



PALMDALE

a place to call home

**CITY COUNCIL MEETING
HOUSING AUTHORITY
CITY COUNCIL CHAMBERS
38300 SIERRA HIGHWAY
SUITE B
PALMDALE, CA 93550
WEDNESDAY, JULY 20, 2022
5:00 PM
7:00 PM
www.cityofpalmdale.org**

WELCOME

The Council Chamber is open for in-person public comment and seating. The Mayor and/or one or more members of the City Council may participate virtually in this meeting.

How to observe the meeting virtually:

1. Spectrum local access Channel 27
2. Online live webcast at www.cityofpalmdale.org.

How to Submit Public Comments:

VERBAL PUBLIC COMMENT DURING THE MEETING – ZOOM Number: US: +1 669
444 9171 Webinar ID: 848 5628 9639 Passcode: 110835

Webinar attendee link [https://us06web.zoom.us/j/84856289639?](https://us06web.zoom.us/j/84856289639?pwd=dU8rUmZ0ekdqRHRLWXZnRWNVQ0ErQT09)
[pwd=dU8rUmZ0ekdqRHRLWXZnRWNVQ0ErQT09](https://us06web.zoom.us/j/84856289639?pwd=dU8rUmZ0ekdqRHRLWXZnRWNVQ0ErQT09).

Verbal comments must be limited to three (3) minutes. Public comments submitted will become part of the official meeting record.

The safety and well-being of employees and the public remains the City's top priority. The City of Palmdale appreciates your patience and understanding during these challenging times.

The City Council is making every effort to follow the spirit and intent of the Brown Act and other applicable laws regulating the conduct of public meetings in order to maximize transparency and public access.

In accordance with the Americans with Disabilities Act of 1990, if you require a disability-related modification or accommodation to participate in this meeting, please contact the City Clerk's Office at (661) 267-5151 at least 72 hours prior to the meeting.

If you require oral Spanish translation, please contact the City Clerk's Office at (661) 267-5151 at least 72 hours prior to the meeting.

Your courtesy is requested to help our meetings run smoothly. If you'll be kind enough to follow these simple rules, we can make the best possible use of your time and ours:

- Please refrain from public displays or outbursts, such as unsolicited applause, comments, cheering, foul language or obscenities.
- Any disruptive activities that substantially interfere with the ability of the City Council to carry out its meeting will not be permitted and offenders will be asked to leave the meeting.
- Please turn off/mute your cell phones and mobile devices.

5:00 P.M.

1. CALL MEETING TO ORDER

2. ROLL CALL

MAYOR/CHAIR HOFBAUER, MAYOR PRO TEM/VICE CHAIR LOA,
COUNCILMEMBERS/COMMISSIONERS CARRILLO, BISHOP, BETTENCOURT,
FRAGA-SAENZ, DENNY

3. PUBLIC COMMENTS ON CLOSED SESSION ITEMS

The public is invited to comment on any closed session item listed below. Please submit a Speaker's Form to the City Clerk **BEFORE** this portion of the meeting begins. Each person addressing the Council/Authority is customarily given up to three minutes to speak (with double the time allotted to non-English speakers using a translator). The amount of time authorized may be adjusted by the chair. If you wish to provide information to the Council/Authority, please present the City Clerk with 7 copies. Otherwise, your materials will simply be added to the administrative record. If you are attending the meeting by phone, please press *9 to "raise your hand." If attending by personal computer, please click the "raise your hand" button. Press *6 to un-mute yourself, state your name and begin speaking.

4. PRESENTATION BY CITY ATTORNEY

4.1 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Community Development Associates, et al. vs. City of Palmdale, et al.

Los Angeles Superior Court

Case No. 18STCV06968

This closed session is being held pursuant to the authority of California Government Code Section 54956.9(d)(1)

4.2 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Community Development Associates, et al. vs. Housing Authority of the City of Palmdale, et al.

Los Angeles Superior Court

Case No. 18STCV06968

This closed session is being held pursuant to the authority of California Government Code Section 54956.9(d)(1)

4.3 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION

Leona Valley Town Council vs. City of Palmdale, et al.

Los Angeles County Superior Court

Case No. 22STCP01932

This closed session is being held pursuant to the authority of California Government Code Section 54956.9(d)(1)

4.4 CONFERENCE WITH LABOR NEGOTIATORS

City Representatives: Ronda Perez, Interim City Manager and Patricia Nevarez, Human Resources Manager

Position: Interim City Attorney

Unrepresented Employee: Scott E. Porter, Interim City Attorney

This Closed Session is being held pursuant to the authority of California Government Code Section 54957.6.

4.5 CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION

Ricci v. City of Palmdale, et al.

Los Angeles County Superior Court

Case No. 22STCV01269

This closed session is being held pursuant to the authority of California Government Code Section 54956.9(d)(1).

4.6 CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Shanae Smith, Patricia Nevarez and Michael "Mike" Behen vs. City of Palmdale,
et al.
Los Angeles County Superior Court
Case No. 22STCV18219
This closed session is being held pursuant to the authority of California
Government Code Section 54956.9(d)(1).

4.7 CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
Government Code Section 54956.9(d)(1).
Name of case: John J. Murphy v. City of Palmdale;
Los Angeles County Superior Court Case Number: 22STCV22544
Related City Claim Number: 2022-007

- 5. **ANNOUNCEMENT BY CITY ATTORNEY**
- 6. **ADJOURN CLOSED SESSION MEETING**
- 7. **ADJOURN HOUSING AUTHORITY MEETING**

7:00 P.M.

- 8. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE IN HONOR OF OUR TROOPS**
- 9. **ROLL CALL**
MAYOR HOFBAUER, MAYOR PRO TEM LOA,
COUNCILMEMBERS CARRILLO, BISHOP, BETTENCOURT
- 10. **WAIVER OF FULL READING OF RESOLUTION(S) and ORDINANCE(S)**
Staff Recommendation: Move to waive full reading of the Resolution (s) and/or Ordinance(s) to be considered and voted on at this meeting. (Voice Vote - Requires a majority to waive.)
- 11. **PUBLIC COMMENTS ON LISTED AGENDA ITEMS (EXCLUDING PUBLIC HEARINGS)**
You may address the Council once per meeting during Public Comments. This portion of the public comment is on any item listed on the agenda, excluding public hearings (if any). Public comment on public hearing items (if any) will be heard when that matter is considered. To address the Council regarding an item on the agenda, please fill out a Speaker's Form and submit it to the City Clerk **BEFORE** the Mayor announces the item. Each person addressing the Council is customarily given up to three minutes to speak

(with double the time allotted to non-English speakers using a translator). The amount of time authorized may be adjusted by the chair. If you wish to provide information to the Council, please present the City Clerk with 7 copies. Otherwise, your materials will simply be added to the administrative record. If you are attending the meeting by phone, please press *9 to "raise your hand." If attending by personal computer, please click the "raise your hand" button. Press *6 to un-mute yourself, state your name and begin speaking.

