unit only, excluding floor heaters and front defroster.
- AC unit and compressor: Roof and/or rear main unit only, excluding floor heaters and front defroster.
- Door systems: Door operating actuators and linkages.
- Air compressor.
- Air dryer.
- Wheelchair lift and ramp system: Lift and/or ramp parts and mechanical only.

- Starter.
- Alternator: Alternator only. Does not include the drive system.
- Charge air cooler: Charge air cooler including core, tanks and including related surrounding framework and fittings.
- Fire suppression: Fire suppression system including tank and extinguishing agent dispensing system.
- Hydraulic systems: Including radiator fan drive and power steering as applicable.
- Propulsion cooling systems: Radiator including core, tanks and related framework, including surge tank. Transmission cooler.
- Power electronics: DC/DC converters, inverters, if supplied
- Passenger seating excluding upholstery.
- Fuel storage and delivery system.
- Surveillance system including cameras and video recorders.

Contractor warrants the following subsystems to be free from defects and related defects for at least 2 years or 100,000 miles, whichever comes first:

- Low voltage and high voltage electrical wiring and harnesses

11.5. SERIAL NUMBERS. Prior to final delivery of each bus, Contractor shall provide a complete electronic list of serialized units installed on each bus to facilitate warranty tracking. The list will include, but is not limited to the following:

- Engine
- Transmission or Traction Motor
- Alternator
- Starter
- Destination/Luminator (Major components)
- Drive axle and non-drive axle(s)
- DVR unit, supporting electronics (Monitors)
- Driver's seat
- Battery equalizer
- Radiator package
- Exhaust emission components
- A/C compressor and condenser/evaporator unit
- Power steering unit
- Fuel cylinders (if applicable)
- Air compressor
- Wheelchair ramp (if applicable)

Contractor shall provide updated serial numbers resulting from warranty campaigns. The format of the list will be approved by Participant prior to delivery of the first production bus.

11.6. EXTENSION OF WARRANTY. If, during the warranty period, repairs or modifications on any bus are made necessary by defective design, materials, or workmanship but are not completed due to lack of material or inability to provide the proper repair for thirty (30) calendar days, then the applicable warranty period shall be extended by the number of days equal to the delay period.

11.7. VOIDING OF WARRANTY. The warranty will not apply to the failure of any part or component of the bus that directly results from misuse, negligence, accident, or repairs not conducted in accordance with the Contractor-provided maintenance manuals and with workmanship performed by adequately trained personnel in accordance with recognized standards of the industry. The warranty will be void if Participant fails to conduct normal inspections and scheduled preventive maintenance procedures as recommended in the Contractor's maintenance manuals and if that omission caused the part or component failure. Participant should maintain documentation, auditable by Contractor, verifying service activities in conformance with the Contractor's maintenance manuals.

11.8. EXCEPTIONS AND ADDITIONS TO WARRANTY. Warranties will not apply to the following items:

- scheduled maintenance items
- normal wear-out items, such as brake linings, filters, belts, and wiper blades
- items furnished by Participant

Should Participant require the use of a specific product and has rejected Contractor's request for an alternate product, then the standard supplier warranty for that product will be the only warranty provided to Participant. This product will not be eligible under "Fleet Defects," below.

11.9. PASS-THROUGH/SUPERIOR WARRANTY. If any vendor to the Contractor offers, at no additional cost, a warranty on a component that is longer or more comprehensive than the required warranties on this Contract, Contractor shall inform Participant of the additional warranty and pass it through to Participant at no additional cost.

Contractor shall state in writing that Participant's warranty reimbursements will not be impacted. Contractor also shall state in writing any exceptions and reimbursement including all costs incurred in transport of vehicles and/or components. At any time during the warranty period, Contractor may request approval from Participant to assign its warranty obligations to others, but only on a case-by-case basis approved in writing by Participant. Otherwise, Contractor shall be solely responsible for the administration of the warranty as specified. Warranty administration by others does not eliminate the warranty liability and responsibility of Contractor.

11.10. FLEET DEFECTS. "Fleet Defect" means cumulative failures of twenty (20%) percent of the same components in the same or similar application in a minimum fleet size of twelve (12) or more buses where such items are covered by warranty. A Fleet Defect applies only to the base warranty period in for Complete Bus, Propulsion System, and Subsystems Warranty. When a Fleet Defect is declared, the remaining warranty period on that item/component is suspended. The warranty period does not resume until the Fleet Defect is corrected.

For the purpose of Fleet Defects, each order shall be treated as a separate bus fleet. In addition, if there is a change in a major component within the order, the buses containing the new major component will become a separate bus fleet for the purposes of determining Fleet Defects.

Contractor shall correct a Fleet Defect under the warranty provisions defined in Section 13 Repair Procedure. After correcting the Fleet Defect, Participant and Contractor shall mutually agree to and Contractor shall promptly undertake and complete a work program reasonably designed to prevent the occurrence of the same Fleet Defect in all other buses and spare parts purchased under the order. Where the specific Fleet Defect is solely attributed to particular identifiable parts, the work program will include redesign and/or replacement of only the defectively designed and/or manufactured parts. In all other cases, the work program will include inspection and/or correction of all the buses in the fleet via a mutually agreed-to arrangement. Contractor shall update, as necessary, technical support information (parts, service and operator's manuals) due to changes resulting from warranty repairs. Participant may immediately declare a defect in design resulting in a safety hazard to be a Fleet Defect. Contractor shall be responsible to furnish, install and replace all defective units.

The Fleet Defect warranty provisions do not apply to Participant-supplied items, such as radios, fare collection equipment, communication systems, and tires. In addition, Fleet Defects do not apply to interior and exterior finishes, hoses, fittings, and fabric.

12. REPAIR PROCEDURE.

12.1. REPAIR PERFORMANCE. Contractor is responsible for all warranty-covered repair work, including diagnostics of warranty covered parts. To the extent practicable, Participant will allow Contractor or its designated representative to perform repair work. At its discretion, Participant may perform such repair work if it determines it needs to do so based on transit service or other requirements. Contractor shall reimburse Participant for any warranty-covered repair work it performs. Minor/Major Warranty-covered repairs may be carried out by the Purchaser and reimbursed through New Flyer's on-line warranty system. New Flyer is available to assist in completing these warranty-covered repairs if needed. Whenever feasible and mutually beneficial, the Purchser may provide a work space for New Flyer to accomplish the repair onsite as needed. This allows us to work with the Purchaser to return the bus to revenue service as quickly as possible. If shop space is unavailable, New Flyer will utilize one of its three subcontractors (Top Tempo, Tri-State, Coach Retrofit) with their own service facilities within the State of Washington area to perform the repairs and get the buses back into revenue service as soon as possible. In addition, Contractor can utilize its service centers for repairs within the State of Washington as needed. Major Component Warranty repairs should be carried out by the equipment suppliers (Engine, Transmission, Propulsion System, High Voltage Batteries, HVAC and Destination Sign Suppliers) in order to adhere to their mandate that all warranty repairs be performed by an authorized dealer unless the Purchaser is an authorized warranty center. If the Purchaser elects to perform these repairs, without the written permission of the original equipment manufacturer, the remaining warranty coverage may be voided

12.2. REPAIRS BY THE CONTRACTOR. Participant shall notify Contractor's designated representative within thirty (30) days if Participant detects a defect within the warranty periods defined in this Master Contract or the applicable Participant Order. Contractor or its designated representative shall, if requested, begin repair work on warranty-covered repairs within five (5) calendar days after receiving notification of a defect from Participant. Participant will make the bus available to complete repairs timely with the Contractor's repair schedule.

Contractor shall provide at its own expense all spare parts, tools, and space required to complete repairs. At Participant's option, Contractor may be required to remove the bus from Participant's property while repairs are made. If the bus is removed from Participant's property, then repair procedures must be diligently pursued by Contractor's representative.

12.3. REPAIRS BY PARTICIPANT. If Participant performs the warranty-covered repairs, then it must correct or repair the defect and any related defects utilizing parts supplied by Contractor specifically for this repair. At its discretion, Participant may use Contractor-specified parts available from its own stock if deemed in its best interests. Parts supplied by Contractor may be remanufactured but must have the same form, fit and function, and warranty. The parts will be shipped prepaid to Participant from any source selected by Contractor within fourteen (14) days of receipt of the request for said parts and shall not be subject to a handling charge.

12.4. DEFECTIVE COMPONENT RETURN. Contractor may request that parts covered by the warranty be returned to the manufacturing plant. Contractor will pay the freight costs for this action.

12.5. FAILURE ANALYSIS. Upon specific request of Participant, Contractor will provide a failure analysis of Fleet Defect or safety-related parts, or major components, removed from buses under the terms of the warranty that could affect fleet operation. Such reports will be delivered within 60 days of the receipt of failed parts.

12.6. REIMBURSEMENT FOR LABOR AND OTHER RELATED COSTS. Contractor shall reimburse Participant for repair labor. The amount is determined by Participant for a qualified mechanic at a straight time wage rate per hour, which includes fringe benefits and overhead adjusted for Participant's most recently published rate in effect at the time the repair work is performed, plus the cost of towing the bus if such action was necessary and if the bus was in the normal service area. These wage and fringe benefit rates shall not exceed the rates in effect in Participant's service garage at the time the defect correction is made.

12.7. REIMBURSEMENT FOR PARTS. Contractor shall reimburse Participant for defective parts and for parts that must be replaced to correct the defect. The reimbursement will be at the current price at the time of repair and include taxes where applicable, plus fifteen (15) percent handling costs. Handling costs will not be paid if parts are supplied by Contractor and shipped to Participant.

12.8. REIMBURSEMENT REQUIREMENTS. Contractor shall respond to parts warranty claims with an accept/reject decision including necessary failure analysis no later than sixty (60) days after Participant submits the claim and defective part(s), when requested. Reimbursement for all accepted claims shall occur no later than sixty (60) days from the date of acceptance of a valid claim. Participant may dispute rejected claims or claims for which Contractor did not reimburse the full amount. Contractor and Participant will review disputed warranty claims during the following quarter to reach an equitable decision to permit the disputed claim to be resolved and closed. Contractor and Participant will review all claims at least once per quarter throughout the entire warranty period to ensure that open claims are being tracked and properly dispositioned.

12.9. WARRANTY AFTER REPLACEMENT/REPAIRS. If any component, unit, or subsystem is repaired, rebuilt, or replaced by Contractor or by Participant with the concurrence of Contractor, then the component, unit, or subsystem will have the unexpired warranty period of the original. Repairs will not be warranted if Contractor-provided or authorized parts are not used for the repair, unless Contractor has failed to respond within five days, in accordance with Section 13.2 Repairs by the Contractor.

If an item is declared to be a Fleet Defect, then the warranty stops with the declaration of the Fleet Defect. Once the Fleet Defect is corrected, the items shall have three (3) months or the remaining time and/or miles of the original warranty, whichever is greater. This remaining warranty period will begin on the repair/replacement date for corrected items on each bus if the repairs are completed by Contractor or on the date Contractor provides all parts to Participant if repairs are completed by Participant.

12.10. WARRANTY PROCESSING PROCEDURES. The following list represents information required by Contractor from the Participant for processing warranty claims. One failure per bus per claim is allowed.

- bus number and VIN
- total vehicle life mileage at time of repair
- date of failure/repair
- acceptance/in-service date
- Contractor part number and description
- component serial number
- description of failure
- all costs associated with each failure/repair (invoices may be required for third-party costs):
    - towing

- road calls
- labor
- materials
- parts
- handling
- troubleshooting time

The Participant's forms will be accepted by Contractor if all of the above information is included. Electronic submittal may be used if available between Contractor and Participant.

12.11. RETURN OF PARTS. When returning defective parts to Contractor, Participant will tag each part with the following:

- bus number and VIN
- claim number
- part number
- serial number (if available)

12.12. TIMEFRAME. Each claim must be submitted no more than thirty (30) days from the date of failure and/or repair, whichever is later. All defective parts must be returned to the Contractor, when requested, no more than forty-five (45) days from the date of repair.

13. QUALITY ASSURANCE

13.1. QUALITY ASSURANCE ORGANIZATION ESTABLISHMENT. Contractor shall establish and maintain an effective in-plant quality assurance organization.

13.2. QUALITY CONTROL. The quality assurance organization shall exercise quality control over all phases of production, from initiation of design through manufacture and preparation for delivery. The organization shall also control the quality of supplied articles.

13.3. AUTHORITY AND RESPONSIBILITY. The quality assurance organization shall have the authority and responsibility for reliability, quality control, inspection planning, establishment of the quality control system, and acceptance/rejection of materials and manufactured articles in the production of the transit buses.

13.4. MINIMUM FUNCTIONS. The quality assurance organization shall include the following minimum functions:

- Work instructions: The quality assurance organization shall verify inspection operation instructions to ascertain that the manufactured product meets all prescribed requirements.

- Records maintenance: The quality assurance organization shall maintain and use records and data essential to the effective operation of its program. These records and data shall be available for review by the resident inspectors. Inspection and test records for this procurement shall be available for a minimum of one year after inspections and tests are completed.

- Corrective action: The quality assurance organization shall detect and promptly ensure correction of any conditions that may result in the production of defective transit buses. These conditions may occur in designs, purchases, manufacture, tests or operations that culminate in defective supplies, services, facilities, technical data or standards.

13.5. BASIC STANDARDS AND FACILITIES. The following standards and facilities shall be basic in the quality assurance process:

- Configuration control: Contractor shall maintain drawings, assembly procedures and other documentation that completely describe a qualified bus that meets all of the options and special requirements of each Purchase Order. The quality assurance organization shall verify that each transit bus is manufactured in accordance with these controlled drawings, procedures and documentation.

- Measuring and testing facilities: Contractor shall provide and maintain the necessary gauges and other measuring and testing devices for use by the quality assurance organization to verify that the buses conform to all specification requirements. These devices shall be calibrated at established periods against certified measurement standards that have known, valid relationships to national standards.