12. **CONSENT CALENDAR**

All matters listed under the Consent Calendar will be enacted by one motion unless an item(s) is pulled by Council, in which case the item(s) will be removed from the Calendar and will be considered separately following this portion of the Agenda.

- 12.1 Approve Purchase Order No. 20230005 with Nixon-Egli Equipment Company of Southern California for a new 2021 Demo Unit Petersen TL3 Lightning Loader Grapple Truck in an amount not to exceed \$224,587. (Staff Reference: Director of Public Works Heffernan)

[SR Approve Nixon-Egli PO 20230005 Lightning Loader WM.docx](#)

[1. Purchase Order No. 20230005 Nixon-Egli Equip. Co..pdf](#)

[2. Sourcewell Contract 040621-PII Petersen Industries, Inc..pdf](#)

[3. Nixon-Egli Quote 100580 - Petersen TL3.pdf](#)

- 12.2 Adopt Resolution No. CC2022-079, a Resolution of the City Council of the City of Palmdale adopting the Joint Resolution of the Board of Supervisors of the County of Los Angeles acting on behalf of the Los Angeles County General Fund and the Los Angeles County Consolidated Fire Protection District, the Board of Directors of County Sanitation District No. 14 of Los Angeles County, and the governing bodies of the Antelope Valley Cemetery District, Antelope Valley Resource Conservation District, City of Palmdale, Antelope Valley-East Kern Water Agency, and the Antelope Valley Mosquito and Vector Control District approving and accepting negotiated exchange of property tax revenues resulting from Annexation No. 14-433 to County Sanitation District No. 14. (Staff Reference: Director of Public Works Heffernan)

[Reso_CC_2022-079_Staff_Report_v2_long\(1\).doc](#)

[Reso_CC_2022-079.docx](#)

[Sanitation District of LA County Transmittal Letter.pdf](#)

[County Joint Resolution Annex 14-433.pdf](#)

[Property Tax Transfer Resolution Worksheet.pdf](#)

[Exhibit A, Annexation Map No 14-433.pdf](#)

- 12.3 Award construction agreement with R.C. Becker and Son, Inc., for PN 761, Palmdale Civic Center Complete Streets Project, in the amount of \$6,405,637 for a term of 12 months from the date of Notice to Proceed. (Staff Reference: Director of Public Works Heffernan - Presented by Deputy Director of Public Works Glidden)

13. PUBLIC HEARING

- 13.1 Public Hearing and Review of Proposed Resolution No. CC 2022-071 for adoption. (Staff Reference: Director of Economic and Community Development Garibay)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE
APPROVING GUN DEALER PERMIT 22-07 FOR PUNG WHEA INC. DOING
BUSINESS AS BEEFT LOCATED AT 550 WEST RANCHO VISTA
BOULEVARD, SUITE G

[Staff Report BEEFT Gun Dealer Permit 7.2022.docx](#)
[Resolution CC 2022-071 BEEFT Gun Dealer Permit.doc](#)

- 13.2 Public Hearing and Review of Proposed Resolution No. CC 2022-072 for adoption. (Staff Reference: Director of Economic and Community Development Garibay)

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE
APPROVING ENTERTAINMENT PERMIT 22-08 AND DANCE PERMIT 22-09
FOR LOROCCO'S RESTAURANT LOCATED AT 1645 EAST PALMDALE
BOULEVARD, SUITES G AND H

[Staff Report Loroccos Ent_Dance_Permits_7.2022.docx](#)
[Resolution CC 2022-072 Loroccos Ent_Dance_Permits.doc](#)
[PowerPoint Loroccos 7-20-2022.pptx](#)

14. APPOINTMENTS

- 14.1 Removal and Appointment and/or Reappointment of Planning Commissioners.
(Staff Reference: Acting City Attorney Porter)

[SR_-_Making_PC_Appointments_07202022.docx](#)

- 14.2 Approve Appointment to the Palmdale Aerospace Academy. (Staff Reference: Deputy City Clerk Scott)

[7_20_2022_TPAA_Appointment_SR_final.docx](#)
[Board of Directors Duties.pdf](#)
[TPAA Bylaws 6.16.16.pdf](#)

15. NEW BUSINESS

- 15.1 Approve the Joint Powers Agreement creating the High Desert Corridor Joint Powers Agency between the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville and appoint one member and one alternate to serve on Agency's Board. (Staff Reference: Director of Public Works Heffernan - Presented by Traffic Engineer Jay Nelson)

[HDC_JPA_v_2_with_Jay_s_comments\(1\).docx](#)

[HDC_Joint_Powers_AGENCY_Agreement_v3.docx](#)

- 15.2 Award Measure AV Grant Program Funding, totaling \$1,306,810, to grantees in Exhibit A and authorize Interim City Manager to enter into agreements ranging from \$2,000 to \$250,000. (Staff Reference: Deputy Director of Parks and Recreation Dombrowski and Management Analyst Kelley)

[Staff_Report-Award_Measure_AV_Grant_Funding_07202022_FINAL.docx](#)

[Final Awardee List 2022 - Exhibit A.pdf](#)

[Measure AV Final Report PPT 07202022.pptx](#)

16. PUBLIC COMMENTS ON NON-AGENDA ITEMS

This portion of the Agenda allows an individual the opportunity to address the Council on any subject within the City's subject matter jurisdiction not on the Agenda. Under state legislation, in general, no action can be taken on items not specifically referenced on the Agenda, but may offer suggestions on how your concerns may best be resolved. To address the Council regarding a non-agenda item, please fill out a Speaker's Form and submit it to the City Clerk **BEFORE** the Mayor announces the item. Each person addressing the Council is customarily given up to three minutes to speak (with double the time allotted to non-English speakers using a translator). The amount of time authorized may be adjusted by the chair. If you wish to provide information to the Council, please present the City Clerk with 7 copies. Otherwise, your materials will simply be added to the administrative record. If you are attending the meeting by phone, please press *9 to "raise your hand." If attending by personal computer, please click the "raise your hand" button. Press *6 to un-mute yourself, state your name and begin speaking.

17. ADJOURN



City Council Staff Report

DATE: JULY 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: PUBLIC WORKS DEPARTMENT
MAINTENANCE DEPARTMENT
DISTRICT: All
SUBJECT: APPROVE PURCHASE ORDER NO. 20230005 WITH NIXON-EGLI EQUIPMENT COMPANY OF SOUTHERN CALIFORNIA FOR A NEW 2021 DEMO UNIT PETERSEN TL3 LIGHTNING LOADER GRAPPLE TRUCK IN AN AMOUNT NOT TO EXCEED \$224,587.

ISSUE

Approve Purchase Order No. 20230005 with Nixon-Egli Equipment Company of Southern California for a new 2021 demo unit Petersen TL3 Lightning Loader Grapple Truck in an amount not to exceed \$224,587.

RECOMMENDATION

Staff recommends that the City Council approve Purchase Order No. 20230005 with Nixon-Egli Equipment Company of Southern California for a new 2021 demo unit Petersen TL3 Lightning Loader Grapple Truck in an amount not to exceed \$224,587.

BACKGROUND

Illegal dumping is a serious problem that affects our community's quality of life, finances, and the environment. To better address illegal dumping and its negative impacts, the Maintenance Division acquired a Petersen TL3 Lightning Loader in FY 2018-2019 from reimbursement fees received from Waste Management as part of their Franchise Agreement with the City. The lightning loader was the first step in establishing an Illegal Dumping Program with dedicated equipment and staff, providing them with safer and more efficient means to dispose of bulky trash and clean up illegal dumpsite materials.

While staff have been able to better respond to illegal dumping incidents, illegal dumping continues to be a significant problem within the City. Since July 2019, there have been over 2,700 work orders resulting in more than 5,000 tons of debris and trash being collected by the Maintenance Division. Therefore, the purchase of a second Petersen TL3 Lightning Loader Grapple Truck will expand the Illegal Dumping Program and enable a second crew to exclusively respond to incidents of illegal dumping throughout the City.

Report to Mayor and City Council

Re: Approve Purchase Order No. 20230005 with Nixon-Egli Equipment Company of Southern California

July 20, 2022

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DISCUSSION

A new Petersen TL3 Lightning Loader Grapple Truck for the Illegal Dumping Program will allow the Maintenance Division to double their efforts to address the increased and growing problem of illegal dumping within the City. Currently, if additional crews are assigned to assist in cleaning up illegal dumping sites and debris, they must do it manually, which is a slow and cumbersome process. The addition of a second Lightning Loader provides staff with a safer, more efficient method to pick up and haul illegally dumped debris and large, heavier items (e.g., mattresses, appliances, furniture, etc.). It will also allow two crews to be scheduled daily, which will improve response times to citizen requests.

As part of the new solid waste agreement amendment with Waste Management, the City will receive additional funds from Waste Management in the amount of \$90,000 to fund an Equipment Operator who will operate the Lightning Loader. The City will also receive \$200,000 from Waste Management as part of their regular Franchise Agreement fees to address illegal dumping for the purchase of this equipment. Since the cost of the equipment has increased from the original solid waste agreement negotiations, the City will fund the remaining \$25,000 for this purchase from savings realized from other fees received from Waste Management.

The new 2021 Demo Unit Petersen TL3 Lightning Loader Grapple Truck, subject to this Council action, will be acquired through Sourcewell Cooperative Contract No. 040621-P11, as authorized in Palmdale Municipal Code §3.08.090. Sourcewell offers commodities, products, and services at prices, which have been assessed to be fair, reasonable, and competitive. Petersen Industries, Inc., the manufacturer of bulky waste collection solutions, was awarded the Sourcewell Contract on May 26, 2021, and it continues through July 2, 2025.

Staff recommends that the City Council approve Purchase Order 20230005 with Nixon-Egli Equipment Company of Southern California.

FISCAL IMPACT

The Purchase Order amount for a new demo unit Petersen TL3 Grapple Lightning Loader Truck will not exceed \$224,587. Sufficient funds are budgeted in Fleet Maintenance Account 15433007-734100.

STRATEGIC PLAN

Goal II: Ensure long-term fiscal health of the City and maintain funding for services.

- A. Manage resources, costs, and liabilities to ensure the City's long-term fiscal health.

Report to Mayor and City Council

Re: Approve Purchase Order No. 20230005 with Nixon-Egli Equipment Company of Southern California

July 20, 2022

Page 3

Goal III: Invest in infrastructure to improve community livability.

B. Seek innovative, cost effective, customer focused methods of service delivery.

Prepared by:

Certified as to availability of Funds:

Approved by:

Approved as to form:

Chuck Heffernan, P.E., Director of Public Works

Janelle Samson, Director of Finance

Ronda Perez, Interim City Manager

Scott E. Porter, Acting City Attorney

ATTACHMENTS

1. Purchase Order No. 20230005 Nixon-Egli Equip. Co.
2. Sourcewell Contract 040621-PII
3. Nixon-Egli Quote 100580



CITY OF PALMDALE

Purchase Order

Page: 1 of: 1

PURCHASING DIVISION

PHONE: (661) 267-5444 FAX (661) 267-5454

BILL TO: ACCOUNTS PAYABLE

38300 Sierra Highway

Palmdale, CA 93550

(661) 267-5460

Revisions 002

Expiration Date 06/30/2023

THIS NUMBER MUST APPEAR ON ALL INVOICES,
PACKAGES AND SHIPPING PAPERS.

Purchase
Order #

20230005

NO SUBSTITUTIONS WITHOUT APPROVAL OF
PURCHASING DIVISION. USE CITY OF PALMDALE
ADDRESS SPECIFIED BELOW. MERCHANDISE MUST
BE DELIVERED TO SPECIFIC DEPARTMENT.

V
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NIXON-EGLI EQUIPMENT COMPANY OF SOUTHERN
CALIFORNI
2044 S. VINEYARD AVENUE
ONTARIO, CA 91761

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ADAM DYER
PUBLIC WORKS/MAINTENANCE
39110 3RD ST EAST
PALMDALE, CA 93550
Email: ADYER@CITYOFPALMDALE.ORG
Phone: 661-267-5338

Vendor Phone Number		Vendor Fax Number	Requisition Number	Buyer		
				Matthew Harris		
Date Ordered	Vendor Number	Date Required	Freight Method/Terms	Department/Location		
06/16/2022	9320		DESTINATION/NET 45	STREET MAINTENANCE		
Item#	Description/PartNo		QTY	UOM	Unit Price	Extended Price
	TRUCKS, CLASS 8 (33,001 - LB. GVWR, OVER) The Above Purchase Order Number Must Appear On All Correspondence - Packing Sheets And Bills Of Lading					
1	Petersen TL-3 GRAPPLE TRUCK (DEMO UNIT) THIS FY 2022-2023 PURCHASE ORDER IS PENDING CITY COUNCIL APPROVAL ON JULY 20, 2022. NIXON QUOTE#100580 SOURCEWELL CONTRACT #040621-P11		1.0	DL	\$193,729.64	\$193,729.64
	15433006 - 774400					\$193,729.64
2	SALES TAX 10.25%		1.0	DL	\$19,857.29	\$19,857.29
	15433006 - 774400					\$19,857.29
3	DEALER ITEMS/FRIEGHT		1.0	DL	\$11,000.00	\$11,000.00
	15433006 - 774400					\$11,000.00