- Production tooling as media of inspection: When production jigs, fixtures, tooling masters, templates, patterns and other devices are used as media of inspection, they shall be proved for accuracy at formally established intervals and adjusted, replaced or repaired as required to maintain quality.

- Equipment use by resident inspectors: Contractor's gauges and other measuring and testing devices shall be made available for use by the resident inspectors to verify that the buses conform to all specification requirements. If necessary, the Contractor's personnel shall be made available to operate the devices and to verify their condition and accuracy.

13.6. MAINTENANCE OF CONTROL. Contractor shall maintain quality control of purchases:

- Supplier control: Contractor shall require each supplier to maintain a quality control program for the services and supplies that it provides. Contractor's quality assurance organization shall inspect and test materials provided by suppliers for conformance to specification requirements. Materials that have been inspected, tested and approved shall be identified as acceptable to the point of use in the manufacturing or assembly processes. Controls shall be established to prevent inadvertent use of nonconforming materials.

- Purchasing data: Contractor shall verify that all applicable specification requirements are properly included or referenced in purchase orders of articles to be used on transit buses.

13.7. MANUFACTURING CONTROL. Contractor shall maintain quality control of production:

- Controlled conditions: Contractor shall ensure that all basic production operations, as well as all other processing and fabricating, are performed under controlled conditions. Establishment of these controlled conditions shall be based on the documented work instructions, adequate production equipment and special working environments if necessary.

- Completed items: A system for final inspection and test of completed transit buses shall be provided by the quality assurance organization. It shall measure the overall quality of each completed bus.

- Nonconforming materials: The quality assurance organization shall monitor the Contractor's system for controlling nonconforming materials. The system shall include procedures for identification, segregation and disposition.

- Statistical techniques: Statistical analysis, tests and other quality control procedures may be used when appropriate in the quality assurance processes.

- Inspection status: A system shall be maintained by the quality assurance organization for identifying the inspection status of components and completed transit buses. Identification may include cards, tags or other normal quality control devices.

13.8. Inspection System. The quality assurance organization shall establish, maintain and periodically audit a fully documented inspection system. The system shall prescribe inspection and test of materials, Work in process and completed articles. At a minimum, it shall include the following controls:

- Inspection personnel: Sufficient trained inspectors shall be used to ensure that all materials, components and assemblies are inspected for conformance with the qualified bus design.

- Inspection records: Acceptance, rework or rejection identification shall be attached to inspected articles. Articles that have been accepted as a result of approved materials review actions shall be identified. Articles that have been reworked to specified drawing configurations shall not require special identification. Articles rejected as unsuitable or scrap shall be plainly marked and controlled to prevent installation on the bus. Articles that become obsolete as a result of engineering changes or other actions shall be controlled to prevent unauthorized assembly or installation. Unusable articles shall be isolated and then scrapped. Discrepancies noted by the Contractor or resident inspectors during assembly shall be entered by the inspection personnel on a record that accompanies the major component, subassembly, assembly or bus from start of assembly through final inspection. Actions shall be taken to correct discrepancies or deficiencies in the manufacturing processes, procedures or other conditions that cause articles to be in nonconformity with the requirements of the Contract specifications. The inspection personnel shall verify the corrective actions and mark the discrepancy record. If discrepancies cannot be corrected by replacing the nonconforming materials, then the Agency shall approve the modification, repair or method of correction to the extent that the Contract specifications are affected.

- Quality assurance audits: The quality assurance organization shall establish and maintain a quality control audit program. Records of this program shall be subject to review by the Agency.

14. CLAIMS.

14.1. ASSUMPTION OF RISKS; CLAIMS BETWEEN THE PARTIES. Contractor assumes sole responsibility and all risks of personal injury or property damage to itself and its employees, and agents in connection with its operations under this Master Contract. For certainty, the Participants shall assume risk of loss of the bus on delivery. Prior to delivery, the Contractor shall have risk of loss of the bus. Neither Enterprise Services nor any Participant has made any representations regarding any factor affecting Contractor's risks. Contractor shall pay for all damage to any Participant's property resulting directly or indirectly from its acts or omissions under this Master Contract.

14.2. THIRD-PARTY CLAIMS; INDEMNITY. To the fullest extent permitted by law, Contractor shall defend, indemnify, and hold harmless Enterprise Services and any Participant and their employees and agents from and against all claims, demands, judgments, assessments, damages, penalties, fines, costs, liabilities or losses including, without limitation, sums paid in settlement of claims, attorneys' fees, consultant fees, and expert fees (collectively "claims") arising from any act or omission of Contractor or its successors, agents, and subcontractors under this Master Contract, except claims caused solely by Enterprise Services or any Participants' negligence. Contractor

shall take all steps needed to keep Participant's property free of liens arising from Contractor's activities, and promptly obtain or bond the release of any such liens that may be filed.

15. DISPUTE RESOLUTION.

15.1. DISPUTE PROCEDURE. The parties shall cooperate to resolve any dispute pertaining to this Master Contract efficiently, as timely as practicable, and at the lowest possible level with authority to resolve such dispute. If, however, a dispute persists and cannot be resolved, it may be escalated within each organization. In such situation, upon notice by either party, each party, within five (5) business days shall reduce its description of the dispute to writing and deliver it to the other party. The receiving party then shall have three (3) business days to review and respond in writing. In the event that the parties cannot then agree on a resolution of the dispute, the parties shall schedule a conference between the respective senior manager of each organization to attempt to resolve the dispute. In the event the parties cannot agree, either party may resort to court to resolve the dispute.

15.2. PERFORMANCE DURING DISPUTE. Unless otherwise directed by Enterprise Services, Contractor shall continue performance under this Master Contract while matters in dispute are being resolved.

16. SUSPENSION & TERMINATION.

16.1. SUSPENSION & TERMINATION FOR DEFAULT. Enterprise Services may suspend Contractor's operations under this Master Contract immediately by written cure notice of any default. In such case, the notice of suspension will state the time period in which cure is permitted and other appropriate conditions. Suspension shall continue until the default is remedied to Enterprise Services' reasonable satisfaction; *Provided*, however, that, if after thirty (30) days from such a suspension notice, Contractor remains in default, Enterprise Services may terminate Contractor's rights under this Master Contract. All of Contractor's obligations to Enterprise Services and Participants survive termination of Contractor's rights under this Master Contract, until such obligations have been fulfilled.

16.2. DEFAULT. Each of the following events shall constitute default of this Master Contract by Contractor:

(a) Contractor fails to perform or comply with any of the terms or conditions of this Master Contract including, but not limited to, Contractor's obligation to pay vendor management fees when due;

(b) Contractor breaches any representation or warranty provided herein; or

(c) Contractor enters into proceedings relating to bankruptcy, whether voluntary or involuntary.

16.3. REMEDIES FOR DEFAULT.

(a) Enterprise Services' rights to suspend and terminate Contractor's rights under this Master Contract are in addition to all other available remedies.

(b) In the event of termination for default, Enterprise Services may exercise any remedy provided by law including, without limitation, the right to procure for all Participants replacement goods and/or services. In such event, Contractor shall be liable to Enterprise Services for damages as authorized by law including, but not limited to, any price difference between the Master Contract price and the replacement or cover price.

16.4. LIMITATION ON DAMAGES. Notwithstanding any provision to the contrary, the parties agree that in no event shall any party or Participant be liable to the other for exemplary or punitive damages.

16.5. GOVERNMENTAL TERMINATION.

(a) Termination for Withdrawal of Authority. Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, Enterprise Services' procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract; *Provided*, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and *Provided further*, that such suspension or termination for withdrawal of authority shall not relieve any Participant from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Participant shall have any obligation or liability to Contractor.

(b) TERMINATION FOR CHANGE OF AUTHORITY. Enterprise Services may suspend or terminate this Master Contract if, during the term hereof, federal procurement authority is withdrawn, reduced, or limited such that Enterprise Services, in its judgment, would lack authority to enter into this Master Contract as a State Cooperative Purchasing Schedule under applicable federal law; Provided, however, that such suspension or termination for withdrawal of authority shall only be effective upon twenty (20) days prior written notice; and Provided further, that such suspension or termination for withdrawal of authority shall not relieve any Participant from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such suspension or termination for withdrawal of authority, neither Enterprise Services nor any Participant shall have any obligation or liability to Contractor.

(c) TERMINATION FOR PUBLIC CONVENIENCE. Enterprise Services, for public convenience, may terminate this Master Contract; *Provided*, however, that such termination for public convenience must, in Enterprise Services' judgment, be in the best interest of the State of Washington; and *Provided further*, that such termination for public convenience shall only be effective upon sixty (60) days prior written notice; and *Provided further*, that such termination for public convenience shall not relieve any Participant from payment for goods and/or services already ordered as of the effective date of such notice. Except as stated in this provision, in the event of such termination for public convenience, neither Enterprise Services nor any Participant shall have any obligation or liability to Contractor.

(d) PAYMENT UPON TERMINATION. In the event of termination for any reason under this Section 16, the Contractor shall be paid its costs, including contract close-out costs, and profit on work performed up to the time of termination.

16.6. TERMINATION PROCEDURE. Regardless of basis, in the event of suspension or termination (in full or in part), the parties shall cooperate to ensure an orderly and efficient suspension or termination. Accordingly, Contractor shall deliver to Participants all goods and/or services that are complete (or with approval from Enterprise Services, substantially complete) and Participants shall inspect, accept, and pay for the same in accordance with this Master Contract and the applicable

Purchase Order. Unless directed by Enterprise Services to the contrary, Contractor shall not process any orders after notice of suspension or termination inconsistent therewith.

17. FTA ROLE IN DISPUTES, BREACHES, DEFAULTS, OR OTHER LITIGATION.

17.1. FTA INTEREST. The U.S. Federal Transit Administration ("FTA") has a vested interest in the settlement of any violation of federal law, regulation, or requirement, or any disagreement involving the award, this Master Contract, and any amendments thereto including, but not limited to, a default, breach, major dispute, or litigation. Accordingly, FTA shall have the right to concur in such any settlement or compromise.

17.2. NOTIFICATION TO FTA. If a current or prospective legal matter that may affect the Federal Government emerges, Enterprise Services and Participant promptly shall notify the FTA Chief Counsel, or FTA Regional Counsel for the Region in which Enterprise Services and Participant are located.

1. The types of legal matters that require notification include, but are not limited to, a major dispute, breach, default, litigation, or naming the Federal Government as a party to litigation or a legal disagreement in any forum for any reason.

2. Matters that may affect the Federal Government include, but are not limited to, the Federal Government's interests in the award, this Master Contract, and any amendments thereto, or the Federal Government's administration or enforcement of federal laws, regulations, and requirements.

3. If Enterprise Services or Participant have credible evidence that a Principal, Official, Employee, Agent, or Third Party Participant of Enterprise Services or Participant, or other person has submitted a false claim under the False Claims Act, 31 U.S.C. § 3729 et seq., or has committed a criminal or civil violation of law pertaining to such matters as fraud, conflict of interest, bribery, gratuity, or similar misconduct involving federal assistance, Enterprise Services and Participant promptly shall notify the U.S. DOT Inspector General, in addition to the FTA Chief Counsel or Regional Counsel for the Region in which the Enterprise Services and Participant are located.

17.3. FEDERAL INTEREST IN RECOVERY. The Federal Government retains the right to a proportionate share of any proceeds recovered from any third party, based on the percentage of the federal share for this Master Contract.

18. GENERAL PROVISIONS.

18.1. TIME IS OF THE ESSENCE. Time is of the essence for each and every provision of this Master Contract.

18.2. COMPLIANCE WITH LAW. Contractor shall comply with all applicable law.

18.3. INTEGRATED AGREEMENT. This Master Contract constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations, representations, and understandings between them. There are no representations or understandings of any kind not set forth herein.

18.4. AMENDMENT OR MODIFICATION. Except as set forth herein, this Master Contract may not be amended or modified except in writing and signed by a duly authorized representative of each party.

18.5. AUTHORITY. Each party to this Master Contract, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter

into this Master Contract and that its execution, delivery, and performance of this Master Contract has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

18.6. NO AGENCY. The parties agree that no agency, partnership, or joint venture of any kind shall be or is intended to be created by or under this Master Contract. Neither party is an agent of the other party nor authorized to obligate it.

18.7. ASSIGNMENT. Contractor may not assign its rights under this Master Contract without Enterprise Services' prior written consent and Enterprise Services may consider any attempted assignment without such consent to be void; *Provided*, however, that, if Contractor provides written notice to Enterprise Services within thirty (30) days, Contractor may assign its rights under this Master Contract in full to any parent, subsidiary, or affiliate of Contractor that controls or is controlled by or under common control with Contractor, is merged or consolidated with Contractor, or purchases a majority or controlling interest in the ownership or assets of Contractor. Unless otherwise agreed, Contractor guarantees prompt performance of all obligations under this Master Contract notwithstanding any prior assignment of its rights.

18.8. BINDING EFFECT; SUCCESSORS & ASSIGNS. This Master Contract shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns.

18.9. PUBLIC INFORMATION. This Master Contract and all related documents are subject to public disclosure as required by Washington's Public Records Act, RCW chapter 42.56. The Purchase Order and all related documents are subject to the public disclosure requirements of the Participant's jurisdiction.

18.10. ASSIGNMENT OF ANTITRUST RIGHTS REGARDING PURCHASED GOODS/SERVICES. Contractor irrevocably assigns to Enterprise Services, on behalf of the State of Washington, or any applicable Participant any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws in connection with any Transit Buses provided in Washington for the purpose of carrying out the Contractor's obligations under this Master Contract, including, at Enterprise Services' option, the right to control any such litigation on such claim for relief or cause of action.

18.11. FEDERAL FUNDS. To the extent that any Participant uses federal funds to purchase goods and/or services pursuant to this Master Contract, such Participant shall specify, with its order, any applicable requirement or certification that must be satisfied by Contractor at the time the order is placed or upon delivery.