IMPORTANT: Read Terms and Conditions provided as part of this purchase order

By: _____
Approved City Representative

VENDOR COPY

Sales Tax \$0.00
Order Total \$224,586.93

1. **ACCEPTANCE** ACCEPTANCE OF THIS PURCHASE ORDER BY THE VENDOR IS EXPRESSLY LIMITED TO THE TERMS AND CONDITIONS CONTAINED HEREIN. ANY TERM OR CONDITION STATED BY THE VENDOR IN ANY PRIOR PROPOSAL, ON VENDOR'S ACKNOWLEDGEMENT FORM, OR IN OTHERWISE ACKNOWLEDGING OR ACCEPTING THIS ORDER IS DEEMED BY BUYER TO BE A MATERIAL ALTERATION OF THIS ORDER AND IS HEREBY OBJECTED TO BY THE BUYER. ANY SUCH TERM OR CONDITION SHALL BE INAPPLICABLE TO THIS ORDER UNLESS EXPRESSLY AGREED TO IN WRITING SIGNED BY AN AUTHORIZED REPRESENTATIVE OF BUYER. ACCEPTANCE OF THE MERCHANDISE COVERED BY THIS ORDER WILL NOT CONSTITUTE ACCEPTANCE BY BUYER OF VENDOR'S TERMS AND CONDITIONS. ANY OF THE FOLLOWING ACTS BY VENDOR SHALL CONSTITUTE ACCEPTANCE OF THIS OFFER AND ALL OF ITS TERMS AND CONDITIONS; SIGNING AND RETURNING A COPY OF THIS ORDER; DELIVERY OF ANY OF THE MERCHANDISE ORDERED; INFORMING THE BUYER OF COMMENCEMENT OF PERFORMANCE; OR RETURNING VENDOR'S OWN FORM OF ACKNOWLEDGEMENT.
2. **PRICE AND DELIVERY** Vendor shall furnish the merchandise covered by this order (which may consist of or include services of a non-technical and non-professional nature or construction work) in accordance with the prices and delivery schedule stated on the face of this order. If prices or delivery dates are not stated, Vendor shall offer its lowest prices or best delivery dates, both of which shall be subject to written acceptance by Buyer. All prices include all applicable taxes, except sales taxes which are separately shown where applicable. Vendor warrants that the prices charged for the merchandise ordered will be as low as the lowest price charged by the Vendor to any customers purchasing similar merchandise in the same or smaller quantities and under like circumstances.
3. **PAYMENT** Buyer shall pay to Vendor the full sales price within forty five (45) days of invoice date, or sooner if otherwise specified on the face of this order.
4. **PACKING AND SHIPPING** Vendor warrants that prices include all charges for packing, crating, and transportation to F.O.B. point. All merchandise shall be packaged, marked, and otherwise prepared in accordance with good commercial practices to obtain the lowest shipping rates and to assure adequate protection of the merchandise in shipment and storage and its arrival at F.O.B. point in undamaged condition. An itemized packing list shall accompany each shipment.
5. **F.O.B. TITLE AND RISK OF LOSS** Unless otherwise specified on the face of this order, the F.O.B. point shall be Buyer's location designated on the face of this order. If transportation is F.O.B. Vendor's location, Vendor shall bear all risk of loss or damage to the merchandise, and title shall not shift to Buyer, until delivery of the merchandise to Buyer's designated location.
6. **INVOICING** After shipping or otherwise providing merchandise under this order, Vendor shall send a separate invoice, in duplicate, including item numbers and accompanied by a bill of lading or express receipt. The time for payment of Vendor's invoices shall commence upon the date of actual receipt of merchandise and acceptable invoices consistent with the requirements of this order.
7. **ADVANCE SHIPMENTS AND COMMITMENTS** Buyer may, at its option, either merchandise received in advance of the delivery schedule set forth herein, or return it to Vendor at Vendor's risk and expense. If retained, time for payment and discount, if any, shall be based upon scheduled delivery dates. Vendor shall place all orders for, and schedule deliveries of materials necessary for its performance under this order at such times as will enable Vendor to meet, but not unreasonably anticipate, the stated delivery schedule. In the event of termination of or changes to this order, Buyer shall not be liable for any charges or costs arising from commitments by Vendor for the acquisition of materials, or work performed, in advance of the time necessary to meet the specified delivery schedule, unless Buyer has given its prior written consent to such advance commitments or work.
8. **CHANGES** Buyer may, by written change order, suspend performance in whole or in part, make changes in quantities, in drawings, designs or specifications, in the method of shipment or packing in the time or place of delivery, or require additional or diminished work. If any such change causes an increase or decrease in the cost of or the time required for, performance of this order, an equitable adjustment shall be made in the contract price or delivery dates, or both and this order shall be modified in writing accordingly. Any claim for adjustment under this Section 8 may, at Buyer's option, be deemed to be absolutely and unconditionally waived unless asserted in writing (including the amount of the claim) and delivered to Buyer within thirty (30) days from the date of receipt by Vendor of the change order. No change order will be binding on Buyer unless issued and signed by an authorized representative of Buyer's purchasing department. Nothing in this Section 8 shall excuse Vendor from proceeding with the order as changed.
9. **INSPECTION** Final inspection and acceptance of the merchandise shall be at the F.O.B. point unless otherwise specified in this order. Such inspection shall be in accordance with the customary established inspection procedures of Buyer at the location where the merchandise is received. Buyer reserves the right to use sampling procedures for the acceptance or rejection of any or all items ordered. If a lot is rejected by the sampling procedure, the entire lot may be returned to Vendor for screening at the Vendor's expense or, at the option of Buyer, the rejected lot may be screened by Buyer at Vendor's expense, and the costs thereof shall be deducted from Vendor's invoice. Buyer may reject any merchandise which contains defective materials or workmanship or does not conform to specifications or samples. In such event, Buyer may, at its option, and upon written notice to Vendor: (i) rescind this order as to such merchandise; (ii) accept such merchandise at an equitable reduction in price; or (iii) reject such merchandise and require the delivery of replacements. Deliveries of replacement merchandise shall be accompanied by a written notice specifying that such merchandise is a replacement. If Vendor fails to deliver required replacements promptly, Buyer may: (i) replace or correct such merchandise and charge the Vendor the cost thereby incurred by Buyer; or (ii) terminate this order for cause as provided in Section 16 hereof. The rights of Buyer under this Section 9 are in addition to any other rights or remedies herein or by law.
10. **WARRANTIES** In addition to all other warranties, expressed or implied, Vendor warrants that the merchandise will be: (i) free from defect in workmanship and materials; (ii) free from defects in design except to the extent that such merchandise complies with the specifications provided by Buyer; (iii) suitable for purposes, if any, which are stated on the face of this order or in any attachments hereto; and (iv) in conformity with all other requirements of this order. These warranties, and all other warranties, express or implied, shall survive delivery, inspection, acceptance and payment.

In addition to all other rights Buyer may have, if merchandise is determined not to be as warranted within a period of one (1) year acceptance by Buyer, Buyer may return such merchandise to Vendor, at Vendor's expense, for correction, replacement or credit, as Buyer may direct. Any merchandise corrected or furnished in replacement shall, from the date of delivery of such corrected or replacement merchandise, be subject to the provision of this Section 10 for the same period and to the same extent as merchandise initially furnished pursuant to this order.
11. **PROPRIETARY INFORMATION** All written information obtained by Vendor from Buyer concerning this order, and which is identified as proprietary by Buyer, shall be received in confidence and shall remain the property of the Buyer, and shall be used and disclosed by Vendor only to the extent necessary for performance of this order.
12. **COMPLIANCE WITH LAWS** Vendor shall comply with all federal, state and local laws, ordinances, rules and regulations in the manufacture and sale of the merchandise (including the performance of any services or construction work). Vendor will defend and hold Buyer harmless from any loss, damage or costs attributable to or arising out of any actual or alleged violation of any such law, ordinance, rule or regulation.
13. **USE OF VENDOR'S LITERATURE** Buyer shall have the right, at no additional charge, to use and reproduce the Vendor's applicable literature, such as operating and maintenance manuals, technical publications, prints, drawings, training manuals, and other similar supporting documentation and sales literature. Vendor shall advise Buyer in writing of any updated information relating to the foregoing literature and documentation.
14. **LIABILITY FOR INJURY** Vendor shall indemnify Buyer against any loss and liability for all personal injury and property damage caused by the merchandise sold or the services of construction work.
15. **ASSIGNMENT PROHIBITED** Vendor shall not assign this order, or any rights or obligations hereunder, without the prior written consent of Buyer, and no attempted or purported assignment by Vendor shall be binding on Buyer without such written consent.
16. **DEFAULT AND TERMINATION** Buyer may, by written notice of default to the Vendor, terminate this order, or any part thereof, under the following circumstances:
 - A. If Vendor fails to deliver the merchandise (or to commence performance of any services or construction work included therein) in accordance with the delivery schedule specified herein, or any extension thereof; or if Vendor fails to perform any other provision of this order, or so fails to make progress as to endanger performance of this order in accordance with its terms, and any such failure or default is not cured within ten (10) days after written notice from the Buyer, or
 - B. In the event of the appointment of a trustee, receiver or liquidator for all or a portion of Vendor's property, or the institution of bankruptcy, reorganization, arrangement or liquidation proceedings by or against the Vendor, or any assignments by Vendor for the benefit of creditors.Upon any termination to this Section 16, Buyer may purchase similar merchandise elsewhere, or secure the delivery of the merchandise by contract, or otherwise and Vendor shall be liable to Buyer for any excess cost to Buyer; provided, however, that Vendor shall not be liable for such excess costs when the delay of Vendor in performing or in making deliveries is due to causes beyond the control and without fault or negligence on the part of the Vendor. No cause shall constitute a basis for excusable delay unless Vendor has notified Buyer in writing of the existence of such cause within ten (10) days from the commencement thereof. The rights and remedies of Buyer under this Section 16 shall not be exclusive and are in addition to all other rights and remedies provided by law or by the terms and condition of this order.
17. **WAIVER** Buyer's failure to insist upon the performance of any provision of this order, or to exercise any right or privilege granted to Buyer under this order, shall not be construed as a waiver of any provision of this order, and the same shall continue in full force and effect. If any provision of this order is determined by a court of competent jurisdiction to be void or otherwise unenforceable, the other provisions of this order shall not be affected thereby.
18. **DISPUTE RESOLUTION** Disputes regarding the interpretation or application of any provisions of this order 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 or interpret any provisions of this order, the prevailing party in such action shall be entitled to reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded.
19. **GOVERNING LAW** The validity, performance and construction of the order, including all terms and conditions thereof, shall be construed in accordance with and governed by the laws of the State of California.
20. **ENTIRE AGREEMENT** This order, its terms and conditions, and any supplemental attachments, addenda or riders annexed hereto by Buyer, contain the entire agreement between the parties as to the subject matter hereof, and replace and supersede any prior or contemporaneous communications, representations or agreements, whether written oral, with respect to such subject matter, unless specifically provided otherwise herein.
21. **NOTICES** All notices, demands, requests or approvals to be given in connection with this order shall be in writing and delivered in person or by mail, postage prepaid, and addressed to the other party at the address set forth on the face of this order, or to such other address as may be subsequently be designated in writing by either party.
22. **SPECIAL PROVISIONS** Notwithstanding any terms or conditions herein above, to the contrary, the Special Provisions set forth in Attachment A, attached hereto, shall be deemed to be incorporated herein by reference and shall be binding on Vendor and shall supercede any provision of this Purchase Order set forth herein above which are in conflict therewith.

**Solicitation Number: RFP #040621****CONTRACT**

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Petersen Industries, Inc., 4000 S.R. 60 W., Lake Wales, FL 33859 (Vendor).

Sourcewell is a State of Minnesota local government agency and service cooperative created under the laws of the State of Minnesota (Minnesota Statutes Section 123A.21) that offers cooperative procurement solutions to government entities. Participation is open to federal, state/province, and municipal governmental entities, higher education, K-12 education, nonprofit, tribal government, and other public entities located in the United States and Canada. Sourcewell issued a public solicitation for Bulk Solid Waste and Recycling Equipment from which Vendor was awarded a contract.

Vendor desires to contract with Sourcewell to provide equipment, products, or services to Sourcewell and the entities that access Sourcewell's cooperative purchasing contracts (Participating Entities).

1. TERM OF CONTRACT

- A. **EFFECTIVE DATE.** This Contract is effective upon the date of the final signature below.
- B. **EXPIRATION DATE AND EXTENSION.** This Contract expires June 2, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.
- C. **SURVIVAL OF TERMS.** Articles 11 through 14 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

- A. **EQUIPMENT, PRODUCTS, OR SERVICES.** Vendor will provide the Equipment, Products, or Services as stated in its Proposal submitted under the Solicitation Number listed above. Vendor's Equipment, Products, or Services Proposal (Proposal) is attached and incorporated into this Contract.

All Equipment and Products provided under this Contract must be new/current model. Vendor may offer close-out or refurbished Equipment or Products if they are clearly indicated in Vendor's product and pricing list. Unless agreed to by the Participating Entities in advance, Equipment or Products must be delivered as operational to the Participating Entity's site.

This Contract offers an indefinite quantity of sales, and while substantial volume is anticipated, sales and sales volume are not guaranteed.