18.12. SEVERABILITY. If any provision of this Master Contract is held to be invalid or unenforceable, such provision shall not affect or invalidate the remainder of this Master Contract, and to this end the provisions of this Master Contract are declared to be severable. If such invalidity becomes known or apparent to the parties, the parties agree to negotiate promptly in good faith in an attempt to amend such provision as nearly as possible to be consistent with the intent of this Master Contract.

18.13. WAIVER. Failure of either party to insist upon the strict performance of any of the terms and conditions hereof, or failure to exercise any rights or remedies provided herein or by law, or to notify the other party in the event of breach, shall not release the other party of any of its obligations under this Master Contract, nor shall any purported oral modification or rescission of this Master Contract by either party operate as a waiver of any of the terms hereof. No waiver by either party of any breach, default, or violation of any term, warranty, representation,

contract, covenant, right, condition, or provision hereof shall constitute waiver of any subsequent breach, default, or violation of the same or other term, warranty, representation, contract, covenant, right, condition, or provision.

18.14. SURVIVAL. All representations, warranties, covenants, agreements, and indemnities set forth in or otherwise made pursuant to this Master Contract shall survive and remain in effect following the expiration or termination of this Master Contract, *Provided*, however, that nothing herein is intended to extend the survival beyond any applicable statute of limitations periods.

18.15. GOVERNING LAW. The validity, construction, performance, and enforcement of this Master Contract shall be governed by and construed in accordance with the laws of the State of Washington, without regard to its choice of law rules. The validity, construction, performance, and enforcement of Purchase Orders shall be governed by and construed in accordance with the laws of the Participant's jurisdiction.

18.16. JURISDICTION & VENUE. In the event that any action is brought to enforce any provision of this Master Contract, the parties agree to exclusive jurisdiction in Thurston County Superior Court for the State of Washington and agree that in any such action venue shall lie exclusively at Olympia, Washington. In the event that any action is brought to enforce any provision of a Purchase Order, the parties agree to submit to exclusive jurisdiction and venue in the Participant's jurisdiction.

18.17. ATTORNEYS' FEES. Should any legal action or proceeding be commenced by either party in order to enforce this Master Contract or any provision hereof, or in connection with any alleged dispute, breach, default, or misrepresentation in connection with any provision herein contained, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs incurred in connection with such action or proceeding, including costs of pursuing or defending any legal action, including, without limitation, any appeal, discovery, or negotiation and preparation of settlement arrangements, in addition to such other relief as may be granted.

18.18. FAIR CONSTRUCTION & INTERPRETATION. The provisions of this Master Contract shall be construed as a whole according to their common meaning and not strictly for or against any party and consistent with the provisions contained herein in order to achieve the objectives and purposes of this Master Contract. Each party hereto and its counsel has reviewed and revised this Master Contract and agrees that the normal rules of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be construed in the interpretation of this Master Contract. Each term and provision of this Master Contract to be performed by either party shall be construed to be both a covenant and a condition.

18.19. FURTHER ASSURANCES. In addition to the actions specifically mentioned in this Master Contract, the parties and any applicable Participant shall each do whatever may reasonably be necessary to accomplish the transactions contemplated in this Master Contract including, without limitation, executing any additional documents reasonably necessary to effectuate the provisions and purposes of this Master Contract.

18.20. EXHIBITS. All exhibits referred to herein are deemed to be incorporated in this Master Contract in their entirety.

18.21. CAPTIONS & HEADINGS. The captions and headings in this Master Contract are for convenience only and are not intended to, and shall not be construed to, limit, enlarge, or affect the scope or intent of this Master Contract nor the meaning of any provisions hereof.

18.22. ELECTRONIC SIGNATURES. A signed copy of this Master Contract or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Master Contract or such other ancillary agreement for all purposes.

18.23. COUNTERPARTS. This Master Contract may be executed in any number of counterparts, each of which shall be deemed an original and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Master Contract at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Master Contract.

EXECUTED as of the date and year first above written.

STATE OF WASHINGTON
Department of Enterprise Services

By: Elena McGrew
Elena McGrew
Its: Enterprise Procurement Manager

NEW FLYER OF AMERICA INC.,
a North Dakota corporation

By: Jennifer McNeill
Jennifer McNeill
Its: Vice President, Sales and Marketing

NEW FLYER OF AMERICA INC.,
a North Dakota corporation

By: Chris Stoddart
Chris Stoddart
Its: President, New Flyer

TRANSIT BUS COOPERATIVE PURCHASING AGREEMENT

BY AND BETWEEN THE STATE OF WASHINGTON ENTERPRISE SERVICES AND

THE CITY OF MONTEBELLO (AS "PURCHASER")

Pursuant to Washington law, Enterprise Services is authorized to

> ... Participate in, sponsor, conduct, or administer a cooperative purchasing agreement for the procurement of any goods or services with one or more states, state agencies, local governments, local government agencies, federal agencies, or tribes located in the state, in accordance with an agreement entered into between the participants. The cooperative purchasing may include, but is not limited to, joint or multiparty contracts between the entities, and master contracts or convenience contracts that are made available to other public agencies.

RCW 39.26.060(1). This broad delegation of authority by the State Legislature enables Enterprise Services, among other things, to leverage the state resources that we commit to providing innovative, cost-effective, and efficient solutions for Washingtonians to other governmental purchasing authorities.

Use of Enterprise Services' Master Contract, through this Cooperative Purchasing Agreement, is contingent upon the consent of the Enterprise Services. Upon execution of this Cooperative Purchasing Agreement, the under-signed entity is designated as an Authorized Purchaser ("Purchaser"), authorized to make purchases under Master Contract 06719. As stated in the attached *Competitive Procurement Certificate*, the Master Contract was competitively bid, evaluated, and awarded under the procurement laws of the State of Washington and meets Federal Transit Administration requirements for a State Cooperative Purchasing Contract under the FAST Act Sec. 3019. *See* RCW chapter 39.26 and Pub.L. 114-94. There are no pending protests or lawsuits pertaining to procurement or award of the Master Contract.

In accessing and utilizing the Master Contracts, pursuant to this Cooperative Purchasing Agreement, the parties agree as follows:

1. MASTER CONTRACT. Purchaser may make purchases from, access, and use the Transit Bus Master Contract #06719, consistent with the procurement law applicable to Purchaser and the terms of the Master Contract. The State of Washington makes no representation or warranty regarding Purchaser's governing law or whether this Master Contract is appropriate for Purchaser. That decision is up to Purchaser. In addition, the State of Washington makes no representation or warranty regarding whether the products and services available under this Master Contract is appropriate for Purchaser.

2. CONTRACT CONSENT. Consistent with Purchaser's procurement authority, Purchaser may propose and negotiate jurisdiction-specific terms with the applicable Contractor to meet Purchaser's needs, subject to agreement with the applicable Contractor. **Under no circumstances will Purchaser's jurisdiction-specific agreements change or modify the contract obligations between the State of Washington and the applicable Master Contract Contractor.** Upon execution of Purchaser's agreement with the Master Contract Contractor, Purchaser shall provide a copy of the same to Enterprise Services prior to making any purchases under the Master Contract.

3. ACCURATE PURCHASES. Purchaser shall make orders within the scope of the Master Contract. Any purchases outside of the scope of the Master Contract by Purchaser is a breach of this Cooperative Agreement for which Enterprise Services may void this agreement and any purchases by Purchaser under the Master Contract. Purchaser represent and warrant to use reasonable, good faith efforts to

assist the Contractor in obtaining and reporting to Enterprise Services, for purposes of the applicable Vendor Management Fee, accurate purchases under the Master Contract.

4. VENDOR MANAGEMENT FEE. The Vendor Management Fee set forth in the Master Contract shall be paid by the applicable Contractor to Enterprise Services on all applicable purchases. In no event shall Purchaser modify, waive, or terminate the Vendor Management Fee. Any such modification, waiver, or termination of the Vendor Management Fee shall be deemed a material breach of this Cooperative Purchasing Agreement and shall terminate the Agreement; and, in the event Purchaser modify, waive, or terminate the Vendor Management Fee Purchaser shall, by such act, agree to notify Enterprise Services of the same and to pay to Enterprise Services, within thirty (30) days, the equivalent of the otherwise applicable Vendor Management Fee.

5. AGREEMENT MANAGEMENT; NOTICES. The parties hereby designate the following individuals as the respective single points of contact for purposes of this Agreement. The parties may change such individuals by written notice as set forth below. Any notices required or desired shall be in writing and sent by U.S. mail, postage prepaid, or sent via email, and shall be sent to the respective addressee at the respective address or email address set forth below or to such other address or email address as the parties may specify in writing:

ENTERPRISE SERVICES	**CITY OF MONTEBELLO**
Attn: David Mgebroff Contracts & Procurement Division WA Dept. of Enterprise Services PO Box 41411 Olympia, WA 98504-1411 Tel: (360) 407-8049 Email: david.mgebroff@des.wa.gov	Attn: John Soria Transit Administration Manager Montebello Bus Lines 400 S. Taylor Ave Montebello, CA 90640 Tel: (323) 558-1625 Email: jsoria@cityofmontebello.com

Notices shall be deemed effective upon the earlier of receipt, if mailed, or, if emailed, upon transmission to the designated email address of said addressee.

6. COMMUNICATION. In the event Purchaser becomes aware of a significant contract performance issue pertaining to the Master Contract that, in Purchaser's reasonable judgment, could adversely impact the State of Washington, Purchaser shall communicate the same to Enterprise Services.

7. CONTRACTOR DISPUTES. Purchaser is responsible for resolving any disputes between Purchaser and the applicable Master Contract Contractor on their purchases. Purchaser shall notify Enterprise Services of any material dispute between Purchaser and the applicable Master Contract Contractor. Enterprise Services may assist Purchaser in resolving disputes with Master Contract Contractor(s).

8. HOLD HARMLESS. Other than those obligations expressly set forth in this Cooperative Purchasing Agreement, including the right of the State of Washington to the Vendor Management Fee, the parties shall have no liability whatsoever to each other with regard to transactions arising out of this Cooperative Purchasing Agreement or the Master Contract.

9. TERM. Upon execution, this Cooperative Purchasing Agreement shall continue for the term of the applicable Master Contract, as amended or extended; provided, however, that, upon notice to Enterprise Services, Purchaser may terminate Purchaser's participation in this Cooperative Purchasing Agreement at Purchaser's convenience upon Purchaser's termination of Purchaser's participation in the Master Contract.

10. TAXES/FEES. Unless otherwise agreed with Contractor, Purchaser shall pay applicable sales and use taxes imposed by the tax jurisdictions in which delivery occurs on purchased goods and/or

services. Contractor agrees not make any charge for federal excise taxes and Purchaser shall furnish Contractor with an exemption certificate where appropriate.

11. APPROVAL PROCESS. Purchaser shall submit to Enterprise Services purchase information for approval of purchases under the Master Contract. Enterprise Services shall include the respective state Department of Transportation for purchasing using FTA funds which require state DOT approval. Purchaser shall provide necessary purchase information for each purchase including but not limited to, the final purchase order, the use of FTA funding, FTA grant number, Department of Transportation contact for approval.

12. PURCHASER INFORMATION. Purchaser hereby designates the following contract administrator as the single point of contact for business activities under this Master Contract.

Purchaser Information	
Organization Name	City of Montebello Transportation Dept.
Tax Identification Number	95-6000746
State Business Identification Number (Required for Non-Profit entities)	
Contact Name	John Soria
Title	Transit Administration Manager
Address	400 S. Taylor Ave
City, State, Zip	Montebello, CA 90640
Phone Number	(323) 558 -1625
Email Address	jsoria@cityofmontebello.com

13. SCOPE OF PARTICIPATION. Purchaser shall provide Enterprise Services with Purchaser's estimates for purchases under the Master Contract. Purchaser shall provide updates on their estimated purchases if there is a material change in planned purchases under the Master Contract. The purchasing estimates are for Enterprise Services' planning purposes in managing and approving purchases on the Master Contract.

Category	Estimated Purchases
Heavy Duty	$5,355,000
Light/Medium Duty	
Double Decker	
Rebuilt	
Refurbish	
Repower	

GENERAL PROVISIONS

1. INTEGRATED AGREEMENT; MODIFICATION. This Agreement constitutes the entire agreement and understanding of the parties with respect to the subject matter and supersedes all prior negotiations and representations. This Agreement may not be modified except in writing signed by the parties.

2. AUTHORITY. Each party to this Agreement, and each individual signing on behalf of each party, hereby represents and warrants to the other that it has full power and authority to enter into this Agreement and that its execution, delivery, and performance of this Agreement has been fully authorized and approved, and that no further approvals or consents are required to bind such party.

3. ELECTRONIC SIGNATURES. A signed copy of this Agreement or any other ancillary agreement transmitted by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original executed copy of this Agreement or such other ancillary agreement for all purposes.

4. COUNTERPARTS. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, and all of which counterparts together shall constitute the same instrument which may be sufficiently evidenced by one counterpart. Execution of this Agreement at different times and places by the parties shall not affect the validity thereof so long as all the parties hereto execute a counterpart of this Agreement.

EFFECTIVE as of the day and date first above written.