B. **WARRANTY.** Vendor warrants that all Equipment, Products, and Services furnished are free from liens and encumbrances, and are free from defects in design, materials, and workmanship. In addition, Vendor warrants the Equipment, Products, and Services are suitable for and will perform in accordance with the ordinary use for which they are intended. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer. Any manufacturer's warranty that is effective past the expiration of the Vendor's warranty will be passed on to the Participating Entity.

C. **DEALERS, DISTRIBUTORS, AND/OR RESELLERS.** Upon Contract execution, Vendor will make available to Sourcewell a means to validate or authenticate Vendor's authorized dealers, distributors, and/or resellers relative to the Equipment, Products, and Services related to this Contract. This list may be updated from time-to-time and is incorporated into this Contract by reference. It is the Vendor's responsibility to ensure Sourcewell receives the most current version of this list.

3. PRICING

All Equipment, Products, or Services under this Contract will be priced as stated in Vendor's Proposal.

When providing pricing quotes to Participating Entities, all pricing quoted must reflect a Participating Entity's total cost of acquisition. This means that the quoted cost is for delivered Equipment, Products, and Services that are operational for their intended purpose, and includes all costs to the Participating Entity's requested delivery location.

Regardless of the payment method chosen by the Participating Entity, the total cost associated with any purchase option of the Equipment, Products, or Services must always be disclosed in the pricing quote to the applicable Participating Entity at the time of purchase.

A. **SHIPPING AND SHIPPING COSTS.** All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within a reasonable time at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable

time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

Vendor must arrange for and pay for the return shipment on Equipment and Products that arrive in a defective or inoperable condition.

Sourcwell may declare the Vendor in breach of this Contract if the Vendor intentionally delivers substandard or inferior Equipment or Products. In the event of the delivery of nonconforming Equipment and Products, the Participating Entity will notify the Vendor as soon as possible and the Vendor will replace nonconforming Equipment and Products with conforming Equipment and Products that are acceptable to the Participating Entity.

B. SALES TAX. Each Participating Entity is responsible for supplying the Vendor with valid tax-exemption certification(s). When ordering, a Participating Entity must indicate if it is a tax-exempt entity.

C. HOT LIST PRICING. At any time during this Contract, Vendor may offer a specific selection of Equipment, Products, or Services at discounts greater than those listed in the Contract. When Vendor determines it will offer Hot List Pricing, it must be submitted electronically to Sourcwell in a line-item format. Equipment, Products, or Services may be added or removed from the Hot List at any time through a Sourcwell Price and Product Change Form as defined in Article 4 below.

Hot List program and pricing may also be used to discount and liquidate close-out and discontinued Equipment and Products as long as those close-out and discontinued items are clearly identified as such. Current ordering process and administrative fees apply. Hot List Pricing must be published and made available to all Participating Entities.

4. PRODUCT AND PRICING CHANGE REQUESTS

Vendor may request Equipment, Product, or Service changes, additions, or deletions at any time. All requests must be made in writing by submitting a signed Sourcwell Price and Product Change Request Form to the assigned Sourcwell Contract Administrator. This form is available from the assigned Sourcwell Contract Administrator. At a minimum, the request must:

- Identify the applicable Sourcwell contract number;
- Clearly specify the requested change;
- Provide sufficient detail to justify the requested change;
- Individually list all Equipment, Products, or Services affected by the requested change, along with the requested change (e.g., addition, deletion, price change); and
- Include a complete restatement of pricing documentation in Microsoft Excel with the effective date of the modified pricing, or product addition or deletion. The new pricing

restatement must include all Equipment, Products, and Services offered, even for those items where pricing remains unchanged.

A fully executed Sourcewell Price and Product Request Form will become an amendment to this Contract and be incorporated by reference.

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

A. PARTICIPATION. Sourcewell's cooperative contracts are available and open to public and nonprofit entities across the United States and Canada; such as federal, state/province, municipal, K-12 and higher education, tribal government, and other public entities.

The benefits of this Contract should be available to all Participating Entities that can legally access the Equipment, Products, or Services under this Contract. A Participating Entity's authority to access this Contract is determined through its cooperative purchasing, interlocal, or joint powers laws. Any entity accessing benefits of this Contract will be considered a Service Member of Sourcewell during such time of access. Vendor understands that a Participating Entity's use of this Contract is at the Participating Entity's sole convenience and Participating Entities reserve the right to obtain like Equipment, Products, or Services from any other source.

Vendor is responsible for familiarizing its sales and service forces with Sourcewell contract use eligibility requirements and documentation and will encourage potential participating entities to join Sourcewell. Sourcewell reserves the right to add and remove Participating Entities to its roster during the term of this Contract.

B. PUBLIC FACILITIES. Vendor's employees may be required to perform work at government-owned facilities, including schools. Vendor's employees and agents must conduct themselves in a professional manner while on the premises, and in accordance with Participating Entity policies and procedures, and all applicable laws.

6. PARTICIPATING ENTITY USE AND PURCHASING

A. ORDERS AND PAYMENT. To access the contracted Equipment, Products, or Services under this Contract, a Participating Entity must clearly indicate to Vendor that it intends to access this Contract; however, order flow and procedure will be developed jointly between Sourcewell and Vendor. Typically, a Participating Entity will issue an order directly to Vendor. If a Participating Entity issues a purchase order, it may use its own forms, but the purchase order should clearly note the applicable Sourcewell contract number. All Participating Entity orders under this Contract must be issued prior to expiration of this Contract; however, Vendor performance, Participating Entity payment, and any applicable warranty periods or other Vendor or Participating Entity obligations may extend beyond the term of this Contract.

Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity.

B. **ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM.** Additional terms and conditions to a purchase order, or other required transaction documentation, may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum; the terms of which will be worked out directly between the Participating Entity and the Vendor. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

C. **SPECIALIZED SERVICE REQUIREMENTS.** In the event that the Participating Entity requires service or specialized performance requirements (such as e-commerce specifications, specialized delivery requirements, or other specifications and requirements) not addressed in this Contract, the Participating Entity and the Vendor may enter into a separate, standalone agreement, apart from this Contract. Sourcewell, including its agents and employees, will not be made a party to a claim for breach of such agreement.

D. **TERMINATION OF ORDERS.** Participating Entities may terminate an order, in whole or in part, immediately upon notice to Vendor in the event of any of the following events:

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity.

E. **GOVERNING LAW AND VENUE.** The governing law and venue for any action related to a Participating Entity's order will be determined by the Participating Entity making the purchase.

7. CUSTOMER SERVICE

A. **PRIMARY ACCOUNT REPRESENTATIVE.** Vendor will assign an Account Representative to Sourcewell for this Contract and must provide prompt notice to Sourcewell if that person is changed. The Account Representative will be responsible for:

- Maintenance and management of this Contract;
- Timely response to all Sourcewell and Participating Entity inquiries; and
- Business reviews to Sourcewell and Participating Entities, if applicable.

B. BUSINESS REVIEWS. Vendor must perform a minimum of one business review with Sourcewell per contract year. The business review will cover sales to Participating Entities, pricing and contract terms, administrative fees, supply issues, customer issues, and any other necessary information.

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

A. CONTRACT SALES ACTIVITY REPORT. Each calendar quarter, Vendor must provide a contract sales activity report (Report) to the Sourcewell Contract Administrator assigned to this Contract. A Report must be provided regardless of the number or amount of sales during that quarter (i.e., if there are no sales, Vendor must submit a report indicating no sales were made).

The Report must contain the following fields:

- Customer Name (e.g., City of Staples Highway Department);
- Customer Physical Street Address;
- Customer City;
- Customer State/Province;
- Customer Zip Code;
- Customer Contact Name;
- Customer Contact Email Address;
- Customer Contact Telephone Number;
- Sourcewell Assigned Entity/Participating Entity Number;
- Item Purchased Description;
- Item Purchased Price;
- Sourcewell Administrative Fee Applied; and
- Date Purchase was invoiced/sale was recognized as revenue by Vendor.

B. ADMINISTRATIVE FEE. In consideration for the support and services provided by Sourcewell, the Vendor will pay an administrative fee to Sourcewell on all Equipment, Products, and Services provided to Participating Entities. The Administrative Fee must be included in, and not added to, the pricing. Vendor may not charge Participating Entities more than the contracted price to offset the Administrative Fee.

The Vendor will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Vendor's name and Sourcewell-assigned contract number in the memo; and must be mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

Vendor agrees to cooperate with Sourcewell in auditing transactions under this Contract to ensure that the administrative fee is paid on all items purchased under this Contract.

In the event the Vendor is delinquent in any undisputed administrative fees, Sourcewell reserves the right to cancel this Contract and reject any proposal submitted by the Vendor in any subsequent solicitation. In the event this Contract is cancelled by either party prior to the Contract's expiration date, the administrative fee payment will be due no more than 30 days from the cancellation date.

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

Vendor's Authorized Representative is the person named in the Vendor's Proposal. If Vendor's Authorized Representative changes at any time during this Contract, Vendor must promptly notify Sourcewell in writing.

10. AUDIT, ASSIGNMENT, AMENDMENTS, WAIVER, AND CONTRACT COMPLETE

A. **AUDIT.** Pursuant to Minnesota Statutes Section 16C.05, subdivision 5, the books, records, documents, and accounting procedures and practices relevant this Agreement are subject to examination by Sourcewell or the Minnesota State Auditor for a minimum of six years from the end of this Contract. This clause extends to Participating Entities as it relates to business conducted by that Participating Entity under this Contract.

B. **ASSIGNMENT.** Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement. Such consent will not be unreasonably withheld.

C. **AMENDMENTS.** Any amendment to this Contract must be in writing and will not be effective until it has been fully executed by the parties.

D. **WAIVER.** If either party fails to enforce any provision of this Contract, that failure does not waive the provision or the right to enforce it.

E. **CONTRACT COMPLETE.** This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22, the terms of Articles 1-22 will govern.

F. **RELATIONSHIP OF THE PARTIES.** The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their

respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell and its Participating Entities, including their agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the performance of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications.

12. GOVERNMENT DATA PRACTICES

Vendor and Sourcewell must comply with the Minnesota Government Data Practices Act, Minnesota Statutes Chapter 13, as it applies to all data provided by or provided to Sourcewell under this Contract and as it applies to all data created, collected, received, stored, used, maintained, or disseminated by the Vendor under this Contract.

If the Vendor receives a request to release the data referred to in this article, the Vendor must immediately notify Sourcewell and Sourcewell will assist with how the Vendor should respond to the request.

13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:
 - a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use the Trademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.
 - b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.
2. *Limited Right of Sublicense.* The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.
3. *Use; Quality Control.*

- a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.
 - b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.
 - c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.
4. As applicable, Vendor agrees to indemnify and hold harmless Sourcewell and its Participating Entities against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell or Participating Entities by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws.
5. *Termination.* Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

B. **PUBLICITY.** Any publicity regarding the subject matter of this Contract must not be released without prior written approval from the Authorized Representatives. Publicity includes notices, informational pamphlets, press releases, research, reports, signs, and similar public notices prepared by or for the Vendor individually or jointly with others, or any subcontractors, with respect to the program, publications, or services provided resulting from this Contract.

C. **MARKETING.** Any direct advertising, marketing, or offers with Participating Entities must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

D. **ENDORSEMENT.** The Vendor must not claim that Sourcewell endorses its Equipment, Products, or Services.

14. GOVERNING LAW, JURISDICTION, AND VENUE

Minnesota law governs this Contract. Venue for all legal proceedings out of this Contract, or its breach, must be in the appropriate state court in Todd County or federal court in Fergus Falls, Minnesota.

15. FORCE MAJEURE

Neither party to this Contract will be held responsible for delay or default caused by acts of God or other conditions that are beyond that party's reasonable control. A party defaulting under this provision must provide the other party prompt written notice of the default.

16. SEVERABILITY

If any provision of this Contract is found to be illegal, unenforceable, or void then both Sourcewell and Vendor will be relieved of all obligations arising under such provisions. If the remainder of this Contract is capable of performance, it will not be affected by such declaration or finding and must be fully performed.

17. PERFORMANCE, DEFAULT, AND REMEDIES

A. **PERFORMANCE.** During the term of this Contract, the parties will monitor performance and address unresolved contract issues as follows:

1. *Notification.* The parties must promptly notify each other of any known dispute and work in good faith to resolve such dispute within a reasonable period of time. If necessary, Sourcewell and the Vendor will jointly develop a short briefing document that describes the issue(s), relevant impact, and positions of both parties.
2. *Escalation.* If parties are unable to resolve the issue in a timely manner, as specified above, either Sourcewell or Vendor may escalate the resolution of the issue to a higher level of management. The Vendor will have 30 calendar days to cure an outstanding issue.
3. *Performance while Dispute is Pending.* Notwithstanding the existence of a dispute, the Vendor must continue without delay to carry out all of its responsibilities under the Contract that are not affected by the dispute. If the Vendor fails to continue without delay to perform its responsibilities under the Contract, in the accomplishment of all undisputed work, any additional costs incurred by Sourcewell and/or its Participating Entities as a result of such failure to proceed will be borne by the Vendor.

B. **DEFAULT AND REMEDIES.** Either of the following constitutes cause to declare this Contract, or any Participating Entity order under this Contract, in default:

1. Nonperformance of contractual requirements, or
2. A material breach of any term or condition of this Contract.

Written notice of default and a reasonable opportunity to cure must be issued by the party claiming default. Time allowed for cure will not diminish or eliminate any liability for liquidated or other damages. If the default remains after the opportunity for cure, the non-defaulting party may:

- Exercise any remedy provided by law or equity, or
- Terminate the Contract or any portion thereof, including any orders issued against the Contract.