STATE OF WASHINGTON
DEPARTMENT OF ENTERPRISE SERVICES

By: _____

Name: Jamie Rossman

Title: Assistant Director

Date: 8/17/2021

CITY OF MONTEBELLO
DEPARTMENT OF TRANSPORTATION

By: _____

Name: Young-Gi Kim Harabedian

Title: Director of Transportation

Date: 7/20/2021

STATE OF WASHINGTON

DEPARTMENT OF ENTERPRISE SERVICES

1500 Jefferson Street SE, Olympia, WA 98501

8/13/2021

Montebello Transportation Dept.
400 S. Taylor Ave
Montebello CA 90640

Dear John Soria:

This letter is in response to your request dated July 20 for authorization to purchase Transit Buses from DES Master Contract #06719. Your request is as follows:

DES Contract #	**Estimated Delivery Date**	**Contractor/Vendor Sales Rep**	**Agreement/FTA Grant Number**
06719	December, 2021	Daniel Trujillo, New Flyer	CA-2019-033
Quantity	**Bus Length (Feet)**	**Fuel Type**	**Delivery Location***
9	40	CNG	400 S. Taylor Ave Montebello CA 90640

The contract pricing established during the competitive bid process and the terms and conditions shall apply for this purchase. DES authorizes your organization to proceed in ordering the above referenced buses.

Thank you for your interest in doing business with the State of Washington. If you have any questions/concerns, please contact buspurchases@des.wa.gov.

Sincerely,

David Mgebroff,
Procurement Strategist
Contracts & Procurement Division
Washington State Department of Enterprise Services

DGS CALIFORNIA DEPARTMENT OF GENERAL SERVICES

Gary Ashcroft
New Flyer of America
Contract Administration
State and Regional Procurement Department
6200 Glenn Carlson Drive
St Cloud, MN 56301

RE: Washington State Contract #06719 July 6, 2021

Dear Mr. Ashcroft,

On Friday July 2, 2021 the California Department of General Services was granted approval from the State of Washington State Department of Enterprise Services that California has been granted the approval to utilize their Transit Buses Contract #06719.

This contract is valid from 4-1-21 until 3-31-23. Per Washington's agreement each agency utilizing the contract must include the following in the body of any Purchase Order or Contract.

The base pricing for these transit buses is based on the Washington State Department of Enterprise Services Contract #06719 with valid dates of 4-1-21 until 3-31-23

Per the contact at the State the Washington the state approval list will be updated by 8-1-21.

Gary, this letter represents our departments approval for any public transit agency to utilize the Washington State Department contract. If you have any additional questions please reach out to me.

Sincerely,

Erik Mondelez
Contract Administrator
Procurement Division – Contracts Management Unit
DGS General Service – State of California
Phone 916.376.7181
Email Erik.Modelz@dgs.ca.gov

FEDERAL REQUIREMENTS

1.1 Federal Funding, Incorporation of FTA Terms

The preceding provisions include, in part, certain standard terms and conditions required by the U.S. Department of Transportation ("DOT"), whether or not expressly set forth in the preceding contract provisions. All contractual provisions required by DOT, as set forth in Federal Transit Administration ("FTA") Circular 4220.1F or its successors are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA-mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this agreement. The CONTRACTOR shall not perform any act, fail to perform any act or refuse to comply with any AGENCY requests that would cause AGENCY to be in violation of the FTA terms and conditions.

1.2 Federal Changes

The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between AGENCY and FTA, as they may be amended or promulgated from time to time during the term of this Contract. CONTRACTOR'S failure to so comply shall constitute a material breach of this Contract.

1.3 No Government Obligation to Third Parties

The AGENCY and CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Contract, absent the express written consent by the Federal Government, the Federal Government is not a part to this Contract and shall not be subject to any obligations or liabilities to the AGENCY, CONTRACTOR, or any other party (whether or not a party to that Contract) pertaining to any matter resulting from the underlying Contract.

The CONTRACTOR agrees to include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA. It is further agreed that the clause shall not be modified, except to identify the Subcontractor who will be subject to its provisions.

1.4 Program Fraud and False or Fraudulent Statements or Related Acts

The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801, *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this project. Upon execution of the underlying Contract, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Contract of the FTA-assisted project for which this Contract work is being performed.

In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extend the Federal Government deems appropriate.

The CONTRACTOR also acknowledges that if it makes, or caused to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under a contract connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. § 5307, the Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5307(n)(1) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

The CONTRACTOR agrees to include the above two clauses in each sub-contract financed in whole or in part with Federal assistance provided by the FTA. It is further agreed that the clauses shall not be modified, except to identify the Sub-contractor who will be subject to the provisions.

1.5 Inspection and Retention of Records

The CONTRACTOR shall permit authorized representatives of the AGENCY, the FTA Administrator, and the Comptroller General of the United States to inspect and audit all data and records of the CONTRACTOR relating to its performance and its sub-contracts under this Contract from the date of the Contract through and until the expiration of three years after the date of termination or expiration of this Contract, except in the event of litigation or settlement of claims arising from the performance of this Contract, in which case CONTRACTOR agrees to maintain same until the AGENCY, the FTA Administrator, and the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto. The AGENCY retains ownership of all project documents and records maintained by the CONTRACTOR on behalf of the AGENCY.

1.6 Suspension and Debarment

This Contract is a covered transaction for purposes of 49 CFR Part 29. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals, as such defined at 49 CFR 29.995, or affiliates, as defined at 49 CFR 29.905, are excluded or disqualified as defined at 49 CFR 29.940 and 29.945.

The CONTRACTOR is required to comply with 49 CFR 29, Subpart C and must include this requirement to comply with 49 CFR 29, Subpart C in any lower tier covered transaction it enters into.

By signing and submitting its bid or proposal, the Bidder or Proposer certifies as follows:

The certification in this clause is **a** material representation of fact relied upon by the AGENCY. If it is later determined that the Bidder or Proposer knowingly rendered an erroneous certification, in addition to remedies available to the AGENCY, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The Bidder or Proposer agrees to comply with the requirements of 49 CFR 29, Subpart C while this offer is valid and throughout the period of any contract that may arise from this proposal. The Bidder or Proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.

1.7 Termination

Pursuant to the Contract, in the event that either Party hereto fails or refuses to perform any of the provisions of this Contract 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.

For any breach deemed by the non-defaulting party to constitute a material breach, the defaulting party is required to cure the breach within five (5) calendar days upon receipt of written notice. For any breach deemed by the non-defaulting party to constitute a non-material breach, the defaulting party is obligated to cure such breach within ten (10) calendar days upon receipt of written notice. However, if the nature of the non-material breach requires more than ten (10) days to cure, the defaulting party shall have thirty (30) days to diligently pursue and complete a cure.

In addition to any other available legal or equitable rights or remedies, if the default is not cured within the time periods described above, the non-defaulting party may terminate this Contract by giving written notice thereof to the defaulting party, setting forth the effective date thereof.

The AGENCY shall have the option, at its sole discretion and without cause, of terminating this Contract in whole, or in part, by giving ten (10) business days' written notice to CONTRACTOR. Upon the termination of this Contract as provided herein, the AGENCY 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 AGENCY, the Parties agree that CONTRACTOR shall be reimbursed for any "non-refundable" costs that CONTRACTOR has incurred for its services under this Contract, provided that: (1) such "non-refundable" costs were incurred by the CONTRACTOR prior to the date of termination, and (2) that CONTRACTOR provides the AGENCY 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 Contract. CONTRACTOR agrees to cease all work under this Contract on or before the effective date of any notice of termination. Pursuant to the Contract, all AGENCY data, documents, objects, materials or other tangible things shall be returned to the AGENCY upon the termination or expiration of this Contract.

1.8 Civil Rights Requirements

During the performance of this Contract, the CONTRACTOR agrees as follows:

1. Nondiscrimination - In accordance with Title VI of the Civil Rights Act, the CONTRACTOR agrees that it will not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability.

2. Equal Employment Opportunity - The following equal employment opportunity requirements apply to the underlying Contract:

   (a) Race, Color, Creed, National Origin, Sex - The CONTRACTOR agrees to take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or

termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(b) Age - The CONTRACTOR agrees to refrain from discrimination against present and prospective employees for reason of age.

(c) Disabilities - The CONTRACTOR agrees that it will comply with the requirements of U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities.

3. The CONTRACTOR also agrees to include these requirements in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

1.9 Disadvantaged Business Enterprise *(DBE)*

1. AGENCY Assurance: AGENCY shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any U.S. Department of Transportation (DOT)-assisted contract, or in the administration of its DBE Program.
AGENCY shall take all necessary and reasonable steps under Part 26, Title 49 of the Code of Federal Regulations (CFR), to ensure nondiscrimination in the award and administration of DOT-assisted contracts. AGENCY'S DBE Program, as required by 49 CFR Part 26, and as approved by DOT, is incorporated by reference in this Contract. Implementation of this DBE Program is a legal obligation and failure to carry out its terms shall be treated as a violation of this Contract. Upon notification to AGENCY of its failure to carry out its approved program, the DOT and/or the Federal Transit Administration (FTA) may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. § 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. §§ 3801 *et seq.).*

2. Annual Overall Goal: In accordance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs," the AGENCY is required to establish an annual overall goal for the participation of DBEs in all contracts utilizing federal financial assistance. For the current fiscal year, the AGENCY has established a DBE participation goal of five percent (5%).

   AGENCY'S annual overall goal represents the amount of ready, willing, and able DBEs that are identified as available to participate in contracting opportunities, and is reflective of the amount of DBE participation AGENCY would expect absent the effects of discrimination.

3. Contract Goals: AGENCY intends to meet its goal to the maximum extent feasible through race-neutral measures, including the encouragement of DBE participation on contracts which have no specific DBE goal. Where race-neutral measures are inadequate to meet the annual overall goal, AGENCY will establish specific contract goals for particular projects with subcontracting opportunities.

   There is no DBE project goal established for this project. At this time AGENCY will meet DBE goal on federally assisted projects through race neutral measures. AGENCY supports the use of race neutral measures to facilitate participation by DBEs and other

small businesses, and encourages prime contractors to subcontract portions of their work that might otherwise perform with their own forces.

4. Good Faith Efforts: If a specific DBE participation goal is identified in the above Section 5.9.3, a proposer must demonstrate that it can meet this specified goal in the performance of this Contract in order for the proposal to be determined a responsive proposal. If a proposer cannot meet the specified goal, the proposer must demonstrate that it performed sufficient good faith efforts to meet the goal. A proposer who is not responsive shall be ineligible for award of contract.

Determination of Good Faith Efforts: If the amount of DBE participation does not meet the Contract-specific goal, the DBE Officer shall review the good faith effort report submitted by the proposer. The DBE Officer shall determine whether the proposer has performed the quality, quantity, and intensity of efforts that demonstrates a reasonably active and aggressive attempt to meet the Contract-specific goal.

The kinds of effort that will be considered demonstrative of "Good Faith Efforts" include, but are not limited to, the following: Whether the CONTRACTOR solicited through all reasonable and available means (e.g., attendance at pre-proposal meetings, advertising and/or written notices) the interest of all certified ***DBEs*** who have the capability to perform the work; whether the CONTRACTOR solicited interest within sufficient time to allow the DBEs to respond and, if appropriate steps were taken, to follow-up with interested DBEs; whether the CONTRACTOR selected portions of work to be performed by DBEs and, where appropriate, broke-out contract work items into economically feasible units to facilitate DBE participation even when the CONTRACTOR might otherwise prefer to perform these work items with its own forces; whether the CONTRACTOR negotiated in good faith with interested DBEs (evidence includes names, addresses, and phone numbers; description of information provided regarding plans and specifications; and evidence as to why additional agreements could not be reached); whether the CONTRACTOR made efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services; whether the CONTRACTOR made efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance; whether the CONTRACTOR effectively used the services of available minority/women community organizations, contractors' groups, or other organizations to provide assistance; and whether other proposers on the procurement met the DBE goal.

Proposer's Right to Administrative Reconsideration: In the event that the DBE Officer determines that the responsible proposer has not met the Contract-specific goal, and has not demonstrated good faith efforts, the DBE Officer will notify the proposer in writing. The notification shall explain the basis and include the reasons for the determination, and shall inform the proposer of its right to submit further written documentation or appear before the Reconsideration Official prior to the time that a recommendation for award of contract is presented to the City Council. (The Reconsideration Official is a CITY representative who did not take part in the original determination.) After reconsideration, AGENCY shall provide the proposer with a written decision. The result of the reconsideration process is not appealable by the proposer.

In the event that the Reconsideration Official finds that the proposer has not met the Contract goal or demonstrated good faith efforts, AGENCY will deem said proposer not responsible and evaluate the proposer submitting the next proposal.

5. CONTRACTOR Compliance with AGENCY DBE Policy: It is the policy of AGENCY to ensure nondiscrimination in the award and administration of DOT-assisted contracts and to create a level playing field on which DBEs can compete fairly for contracts and subcontracts relating to AGENCY'S construction, procurement, and professional services activities. To this end, AGENCY has developed procedures to remove barriers to DBE participation in the proposal and award process and to assist DBEs to develop and compete successfully outside of the DBE program.

   In connection with the performance of this Contract, the CONTRACTOR will cooperate with AGENCY in meeting these commitments and objectives.

6. Required Proposal/Proposal Submittals: The CONTRACTOR shall submit with its Proposal the name and address of each Sub-contractor it intends to employ, a description of the work which the Sub-contractor is to do, the dollar amount of each Sub-contractor contract, and such other information as may be required in order that AGENCY'S approval may be obtained as to reliability and ability to perform the work **(Bidders List of Participating Firms).**

   In addition, proposer shall submit within five (5) days of proposal opening the names and addresses of all DBE firms that will participate in the Contract; a description of the work that each DBE will perform; the dollar amount of the participation of each DBE firm; written documentation of commitment to use DBE Subcontractors whose participation the CONTRACTOR submits to meet the Contract goal; and written confirmation from the DBE that it is participating in the Contract as provided in the CONTRACTOR's commitment. **(Statement of Disadvantaged Business Enterprise Participation)**

   AGENCY shall require that any DBEs listed by proposers for participation in the Contract be certified as eligible DBEs. AGENCY will accept current certifications by the DOT and its agencies, the Small Business Administration, or other DOT federal financial assistance recipients, as appropriate. **Within five (5) days of proposal opening, DBEs with current certification must attach a copy of their current Letter of Certification and a copy of their *current* Statement of Personal Net Worth.**

   AGENCY will require any firm listed, but not currently certified as a DBE, to submit the proper certification information within five (5) days of proposal opening in order to be included in the proposer's DBE achievement.

   CONTRACTOR Assurance: Pursuant to 49 CFR Part 26, the CONTRACTOR is required to make the following assurance in its agreement with AGENCY and to include this assurance in any agreements it makes with subcontractors in the performance of this Contract:

   "The CONTRACTOR or Sub-contractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The CONTRACTOR shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the CONTRACTOR or Subcontractor to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy, as AGENCY deems appropriate."

8. Prompt Payment to Subcontractors: The CONTRACTOR must pay Subcontractors for satisfactory performance of their contracts no later than 15 days from the receipt of payment made to the CONTRACTOR by AGENCY. Prompt return of retainage payments from the CONTRACTOR to the Subcontractor will be made within 15 days after the Subcontractor's work is satisfactorily completed.

Any delay or postponement of payment among the parties may take place only for good cause and with AGENCY'S prior written approval. If the CONTRACTOR determines the work of the Subcontractor to be unsatisfactory, it must notify AGENCY'S DBE Officer immediately in writing and state the reasons. Failure by the CONTRACTOR to comply with this requirement will be construed to be a breach of contract and subject to contract termination.

Reports of Payment to DBE Sub-contractors: The DBE Officer will monitor the amount actually paid by the CONTRACTOR to Subcontractors, and will require the CONTRACTOR to provide monthly reports of payments to DBEs. A letter will be sent to the DBE Subcontractors to verify the dollar amount.

The amount awarded to the DBE, the amount paid to the DBE as stated by the CONTRACTOR, and the amount paid to the DBE as verified by the DBE, will be reported to the Federal Transit Administration (FTA).

10. Contract Change or Amendment: When a contract change or amendment is made, the CONTRACTOR will submit a statement to the DBE Officer regarding how the change may affect DBE subcontracting.

11. Reporting DBE Participation: The CONTRACTOR is required to report all **DBE** participation on their contract whether or not the contract contains a specified DBE goal. The CONTRACTOR is not to count participation of a DBE Subcontractor until the amount being counted has been paid to the DBE.

12. Counting DBE Participation toward the Contract Goal: Only the work actually performed by a **DBE** will be counted towards the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the CONTRACTOR or its affiliate) may also be counted.

Commercially Useful Function: Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. Expenditures may only be counted if the DBE is performing a commercially useful function. A DBE should perform at least 30 percent of the total cost of its contract with its own work force. Decisions on commercially useful function are subject to review by the FTA, but are not administratively appealable to DOT.

If materials or supplies are obtained from a DBE manufacturer, 100 percent of the cost will be counted. If the materials and supplies are purchased from a DBE regular dealer, 60 percent of the cost will be counted.

13. DBE Replacement: The CONTRACTOR must make a good faith effort to replace a defaulting DBE Subcontractor with another certified DBE. The CONTRACTOR must immediately notify the DBE Officer of the DBE's inability to perform, and provide reasonable documentation. The CONTRACTOR must receive prior written approval on

the substitute DBE from AGENCY. The CONTRACTOR will provide copies of new or amended subcontracts and copies of the substitute DBE's current Letter of Certification and current Statement of Personal Net Worth.

If the CONTRACTOR proposes to replace a DBE Subcontractor with a non-DBE, sufficient good faith efforts documentation must be provided. If the CONTRACTOR fails or refuses to comply in the time specified, AGENCY will issue an order stopping all, or part of, payment/work until satisfactory action has been taken. If the CONTRACTOR still fails to comply, AGENCY may issue a termination for default proceeding.

14. Evaluation of Proposals with DBE Goals: After the proposal opening, or submission of proposals, the DBE Officer shall evaluate all proposals with regard to the DBE requirements to determine a recommendation for award of contract. The responsible proposer, who also meets the Contract-specific goal or demonstrates good faith efforts, shall be recommended for contract award. In the event that the proposer does not meet the Contract-specific goal or demonstrate good faith efforts, the DBE Officer shall evaluate the next proposal.

1.10 Buy America

The Buy America requirement provides that federal funds may not be obligated for mass transportation projects unless steel, cement, and manufactured products used in such projects are produced in the United States. The requirement will not apply in the following four cases:

A. When its application is against the public interest (as decided by the FTA Administration on a case-by-case basis).

When the required materials and products are not produced in the U.S. in sufficient quantities and of satisfactory quality.

C. When, in the procurement of buses and other rolling stock, the cost of the components which are produced in the U.S. is more than 60 percent of the cost of all components of the vehicle or equipment, and if the final assembly takes place in the U.S.

D. When the inclusion of domestic material will increase the over-all cost of the project Contract by more than 10 percent in the case of projects for the acquisition of buses and rolling stocks; and 25 percent in the case of all other projects.

The CONTRACTOR, who seeks to establish grounds for an exception, must seek the exception, in writing, to the Purchasing Manager at least fifteen (15) days prior to proposal opening.

When a petition for investigation has been filed with FTA before award, the AGENCY reserves the right to not make an award prior to the resolution of the investigation by FTA and when a request for investigation has been filed with FTA before the opening of proposals, the AGENCY reserves the right to not open proposals prior to the resolution of the investigation by FTA.

The CONTRACTOR and all Sub-contractor with contracts of $100,000 or more are required to certify compliance or non-compliance with this provision by submitting the attached **"Buy America Certificate",** with the proposal.

1.11 Remedies/Sanctions for Breach of Contract

Pursuant to the Contract, the AGENCY may terminate the Contract if the successful Proposer breaches the terms or violates the conditions of the Contract, and does not cure such breach or violation within the specified time period. The successful Proposer shall be liable for any and all costs incurred by AGENCY as a result of such default, including but not limited to re-procurement costs of the same or similar services defaulted by the successful Proposer under this Contract [49CFR 18.36(i)(2)1

1.12 Federal Prohibited Interest

No member of or delegate to the Congress of the United States shall be admitted to any share or part of this Contract or to any benefit arising therefrom {FTA Grant Agreement, Part II, Sec. 114 ([11])}.

1.13 Lobbying

CONTRACTORS who apply or bid for an award of $100,000 or more shall file the certification required by 49 C.F.R. Part 20, **"New Restrictions on Lobbying."** Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal contract, grant or award covered by 31 U.S.C. 1352. Such disclosures are forwarded from tier to tier up to the recipient.

If the successful offeror, and/or primary Sub-contractor, did engage in lobbying activities, then OMB Standard Form LLL "Disclosure of Lobbying Activities" must also be completed and submitted to AGENCY. Form is available upon request.

1.14 Clean Air Requirements

The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 *et seq.* The CONTRACTOR agrees to report each violation to the AGENCY and understands and agrees that the AGENCY will, in turn, report each violation as required to assure notification to FTA and the appropriate EPA Regional Office.

The CONTRACTOR also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

1.15 Clean Water Requirements

The CONTRACTOR agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 *et seq.* The CONTRACTOR agrees to report each violation to the AGENCY and understands and agrees that the AGENCY will, in turn, report each violation as required to assure notification **to** FTA and the appropriate EPA Regional Office.

The CONTRACTOR also agrees to include these requirements in each subcontract exceeding $100,000 financed in whole or in part with Federal assistance provided by FTA.

1.16 Cargo Preference

The CONTRACTOR agrees to the following clauses for the purchase of equipment, materials or commodities that may be transported by ocean vessel in carrying out the project:

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

B. To furnish within 20 working days following the date of loading for shipments originating within the United States, or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, "on-board" commercial ocean bill-of-lading in English for each shipment of cargo described in the preceding paragraph to the Division of National Cargo, Office of Market Development, Maritime Administration, Washington, DC 20590, and to AGENCY (through the CONTRACTOR in the case of a Sub-contractor's bill-of-lading).

C. To include these requirements in all sub-contracts issued pursuant to this Contract.

1.17 Fly America Requirements

The CONTRACTOR agrees to comply with 49 U.S.C. § 40118 (the "Fly America" Act) in accordance with the General Services Administration's regulations at 41 CFR Part 301-10, which provide that recipients and subrecipients of Federal funds and their contractors are required to use U.S. Flag air carriers for U.S Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements. The CONTRACTOR agrees to include the requirements of this section in all subcontracts that may involve international air transportation.

1.18 State Labor Provisions/ Labor Compliance/ Contract Work Hours and Safety Standards Act

1. Prevailing Wage Rates: Attention is directed to the requirement that no less than the Prevailing Wage Rates shall be paid on this project. Certified Payrolls on AGENCY-approved State forms are required for all workmen. Rates of pay will be current State of California, as shown in the "General Prevailing Wage Rate" Manual as determined by the State Director of Industrial Relations.

   CONTRACTOR agrees to abide by the provisions of the State Labor Code, and to comply with the prevailing rates of wages and apprenticeship employment standards established by the State Director of Industrial Relations. FTA Grant Agreements, part II, section 119 (a).

Pursuant to the provisions of Section 1770 of the California Labor Code of the State of California, not less than the general prevailing rate of wages (which rate includes employer payments for health and welfare, vacation, pension and similar purposes) applicable to the work to be done, shall be maintained at all times during the course of the Contract. These rates are made a part of this Contract by reference. The CONTRACTOR shall comply with Section 177.5 of the Labor Code of State of California for all apprentice-able occupations.

2. Labor Compliance. It is the policy of AGENCY that all CONTRACTORS and Sub-contractors engaged in public works construction shall adhere to applicable laws and regulations. In accordance with this policy, for the duration of this Contract, AGENCY shall institute a labor compliance program to monitor compliance. The .CONTRACTOR shall cooperate fully with Labor Compliance monitoring efforts and the representatives engaged in this effort.

Because this project is subject to the provisions of State and Federal law governing public works contracts, all pertinent statutes and regulations are hereby incorporated by reference into this document as if set forth in their entirety, including Copeland Anti-Kickback Act requirements of 29 CFR part 3, Davis-Bacon and Related Act requirements of 29 CFR parts 1, 3, and 5, and Contract Work Hours and Safety Standards Act requirements of Section 107, 40 U.S.C. § 333 and 29 CFR part 1926. CONTRACTORS and Sub-contractors by entering into, or performing work under, this project agree to comply with all provisions of the law that apply to public works. It is the responsibility of the CONTRACTOR to obtain and adhere to the latest edition of the statutes and regulations **including, but not limited to, the following:**

A. **Apprentices -** All apprentices employed on this project shall be bona fide apprentices registered with the State of California, Division of Apprenticeship Standards.

B. **Certified Payroll -** All CONTRACTORS shall submit weekly certified payroll records for all laborers and mechanics furnishing labor to the project not later than ten calendar days after the closed payroll period.

Payment Of The Prevailing Wage - The CONTRACTOR and all Sub-contractors under him shall pay not less than the specified prevailing wage rate to all workmen employed in the execution of the contract.

Working Hours - The CONTRACTOR shall pay workers employed on the Contract not less than the appropriately specified straight time and overtime prevailing wages for all hours worked.

E. **Employee Interviews -** AGENCY, through its representatives, will conduct weekly on-site interviews of workers employed on the Contract. The interviews shall be conducted without the interference or obstruction of the CONTRACTOR. No worker who is interviewed is to be threatened, coerced, or intimidated.

Violations: AGENCY will take cognizance of violations of the prevailing wage and public works laws committed during the course of this Contract. Such evidence of violation may result in the assessment of penalties and forfeitures to the fullest extent allowed by law

until compliance has been strictly effectuated. AGENCY may suspend or terminate a contract, or debar a CONTRACTOR from future contracts, for breach of the Labor Compliance Requirements.

4. Contract Work Hours and Safety Standards Act

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

Violation; liability for unpaid wages; liquidated damages - In the event of any violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5, the CONTRACTOR and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, such CONTRACTOR and subcontractor shall be liable to the United States for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5 in the sum of $10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in subparagraph (b) (1) of 29 CFR Section 5.5.

C. Withholding for unpaid wages and liquidated damages — AGENCY shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the CONTRACTOR or subcontractor under any such contract or any other Federal contract with the same prime CONTRACTOR, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime CONTRACTOR, such sums as may be determined to be necessary to satisfy any liabilities of such CONTRACTOR or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in subparagraph (b) (2) of 29 CFR Section 5.5.

D. Subcontracts - The CONTRACTOR or subcontractor shall insert in any subcontracts the clauses set forth in this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime CONTRACTOR shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in this section.

E. Payrolls and basic records - (i) Payrolls and basic records relating thereto shall be maintained by the CONTRACTOR during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work (or under the United States Housing Act of 1937, or under the Housing Act of 1949, in the construction or development of the project). Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide

fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the CONTRACTOR shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. CONTRACTORS employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

1.19 Seismic Safety

The CONTRACTOR agrees that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in Department of Transportation Seismic Safety Regulations 49 CFR Part 41 and will certify to compliance to the extent required by the regulation. The CONTRACTOR also agrees to ensure that all work performed under this Contract including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the project.

1.20 Safety and Health Regulation

The CONTRACTOR agrees to comply with Section 107 of the Contract Work Hours and Safety Standards Act, 40 U.S.C. § 333, and applicable U.S. Department of Labor regulations, "Safety and Health Regulations for Construction" 29 C.F.R. Part 1926. Among other things, the CONTRACTOR agrees that it will not require any laborer or mechanic to work in unsanitary, hazardous, or dangerous surroundings or working conditions. The CONTRACTOR also agrees to include the requirements of this section in each subcontract.

1.21 Federal Energy Conservation Requirements

The CONTRACTOR agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

1.22 Recycled Products

The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act (RCRA), as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 CFR Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 CFR Part 247.

The CONTRACTOR also agrees to include these requirements in each sub-contract.

5.23 Access Requirements for Individuals with Disabilities

The Prime CONTRACTOR and all Sub-contractors on this project are required to comply with all applicable requirements of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12101 *et seq.;* section 504 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 794; section 16 of the Federal Transit Act, as amended, 49 U.S.C.A. § 1612; and the following regulations and any amendments thereto:

A. U.S. DOT regulations, "Transportation Services for Individuals with Disabilities (ADA)," 49 C.F.R. Part 37;

B. U.S. DOT regulations, "Nondiscrimination on the Basis of Handicap in Programs and Activities Receiving or Benefiting from Federal Financial Assistance," 49 C.F.R. Part 27;

C. U.S. DOT regulations, "Americans with Disabilities (ADA) Accessibility Specifications for Transportation Vehicles," 49 C.F.R. Part 38;

D. Department of Justice (DOJ) regulations, "Nondiscrimination on the Basis of Disability in State and Local Government Services," 28 C.F.R. Part 35;

E. DOJ regulations, "Nondiscrimination on the Basis of Disability by Public Accommodations and in Commercial Facilities," 28 C.F.R. Part 36;

F. General Services Administration regulations, "Accommodations for the Physically Handicapped," 41 C.F.R. Subpart 101-19.

G. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630;

H. Federal Communications Commission regulations, "Telecommunications Relay Services and Related Customer Premises Equipment for the Hearing and Speech Disabled," 47 C.F.R. Part 64, Subpart F; and

I. FTA regulations, "Transportation for Elderly and Handicapped Persons," 49 C.F.R. Part 609.

1.24 Privacy Act

The CONTRACTOR agrees to comply with, and assures the compliance of its employees with, the information restrictions and other applicable requirements of the Privacy Act of 1974, 5 U.S.C. § 552a.

The CONTRACTOR also agrees to include these requirements in each sub-

contract.

1.25 Prohibited Interest

No Council member, officer, or employee of the AGENCY or of a local Public Body during his/her tenure or for one year thereafter shall have any interest, direct or indirect, in this contract or the

proceeds thereof. If any such interest comes to the knowledge of any party at any time, a full and complete disclosure of all such information will be made in writing to the other parties, even if such interest would not be considered a conflict of interest under Article 4 of Chapter 1 of Division 4 of Title 1 (Sections 1090-1097) of the Government code of the State of California.

5.26 Drug-Free Workplace

The CONTRACTOR, and all Sub-contractors, must certify that they have a drug-free workplace and comply with Government Code Section 8355 **(Certification of Drug-Free Workplace).**

ATTACHMENT D



Montebello BUS LINES

Montebello Bus Lines

Purchase of Nine (9) Heavy Duty CNG Transit Buses

NEW FLYER OF AMERICA

September 3, 2021

Mr. Jon Soria
Fleet Manager
Montebello Bus Lines
California

Subject: Quotation for 40-foot Heavy-Duty CNG Transit bus

Dear Mr. Soria,

New Flyer is pleased to update the March 2021 submitted option price quotation for the production of eight (8) to nine (9) 40-foot Heavy-Duty CNG Transit buses.

The proposed buses will be technically configured as per most recent SR-2524.

The price for nine (9) buses is **$571,238/bus**.

We want to take this opportunity to highlight key elements of our proposal:

Warranty: New Flyer exceeds industry standard warranties in many areas such as 5 year / 300.000 miles warranty for axle and our multiplex warranty is 3 years/150,000 miles. Please refer to the attached Warranty Document of our proposal for information regarding the warranty included in the base bus price. The above-mentioned bus price includes 5-year extended warranty for Engine and transmission, and 3-year extended warranty on HVAC.

Training: New Flyer Training is an organization within the New Flyer Customer Services group – a division of New Flyer Industries. Please refer to the attached Training Document of our proposal for our training proposal details and pricing. Priced outside the bus price.

Publications: Our New Flyer Publications professionals combine extensive, hands-on technical experience with exceptional writing, illustrating and publishing skills to create the industry's benchmark in maintenance manuals. Please refer to the attached Publications Document of our proposal for details. Base bus price includes publication as per attached.

Tooling and Diagnostics: Please refer to the attached Tooling and Diagnostics Document of our proposal for pricing. Priced outside the bus price.

Delivery Proposal: New Flyer is proposing delivery of the buses in Q4 2021.

This is a very important project to us as it allows us the opportunity to create a strong relationship with Montebello Bus Lines. It also affords us the opportunity to deliver to you, some of the most advanced vehiclesavailable in North America. We thank you for your interest in New Flyer products and look forward to working with you in the near future.

Please contact Cameron Huber, Business Segment Director at Cameron_Huber@newflyer.com with any questions.

Sincerely,

Cameron Huber

CAMERON HUBER, P.Eng

Business Segment Director

C 204.583.2333
Cameron_Huber@newflyer.com

New Flyer | MCI

Built to RELY ON®

CONTRACT DELIVERABLES LIST	Warranty
CUSTOMER NAME	Montebello
BUS MODEL	XN40
QUANTITY	9

MAJOR COMPONENT DESCRIPTION	BASE AND EXTENDED WARRANTY		COMMENTS
	PROVIDER	YEARS	
Base Bus Warranty	New Flyer of America	2	Excluding scheduled maintenance items, acts of nature, or normal consumables
Basic Bus Structure	New Flyer of America	3	Body, and body structure shall consist of the components that are bolted or riveted to the structure, such as, exterior panels, interior panels, roof, ceiling, and driver's barrier.
Chassis Structure (Integrity)	New Flyer of America	12	Consists of all components that are welded together to form the main frame (skeleton) and body construction. The structural integrity guarantee covers against a significant loss of structural integrity of the assembly or its functional performance due to non corrosion related failures.
Chassis Structure (Corrosion)	New Flyer of America	12	Consists of all components that are welded together to form the main frame (skeleton) and body construction. The corrosion guarantee covers against a significant loss of structural integrity of the assembly or its functional performance, resulting from a pertinent loss of cross-section due to corrosion caused by normal environmental elements but excludes corrosion caused by aggressive road de-icers such as Magnesium Chloride or equivalents, unless New Flyer approved preventative measures are taken. The warranty shall be void if the Agency fails to conduct corrosion inspections and scheduled preventive maintenance procedures as specified in the Contractor's maintenance manuals. The Agency shall maintain documentation, auditable by the Contractor, verifying service activities in conformance with the Contractor's maintenance manuals.
Engine	Cummins	5	All repairs/warranty claims need to be handled through the local authorized repair facility. When the 3 year extended warranty is purchased (5 years total) the following applies: Two Year Base (Full Coverage), years 3,4 & 5 covers components only as per manufacturer's warranty document.
Transmission	Allison	5	All repairs/warranty claims need to be handled through the local authorized repair facility. When the 3 year extended warranty is purchased (5 years total) the following applies: Two Year Base (Full Coverage), years 3,4 & 5 covers components only as per manufacturer's warranty document.
Axle (Front and Rear)	MAN	5	Excluding maintenance items & items that are not covered by the OEM's warranty. All friction materials are excluded from this limited warranty. Wear and third party items supplied with the axle (e.g. slack adjuster, seals and bearings, shocks, air bellows, radius rods, brake chambers) are not included in the 5 year warranty. Please see manufacturer's warranty document.
A/C	MCC	3	Some limitations and exclusions may apply - Please see manufacturer's warranty document. All repairs/warranty claims need to be handled through the local authorized repair facility.
Brake System	New Flyer of America	2	Friction Material Excluded
Destination Signs	AESYS	6	Some limitations and exclusions may apply - Please see manufacturer's warranty document. All repairs/warranty claims need to be handled through the local authorized repair facility.
Door Systems	Vapor	3	Excluding maintenance items & items that are not covered by the OEM's warranty
Air Compressor	Cummins	2	
Wheelchair Ramp	New Flyer of America	2	
Electrical System	Parker	3	Excluding maintenance items & items that are not covered by the OEM's warranty
LED Headlights	J.W.Speaker	6	Warranty covers parts only after 1st year.
Paint	Axalta	5	
Air Dryer	Bendix	2	
Alternator	EMP	2	
Charge Air Cooler	EMP	3	
Fire Suppression System	Amerex	3	Some limitations and exclusions may apply - Please see manufacturer's warranty document.
Hydraulic System	New Flyer of America	2	
Starter	New Flyer of America	2	
Towing	New Flyer of America	2	
Emission Control System	Cummins	5	Some limitations and exclusions may apply - Please see manufacturer's warranty document. All repairs/warranty claims need to be handled through the local authorized repair facility.
Power Steering System	New Flyer of America	2	
Radiator Fan Drive	EMP	3	
Tires	New Flyer of America	2	New Flyer Industries Limited warrants the tires installed as original equipment on this vehicle only against defects in materials and workmanship which cause the vehicle to fail to comply with applicable U.S. and Canadian greenhouse gas emission limits ("Warrantable Emissions Failures"). This vehicle emissions limited express warranty relating to original equipment tires is valid for two (2) years or 24,000 miles whichever occurs first.
Emissions-Related Warranty (Idle Reduction Systems)	New Flyer of America	5	Emissions-related warranty on Neutral-Idle or Start/Stop idle reduction systems, as defined by the U.S. EPA (not including Allison Standard FuelSense 2.0, Restricted Neutral-at-Stop (NAS), and "Auto-Neutral" functions)

Training Proposal

CONTRACT DELIVERABLES LIST	CUSTOMER TRAINING
CUSTOMER NAME	Montebello
BID/OPTION/SR NUMBER	2021-025
BUS MODEL	XN40
QUANTITY	9

New Flyer Supplied Training

DESCRIPTION	COMMENTS	QTY HRS.	TOTAL SELLING PRICE AT BID	REQUIREMENT	BILLABLE: Y/N
Operator Orientation		4	$986.85	Recommended	Y
Maintenance Orientation		4	$986.85	Recommended	Y
Multiplex System		24	$5,921.10	Recommended	Y
Entrance & Exit Doors w CLASS		8	$1,973.70	Recommended	Y
Wheelchair Ramp		4	$986.85	Recommended	Y
Brake Systems and Axles		16	$3,947.40	Recommended	Y
Air System and ABS		8	$1,973.70	Recommended	Y
Suspension and Steering		8	$1,973.70	Recommended	Y
Electric Fan Drive		4	$986.85	Recommended	Y
Coolant Loop Fill Procedure		4	$986.85	Recommended	Y
Towing		4	$986.85	Recommended	Y
Body and Structure		4	$986.85	Recommended	Y
CNG Fuel System		8	$1,973.70	Recommended	Y

OEM/Subcontractor Supplied Training

DESCRIPTION	COMMENTS	QTY HRS.	TOTAL SELLING PRICE AT BID	REQUIREMENT	BILLABLE: Y/N
Engine Maintenance		16	$7,020.00	Recommended	Y
Transmission Maintenance		16	$7,020.00	Recommended	Y
HVAC Maintenance		8	$4,050.00	Recommended	Y
Fire Suppression/Gas Detection		8	$2,700.00	Recommended	Y
Destination Sign		8	$2,700.00	Recommended	Y

Publications Proposal

CONTRACT DELIVERABLES SHEET		PUBLICATIONS
PRIMARY CUSTOMER NAME		Montebello
PUBLICATIONS CUSTOMER NAME		City of Montebello
BUS MODEL		XN40
QUANTITY		9

New Flyer Bus Publications

DESCRIPTION	QTY	CUSTOMER DELIVERY
Emergency Responder Guide (8.5x11 laminated paper)	9	With First Pilot Bus Delivery
Operator's Guide	9	With First Pilot Bus Delivery
Parts Manual	2	Within 30 Days AFTER Last Bus Delivery
Service Manual	2	Within 30 Days AFTER Last Bus Delivery
Vehicle System Drawings Manual (11x17 3-hole regular paper)	2	Within 30 Days AFTER Last Bus Delivery
Parts Manual Listing	1	Within 30 Days AFTER Last Bus Delivery
TIV USB	2	Within 30 Days AFTER Last Bus Delivery

OEM Supplier Publications

DESCRIPTION	QTY	CUSTOMER DELIVERY
Cummins L9N (CM2380) 2021EPA Engine OEM Vendor Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Fault Code Troubleshooting Manual (Vol 1 - 4)	2	"
Service Manual (Vol 1 - 2)	2	"
Operation & Maintenance Manual	2	"
Owners Manual	2	"
Allison Transmission B300/400/3400xFE Gen 5 OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Service Manual - Gen 4/5	2	"
Parts Manual - Gen 4/5	2	"
Troubleshooting Manual - Gen 4/5	2	"
Principals of Operation Manual - Gen 5	2	"
Quick-Tech Troubleshooting Guide - Gen 5	2	"
Mechanics Tips - Gen 5	2	"
Operator's Manual - Gen 5	2	"
MCC HVAC OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Unit Operation & Service Parts Manual	2	"
Compressor Operation & Service Parts Manual	2	"
EMP Cooling System OEM Manual (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
EMP MH4 Cooling System Service Manual	2	"
EMP MH4 Cooling System Troubleshooting Manual	2	"
WABCO ABS System OEM Manual (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
ABS Maintenance Manual	2	"

DESCRIPTION	QTY	CUSTOMER DELIVERY
Destination Sign OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
AESYS User Manual	2	"
AVA/AVL System OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Avail Service Manual	2	"
Arow Global Drivers Door System OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
DPS Service and Maintenance Manual	2	"
Amerex GD & FS System OEM Manual Set (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
V25ABC System Operation & Maintenance Manual	2	"
SafetyNet Controller Operation & Maintenance Manual	2	"
Vansco Multiplexing System OEM Manual (includes only the following)		With First Bus Delivery or Soon After Receiving From OEM Supplier
Hardware User Guides	2	"
Software User Guides	2	"

Other New Flyer Costs

DESCRIPTION	QTY	CUSTOMER DELIVERY
Standard Labour Hours required for NF Bus Manual Set Publishing	400	N/A

CONTRACT DELIVERABLES LIST	DIAGNOSTICS & TOOLS
CUSTOMER NAME	Montebello
BID/OPTION/SR NUMBER	2021-025
TECHNICAL SUMMARY	Rev Draft
BUS MODEL	XN40
QUANTITY	8
ENGINE	Cummins L9N 280hp
ALTERNATOR	EMP
TRANSMISSION	Allison B400R
COOLING SYSTEM	EMP MH4
AXLES	MAN VOK07 Front, HY1350 Rear
LEVELING/KNEELING	Smartrider Lite
ABS	Meritor Wabco
AIR CONDITIONING	MCC, R134a
PLC	Vansco
DESTINATION SIGNS	Aesys
DOORS	Vapor ETO w CLASS
WHEELCHAIR RAMP	NF Standard
FIRE SUPPRESSION/GAS DETECTION	Amerex SafetyNet
APC	Infodev
AVA	Avail
FUEL MANAGEMENT SYSTEM	AIM-2

NOTE: TOOL KITS MAY BE SUBJECT TO CHANGE

***** All claims for concealed shortages must be reported within 20 days of shipment date. Shipping damages and / or loss must be noted on the delivering carrier waybill at the time of receipt of shipment. A copy of the carrier waybill and / or carrier inspection report must be submitted with your claim within 5 days of receipt of shipment to New Flyer Customer Service.***

PAGE REFERENCE	COMMENTS	DESCRIPTION	QUOTED PART #	BID QTY	EXTENDED SELLING PRICE	REQUIREMENT	BILLABLE: Y/N
		Diagnostic Equipment					
	for use with all diagnostic software	Panasonic FZ55 Toughbook Laptop	108658	**1**	$3,062.12	Recommended	Y
		Nexiq USB Link 2	6353474	**1**	$1,042.31	Recommended	Y
		Cummins Insite Lite (1-year subscription)	6339520	**1**	$1,075.88	Recommended	Y
	free download from Cummins website	Cummins Insite Software	NPN	**1**	$0.00	Recommended	Y
		Allison DOC Premium - 1st Yr subscription download	6469849	**1**	$1,103.83	Recommended	Y
	free download from EMP website	EMP Software	NPN	**1**	$0.00	Recommended	Y
		Meritor Wabco ABS Software	6334596	**1**	$391.23	Recommended	Y
		Valeo Diagnostic Software & Cables	6396448	**1**	$468.32	Recommended	Y
		Adapter - Diagnostic	6477477	**1**	$53.19	Recommended	Y
		Adapter Harness - Valeo Interface	6430418	**1**	$188.48	Recommended	Y
	free download from Parker-Vansco website	Vansco Software	NPN	**1**	$0.00	Recommended	Y
	free download from Parker-Vansco website	Smartrider Software	NPN	**1**	$0.00	Recommended	Y
		Vapor Class System Diagnostic Interface Kit	6358421	**1**	$96.82	Recommended	Y
	provided by Vapor at n/c	Vapor Class System Software	NPN	**1**	$0.00	Recommended	Y
	provided by Vapor at n/c	Vapor VETC2 Software	NPN	**1**	$0.00	Recommended	Y
		Tool/Adapter-Diagnostic,USB,MCC ECO Temp	20-16-0005	**1**	$216.89	Recommended	Y
		VerbaPlus - AESYS Programming Software	TBD	**1**	$489.04	Recommended	Y
		Amerex SafetyNet Software & Interface	6355551	**1**	$596.70	Recommended	Y
		Service Cable - Infodev	6479987	**1**	$174.66	Recommended	Y
		Ethernet Cable - Infodev	6479988	**1**	$20.97	Recommended	Y
		USB to RS232 Converter - Infodev	6479989	**1**	$76.86	Recommended	Y
		Special Tools					
		Kit - Lift Tow Universal	6396565	**1**	$198.81	Recommended	Y
		Kit - Lift Tow Receivers	6396567	**1**	$1,365.05	Recommended	Y
		Xcelsior Flat Tow adapter (2 pcs. Per set)	6395097	**1**	$773.17	Recommended	Y
		Jacking Adapters	434434	**1**	$946.28	Recommended	Y
		Repair Kit - Disc Brakes & Calipers	6408310	**1**	$3,191.58	Recommended	Y
		Torque Multiplier	6314711	**1**	$2,590.07	Recommended	Y
		Hub Repair Kit - MAN VOK-07 Frt Axle	6408311	**1**	$6,904.16	Recommended	Y
		Optional Hub Removal Hydraulic Tool Kit - MAN VOK-07	6458834	**1**	$4,439.96	Recommended	Y
		Hub Repair Kit - MAN HY1350 RR Axle	6408306	**1**	$4,561.29	Recommended	Y
		ABS Sensor R&R Kit - MAN HY1350 RR Axle	6408307	**1**	$767.14	Recommended	Y
		Pinion Seal Repair Kit - MAN HY1350 RR Axle	6444302	**1**	$2,187.45	Recommended	Y
		Differential Repair Kit - MAN HY1350 RR Axle	6444303	**1**	$6,628.47	Recommended	Y
		Coolant System Pressure Tester	660817	**1**	$832.05	Recommended	Y
		Kit - Coolant Pressure Fill	6484741	**1**	$2,601.03	Recommended	Y
		Adj Tool - Strg Gear Box Press Relief	6465265	**1**	$297.07	Recommended	Y
		Depth Punch - Strg Gear Box Press Relief	6465266	**1**	$271.30	Recommended	Y
		Flow Meter Tester - Strg Gear Box	140809	**1**	$560.32	Recommended	Y
		Puller Tool - Pitman Arm	6394270	**1**	$315.82	Recommended	Y
		Refractometer - DEF	6392284	**1**	$432.49	Recommended	Y
		Alignment Tool - Flex Connector	6360381	**1**	$706.52	Recommended	Y
		Eng/Trans Dolly - Universal	086444	**1**	$2,575.54	Recommended	Y
		Amerex Discharge Hose Blowout Adapter	052132	**1**	$114.44	Recommended	Y
		Amerex Fire Alarm/Simulator Module	135582	**1**	$274.64	Recommended	Y
		Amerex Calibration Kit - AMGaDS III	6459321	**1**	$1,306.15	Recommended	Y
		CNG Tank Valve Installation Tool	6467614	**1**	$1,882.79	Recommended	Y
					$55,780.88		

Sales Specialist
New Flyer

Darryl Desjarlais - Training Manager
Training
New Flyer

RESOLUTION NO. 21-79

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MONTEBELLO APPROVING AND ALLOWING CERTAIN CLAIMS AND DEMANDS

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

SECTION 1. That the reference is hereby made to that certain Register of Audited Demand No.1517, consisting of 6 pages, and including

Warrant No.
General: Checks No. 593854 through 593976;
ACH No. 922 through 965
Successor Agency No. 1482 through 1482

On file in the office of the City Clerk, the same having been audited and approved by the Deputy Director of Finance as required by law.

SECTION 2. That the said City Council having examined each such demand does hereby approve and direct the payment of same, as set forth in said Register, except the following Warrant No.

_____

_____

_____

SECTION 3. 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 8th day of September 2021.

_____
Kimberly A. Cobos-Cawthorne, Mayor

ATTEST:

_____
Christopher Jimenez, City Clerk

APPROVED AS TO FORM:

_____
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. 21-79 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 8th day of September 2021 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

Register of Demands No.

From Payment Date: 08/17/21 - To Payment Date: 08/26/21

WARRANT #	DATE	AMOUNT	ACCOUNT DESCRIPTION	VENDOR #	VENDOR NAME
4331 - General Account					
922	08/19/2021	$1,800.00	ADVERTISING/PRINTING SERVICES	1293	923 MEDIA GROUP INC
923	08/19/2021	$2,692.78	SUPPLIES	2586	AMAZON CAPITAL SERVICES INC
924	08/19/2021	$30,114.15	CONTRACT SERVICES	3016	ANTARES GOLF LLC
925	08/19/2021	$1,476.48	CONTRACT SERVICES	1237	AZTECA LANDSCAPE
926	08/19/2021	$47.58	SUPPLIES	3780	JACOB CASTILLO
927	08/19/2021	$1,653.35	SUPPLIES	10000	CLEAN SWEEP SUPPLY CO INC
928	08/19/2021	$1,525.79	SUPPLIES	2455	THE ILLINI COMPANIES INC
929	08/19/2021	$4,449.42	ACCOUNTS RECEIVABLE	16690	TERI A CONNORS
930	08/19/2021	$436.23	SUPPLIES	3108	MARIO ESPINOSA
931	08/19/2021	$30.00	CONTRACT SERVICES	23660	DAIOHS USA
932	08/19/2021	$52,736.10	CONTRACT SERVICES	2981	G4S SECURE SOLUTIONS (USA) INC
933	08/19/2021	$3,861.25	CONTRACT SERVICES	2793	IBE DIGITAL
934	08/19/2021	$1,412.48	CONTRACT SERVICES	2152	JOHNSON CONTROLS INC
935	08/19/2021	$17,811.00	CONTRACT SERVICES	3147	PMC PLUMBING INC
936	08/19/2021	$252.47	SUPPLIES	1120	NESTLE WATERS NORTH AMERICA
937	08/19/2021	$44,191.50	FUEL INVENTORY	1059	AMBER RESOURCES LLC
938	08/19/2021	$1,657.24	CONTRACT SERVICES	51850	SECURITY SIGNAL DEVICES INC
939	08/19/2021	$2,544.07	SUPPLIES	31270	STARBOARD TACK SUPPLY INC
940	08/26/2021	$315.00	TRAINING	3163	BANK OF AMERICA
941	08/26/2021	$95.00	DUES & SUBSCRIPTIONS	3163	BANK OF AMERICA
942	08/26/2021	$450.00	DUES & SUBSCRIPTIONS	3163	BANK OF AMERICA
943	08/26/2021	$393.35	SUPPLIES	3163	BANK OF AMERICA
944	08/26/2021	$8,165.77	MACHINERY & EQUIPMENTS	3163	BANK OF AMERICA
945	08/26/2021	$837.64	DUES & SUBSCRIPTIONS	3163	BANK OF AMERICA
946	08/26/2021	$31,720.00	CONTRACT SERVICES	37720	ADVANCED APPLIED ENGINEERING INC
947	08/26/2021	$3,704.71	SUPPLIES	2586	AMAZON CAPITAL SERVICES INC
948	08/26/2021	$6,526.95	VEHICLE MAINTENANCE/EXPENSES	47980	AMERICAN MOVING PARTS
949	08/26/2021	$75,641.21	WATER PURCHASE RESALE	19120	CENTRAL BASIN MUNICIPAL WATER DISTRICT
950	08/26/2021	$531.82	SUPPLIES	10000	CLEAN SWEEP SUPPLY CO INC
951	08/26/2021	$56.56	SUPPLIES	2889	COMLOCK SECURITY GROUP INC

City of Montebello

Register of Demands No.

From Payment Date: 08/17/21 - To Payment Date: 08/26/21

WARRANT #	DATE	AMOUNT	ACCOUNT DESCRIPTION	VENDOR #	VENDOR NAME
952	08/26/2021	$601.31	SUPPLIES	2455	THE ILLINI COMPANIES INC
953	08/26/2021	$25,759.44	CONTRACT SERVICES	75950	FIESTA TAXI COOPERATIVE INC
954	08/26/2021	$2,000.00	CDBG-CV	3169	FOOTHOLD TECHNOLOGY INC
955	08/26/2021	$8,394.08	CONTRACT SERVICES	2981	G4S SECURE SOLUTIONS (USA) INC
956	08/26/2021	$10,940.96	CONTRACT SERVICES	1175	GRAPHIC ELECTRIC INC
957	08/26/2021	$224.58	COPIER REPAIR/SERVICES	2793	IBE DIGITAL
958	08/26/2021	$12,983.34	CONTRACT SERVICES	2152	JOHNSON CONTROLS INC
959	08/26/2021	$7,279.50	TRAINING	16760	LIEBERT CASSIDY WHITMORE
960	08/26/2021	$5,663.14	SUPPLIES	26670	LIFE-ASSIST INC
961	08/26/2021	$3,510.00	CONTRACT SERVICES	26880	SEBASTIAN WATERWORKS INC
962	08/26/2021	$11,561.76	CONTRACT SERVICES	2787	S & S LABARGE GOLF INCORPORATED
963	08/26/2021	$1,959.28	SUPPLIES	2594	THE SAUCE CREATIVE SERVICES CORP
964	08/26/2021	$59,687.60	FUEL INVENTORY	1059	AMBER RESOURCES LLC
965	08/26/2021	$335.00	CONTRACT SERVICES	2865	WEBSTERS BEE REMOVAL SERVICES
	ACH Total	**$448,029.89**			
593854	08/17/2021	$7,217.44	COPIER REPAIR/SERVICES	2747	US BANK EQUIPMENT FINANCE
593855	08/19/2021	$45.00	PARKS AND RECREATION	3282	EDUARDO ARAIZA
593856	08/19/2021	$0.00	VOID	39550	AT&T
593857	08/19/2021	$2,944.67	UTILITY SERVICES	39550	AT&T
593858	08/19/2021	$6,000.00	CONTRACT SERVICES	3270	CALIFORNIA CLERK ADMINISTRATIVE SERVICES LLC
593859	08/19/2021	$51,248.01	MISCELLANEOUS EXPENSE	3286	DEPARTMENT OF TRANSPORTATION
593860	08/19/2021	$176.22	UTILITY SERVICES	47580	CALIFORNIA WATER SERVICE COMPANY
593861	08/19/2021	$3,104.04	RETIREMENT	3128	CITY OF BELL GARDENS
593862	08/19/2021	$715.00	CONTRACT SERVICES	3204	COASTAL OCCUPATIONAL MEDICAL GROUP
593863	08/19/2021	$656.00	CONTRACT SERVICES	26720	COMMERCIAL DOOR OF LOS ANGELES COUNTY INC
593864	08/19/2021	$80.00	INCURRED CLAIMS	1643	COMPANY NURSE
593865	08/19/2021	$4,668.00	MACHINERY & EQUIPMENTS	56540	COMPLETE PAPERLESS SOLUTIONS, LLC
593866	08/19/2021	$160.00	ADVERTISING/PRINTING SERVICES	1354	DAILY JOURNAL CORPORATION
593867	08/19/2021	$2,103.07	CONTRACT SERVICES	47770	DUTHIE ELECTRIC SERVICE CORPORATION
593868	08/19/2021	$1,100.00	CONTRACT SERVICES	71920	TOYETTA L BEUKES

City of Montebello

Register of Demands No.

From Payment Date: 08/17/21 - To Payment Date: 08/26/21

WARRANT #	DATE	AMOUNT	ACCOUNT DESCRIPTION	VENDOR #	VENDOR NAME
593869	08/19/2021	$1,150.00	CONTRACT SERVICES	1595	FROG ENVIRONMENTAL INC
593870	08/19/2021	$15,000.00	DUES & SUBSCRIPTIONS	1447	GATEWAY WATER MANAGEMENT AUTHORITY
593871	08/19/2021	$240.51	CONTRACT SERVICES	1979	GLASS DOCTOR OF MONTEBELLO
593872	08/19/2021	$6.77	MAIL/ POSTAL EXPENSE	3167	GENERAL LOGISTICS SYSTEMS US INC
593873	08/19/2021	$123.60	CONTRACT SERVICES	1650	GOLDEN STATE ELEVATOR SERVICE INC
593874	08/19/2021	$1,000.00	SUPPLIES	2234	VINCE IBARRA
593875	08/19/2021	$2,200.00	CONTRACT SERVICES	6690	IRRI-CARE PLUMBING AND BACKFLOW TESTING
593876	08/19/2021	$424.02	SUPPLIES	2811	LIGHT BULB DEPOT 38 LLC
593877	08/19/2021	$1,750.00	CONTRACT SERVICES	1369	CYNTHIA ANN SHEA
593878	08/19/2021	$2,500.00	CONTRACT SERVICES	3278	MAURICIO PINZON
593879	08/19/2021	$796.23	CONTRACT SERVICES	74640	MISSION LINEN SUPPLY
593880	08/19/2021	$1,259.62	VEHICLE MAINTENANCE/EXPENSES	54300	SHAK ENTERPRISES INC
593881	08/19/2021	$1,011.92	RETIREMENT	42490	LINDA PAYAN
593882	08/19/2021	$6,804.92	CONTRACT SERVICES	3279	PROCURE AMERICA INC
593883	08/19/2021	$662.06	CONTRACT SERVICES	2925	R-DOORS INC
593884	08/19/2021	$125.00	CONTRACT SERVICES	3285	DIANA E RAMIREZ
593885	08/19/2021	$354.00	MISCELLANEOUS EXPENSE	3271	XAVIER EDUARDO RAMOS
593886	08/19/2021	$1,500.00	CONTRACT SERVICES	69360	AARON REYES
593887	08/19/2021	$37,972.04	IMPROVEMENTS OTHER THAN BUILDING	20770	SEQUEL CONTRACTORS INC
593888	08/19/2021	$2,277.90	CONTRACT SERVICES	36350	SHRED-IT USA
593889	08/19/2021	$450.00	SUPPLIES	3284	VANESSA SIDA
593890	08/19/2021	$1,108.80	PREVENTIVE MAINTENANCE	3176	PHILLIP S SISNEROS JR
593891	08/19/2021	$142.59	PERMITS AND FEES	28240	SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
593892	08/19/2021	$5,361.94	PERMITS AND FEES	28240	SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
593893	08/19/2021	$1,000.00	CONTRACT SERVICES	1370	STONE SOUL BAND
593894	08/19/2021	$500.00	SUPPLIES	3283	THE VYBE AGENCY
593895	08/19/2021	$2,390.50	UTILITY SERVICES	72570	US TELEPACIFIC CORP
593896	08/19/2021	$1,071.20	RETIREMENT	27300	ROBERT C TUFANO
593897	08/19/2021	$81,852.83	CONTRACT SERVICES	1188	TYLER TECHNOLOGIES INC
593898	08/19/2021	$638.61	SUPPLIES	45120	ULINE INC
593899	08/19/2021	$1,760.00	MACHINERY & EQUIPMENTS	2000	VITAL MEDICAL SERVICES LLC

City of Montebello

Register of Demands No.

From Payment Date: 08/17/21 - To Payment Date: 08/26/21

WARRANT #	DATE	AMOUNT	ACCOUNT DESCRIPTION	VENDOR #	VENDOR NAME
593900	08/19/2021	$570.39	CONTRACT SERVICES	20060	WATER REPLENISHMENT DISTRICT
593901	08/19/2021	$143.93	UTILITY SERVICES	47580	CALIFORNIA WATER SERVICE COMPANY
593902	08/19/2021	$153.01	UTILITY SERVICES	47580	CALIFORNIA WATER SERVICE COMPANY
593903	08/19/2021	$2,333.70	UTILITY SERVICES	39550	AT&T
593904	08/19/2021	$66.68	UTILITY SERVICES	39550	AT&T
593905	08/19/2021	$4,757.50	CONTRACT SERVICES	46870	HDL COREN & CONE
593906	08/19/2021	$3,364.81	CONTRACT SERVICES	9390	HDL SOFTWARE LLC
593907	08/19/2021	$9,600.00	MACHINERY & EQUIPMENTS	3274	MONDAY COM LTD
593908	08/19/2021	$28,043.00	CONTRACT SERVICES	3168	NINYO & MOORE GEOTECHNICAL AND ENVIRONMENTAL SCI
593909	08/26/2021	$698.58	UTILITY SERVICES	1732	AT&T CORP
593910	08/26/2021	$636.54	UTILITY SERVICES	1732	AT&T CORP
593911	08/26/2021	$698.58	UTILITY SERVICES	1732	AT&T CORP
593912	08/26/2021	$698.58	UTILITY SERVICES	1732	AT&T CORP
593913	08/26/2021	$636.54	UTILITY SERVICES	1732	AT&T CORP
593914	08/26/2021	$7,312.38	AFLAC OTHER	55860	AFLAC
593915	08/26/2021	$4,796.00	INSURANCE	42330	ALLIANT INSURANCE SERVICES INC
593916	08/26/2021	$3,563.83	SUPPLIES	62880	AMERICAN MARKER
593917	08/26/2021	$8,383.98	UTILITY SERVICES	39550	AT&T
593918	08/26/2021	$56.87	UTILITY SERVICES	39550	AT&T
593919	08/26/2021	$2,380.30	UTILITY SERVICES	38380	AT&T
593920	08/26/2021	$250.00	TRAINING	389	FRANCISCO AVILA
593921	08/26/2021	$89.00	SUPPLIES	45540	BENNYS OIL FILTER RECYCLING
593922	08/26/2021	$196.38	VEHICLE PURCHASES	1101	BLACK AND WHITE EMERGENCY VEHICLES
593923	08/26/2021	$1,760.00	CONTRACT SERVICES	3130	BLAIS & ASSOCIATES LLC
593924	08/26/2021	$100.00	GENERAL	3289	MICHAEL CALIENDO
593925	08/26/2021	$1,504.00	CONTRACT SERVICES	58240	STATE OF CALIFORNIA-DEPARTMENT OF JUSTICE
593926	08/26/2021	$457.43	SUPPLIES	3290	ZORAIDA CALTITLA
593927	08/26/2021	$1,929.38	SUPPLIES	2941	CONVEYOR MANUFACTURING & SERVICE INC
593928	08/26/2021	$15,750.00	CONTRACT SERVICES	3246	CORDICO INC
593929	08/26/2021	$173,250.45	CONTRACT SERVICES	3210	CT&T CONCRETE PAVING INC
593930	08/26/2021	$770.00	MACHINERY & EQUIPMENTS	950	CUMMINS PACIFIC LLC

City of Montebello

Register of Demands No.

From Payment Date: 08/17/21 - To Payment Date: 08/26/21

WARRANT #	DATE	AMOUNT	ACCOUNT DESCRIPTION	VENDOR #	VENDOR NAME
593931	08/26/2021	$1,085.00	ADVERTISING/PRINTING SERVICES	1354	DAILY JOURNAL CORPORATION
593932	08/26/2021	$183,053.31	CONTRACT SERVICES	30170	CITY OF DOWNEY
593933	08/26/2021	$250.00	TRAINING	69390	ANDREW M FIVECOAT
593934	08/26/2021	$995.49	SUPPLIES	5390	THE FLAG SHOP
593935	08/26/2021	$24.23	SUPPLIES	3240	FBM
593936	08/26/2021	$104,956.00	IMPROVEMENTS OTHER THAN BUILDING	57890	GENTRY BROTHERS INC
593937	08/26/2021	$6.77	MAIL/ POSTAL EXPENSE	3167	GENERAL LOGISTICS SYSTEMS US INC
593938	08/26/2021	$3,323.05	CONTRACT SERVICES	37480	GOSERCO INC
593939	08/26/2021	$61.99	SUPPLIES	9470	GRAINGER INC
593940	08/26/2021	$165.35	VEHICLE MAINTENANCE/EXPENSES	30190	IB AUTO PARTS INC
593941	08/26/2021	$143.26	SUPPLIES	3196	MICAH HERD
593942	08/26/2021	$1,797.89	LEASE PAYMENT	2405	JCB FINANCE
593943	08/26/2021	$3,627.23	SUPPLIES	1612	JCL TRAFFIC SERVICES
593944	08/26/2021	$972.00	CDBG-CV	3222	HELEN KALPAKOFF
593945	08/26/2021	$16,194.50	CONTRACT SERVICES	73810	LA FITNESS INTERNATIONAL LLC
593946	08/26/2021	$1,022.00	PERMITS AND FEES	56850	LOS ANGELES COUNTY FIRE DEPARTMENT
593947	08/26/2021	$411.00	PERMITS AND FEES	56850	LOS ANGELES COUNTY FIRE DEPARTMENT
593948	08/26/2021	$8,478.93	CONTRACT SERVICES	110	MICHELIN NORTH AMERICA INC
593949	08/26/2021	$1,500.00	CONTRACT SERVICES	3259	MONTEBELLO CHRISTIAN SCHOOL
593950	08/26/2021	$1,800.00	CONTRACT SERVICES	1665	MONTEBELLO SPEAKER REPAIR CENTER INC
593951	08/26/2021	$15,000.00	CONTRACT SERVICES	14890	MONTEBELLO TOWN CENTER INVESTORS LLC
593952	08/26/2021	$67.50	ADVERTISING/PRINTING SERVICES	2958	RACHEL YVONNE HOSKINS
593953	08/26/2021	$179.15	SUPPLIES	15620	OFFICE DEPOT INC
593954	08/26/2021	$3,000.00	CONTRACT SERVICES	61370	PADILLA & ASSOCIATES INC
593955	08/26/2021	$1,770.00	EDUCATION REIMBURSEMENT	3291	JOSEPH PALOMBI
593956	08/26/2021	$188.73	SUPPLIES	56260	PRUDENTIAL OVERALL SUPPLY
593957	08/26/2021	$1,499.60	CONTRACT SERVICES	2944	RESERV CONSTRUCTION
593958	08/26/2021	$51.75	TRAVEL & MEETINGS	3017	RIGOBERTO SANCHEZ
593959	08/26/2021	$4,226.57	CONTRACT SERVICES	3244	SCRIPPS EXECUTIVE HEALTH MEDICAL GROUP INC
593960	08/26/2021	$440.15	PERMITS AND FEES	28240	SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT
593961	08/26/2021	$142.59	PERMITS AND FEES	28240	SOUTH COAST AIR QUALITY MANAGEMENT DISTRICT

City of Montebello

Register of Demands No.

From Payment Date: 08/17/21 - To Payment Date: 08/26/21

WARRANT #	DATE	AMOUNT	ACCOUNT DESCRIPTION	VENDOR #	VENDOR NAME
593962	08/26/2021	$72,921.22	UTILITY SERVICES	45630	SOUTHERN CALIFORNIA EDISON
593963	08/26/2021	$3,869.56	UTILITY SERVICES	40520	SOUTHERN CALIFORNIA GAS CO
593964	08/26/2021	$536.23	FRINGE BENEFITS	1990	STANDARD INSURANCE COMPANY
593965	08/26/2021	$2,351.02	SUPPLIES	3145	SUPERIOR GROCERS
593966	08/26/2021	$2,497.68	UTILITY SERVICES	72570	US TELEPACIFIC CORP
593967	08/26/2021	$25,893.50	CONTRACT SERVICES	49910	TRANSTRACK SYSTEMS LLC
593968	08/26/2021	$3,550.05	SUPPLIES	69680	TRIANGLE SPORTS INC
593969	08/26/2021	$2,690.00	TRAINING	11430	WESTGATE CENTER FOR LEADERSHIP
593970	08/26/2021	$7,217.44	COPIER REPAIR/SERVICES	2747	US BANK EQUIPMENT FINANCE
593971	08/26/2021	$9,806.40	CONTRACT SERVICES	37	US SECURITY ASSOCIATES INC
593972	08/26/2021	$1,304.25	FRINGE BENEFITS	58990	VISION SERVICE PLAN
593973	08/26/2021	$1,793.69	SUPPLIES	3088	WAXIES ENTERPRISES LLC
593974	08/26/2021	$228.38	TRAVEL & MEETINGS	49660	RUBEN ZABALA
593975	08/26/2021	$268.38	SUPPLIES	2905	ZUTRA WATER
593976	08/26/2021	$5,000.00	CONTRACT SERVICES	1340	HILLTOP SECURITIES INC
	Check Total	**$1,024,966.19**			

6093 - Successor Agency

1482	08/26/2021	$5,000.00	CONTRACT SERVICES	1340	HILLTOP SECURITIES INC
	S/A Total	**$5,000.00**			
	Grand Total	**$1,477,996.08**			