18. INSURANCE

A. REQUIREMENTS. At its own expense, Vendor must maintain insurance policy(ies) in effect at all times during the performance of this Contract with insurance company(ies) licensed or authorized to do business in the State of Minnesota having an "AM BEST" rating of A- or better, with coverage and limits of insurance not less than the following:

1. *Workers' Compensation and Employer's Liability.*

Workers' Compensation: As required by any applicable law or regulation.

Employer's Liability Insurance: must be provided in amounts not less than listed below:

Minimum limits:

\$500,000 each accident for bodily injury by accident

\$500,000 policy limit for bodily injury by disease

\$500,000 each employee for bodily injury by disease

2. *Commercial General Liability Insurance.* Vendor will maintain insurance covering its operations, with coverage on an occurrence basis, and must be subject to terms no less broad than the Insurance Services Office ("ISO") Commercial General Liability Form CG0001 (2001 or newer edition), or equivalent. At a minimum, coverage must include liability arising from premises, operations, bodily injury and property damage, independent contractors, products-completed operations including construction defect, contractual liability, blanket contractual liability, and personal injury and advertising injury. All required limits, terms and conditions of coverage must be maintained during the term of this Contract.

Minimum Limits:

\$1,000,000 each occurrence Bodily Injury and Property Damage

\$1,000,000 Personal and Advertising Injury

\$2,000,000 aggregate for Products-Completed operations

\$2,000,000 general aggregate

3. *Commercial Automobile Liability Insurance.* During the term of this Contract, Vendor will maintain insurance covering all owned, hired, and non-owned automobiles in limits of liability not less than indicated below. The coverage must be subject to terms no less broad than ISO Business Auto Coverage Form CA 0001 (2010 edition or newer), or equivalent.

Minimum Limits:

\$1,000,000 each accident, combined single limit

4. *Umbrella Insurance*. During the term of this Contract, Vendor will maintain umbrella coverage over Workers' Compensation, Commercial General Liability, and Commercial Automobile.

Minimum Limits:

\$2,000,000

5. *Network Security and Privacy Liability Insurance*. During the term of this Contract, Vendor will maintain coverage for network security and privacy liability. The coverage may be endorsed on another form of liability coverage or written on a standalone policy. The insurance must cover claims which may arise from failure of Vendor's security resulting in, but not limited to, computer attacks, unauthorized access, disclosure of not public data – including but not limited to, confidential or private information, transmission of a computer virus, or denial of service.

Minimum limits:

\$2,000,000 per occurrence

\$2,000,000 annual aggregate

Failure of Vendor to maintain the required insurance will constitute a material breach entitling Sourcewell to immediately terminate this Contract for default.

B. CERTIFICATES OF INSURANCE. Prior to commencing under this Contract, Vendor must furnish to Sourcewell a certificate of insurance, as evidence of the insurance required under this Contract. Prior to expiration of the policy(ies), renewal certificates must be mailed to Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 or sent to the Sourcewell Contract Administrator assigned to this Contract. The certificates must be signed by a person authorized by the insurer(s) to bind coverage on their behalf.

Failure to request certificates of insurance by Sourcewell, or failure of Vendor to provide certificates of insurance, in no way limits or relieves Vendor of its duties and responsibilities in this Contract.

C. ADDITIONAL INSURED ENDORSEMENT AND PRIMARY AND NON-CONTRIBUTORY INSURANCE CLAUSE. Vendor agrees to list Sourcewell and its Participating Entities, including their officers, agents, and employees, as an additional insured under the Vendor's commercial general liability insurance policy with respect to liability arising out of activities, "operations," or "work" performed by or on behalf of Vendor, and products and completed operations of Vendor. The policy provision(s) or endorsement(s) must further provide that coverage is primary and not excess over or contributory with any other valid, applicable, and collectible insurance or self-insurance in force for the additional insureds.

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other

insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

E. UMBRELLA/EXCESS LIABILITY/SELF-INSURED RETENTION. The limits required by this Contract can be met by either providing a primary policy or in combination with umbrella/excess liability policy(ies), or self-insured retention.

19. COMPLIANCE

A. LAWS AND REGULATIONS. All Equipment, Products, or Services provided under this Contract must comply fully with applicable federal laws and regulations, and with the laws in the states and provinces in which the Equipment, Products, or Services are sold.

B. LICENSES. Vendor must maintain a valid and current status on all required federal, state/provincial, and local licenses, bonds, and permits required for the operation of the business that the Vendor conducts with Sourcwell and Participating Entities.

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

Vendor certifies and warrants that it is not in bankruptcy or that it has previously disclosed in writing certain information to Sourcwell related to bankruptcy actions. If at any time during this Contract Vendor declares bankruptcy, Vendor must immediately notify Sourcwell in writing.

Vendor certifies and warrants that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this Contract. Vendor further warrants that it will provide immediate written notice to Sourcwell if this certification changes at any time.

21. PROVISIONS FOR NON-UNITED STATES FEDERAL ENTITY PROCUREMENTS UNDER UNITED STATES FEDERAL AWARDS OR OTHER AWARDS

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all

references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Vendor’s Equipment, Products, or Services with United States federal funds.

A. **EQUAL EMPLOYMENT OPPORTUNITY.** Except as otherwise provided under 41 C.F.R. § 60, all contracts that meet the definition of “federally assisted construction contract” in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. §60-1.4(b), in accordance with Executive Order 11246, “Equal Employment Opportunity” (30 FR 12319, 12935, 3 C.F.R. §, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, “Amending Executive Order 11246 Relating to Equal Employment Opportunity,” and implementing regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

B. **DAVIS-BACON ACT, AS AMENDED (40 U.S.C. § 3141-3148).** When required by federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-federal entities must include a provision for compliance with the Davis-Bacon Act (40 U.S.C. § 3141-3144, and 3146-3148) as supplemented by Department of Labor regulations (29 C.F.R. § 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-federal entity must report all suspected or reported violations to the federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations (29 C.F.R. § 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-federal entity must report all suspected or reported violations to the federal awarding agency. Vendor must be in compliance with all applicable Davis-Bacon Act provisions.

C. **CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708).** Where applicable, all contracts awarded by the non-federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of

not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

D. RIGHTS TO INVENTIONS MADE UNDER A CONTRACT OR AGREEMENT. If the federal award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of 37 C.F.R. § 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

E. CLEAN AIR ACT (42 U.S.C. § 7401-7671Q.) AND THE FEDERAL WATER POLLUTION CONTROL ACT (33 U.S.C. § 1251-1387). Contracts and subgrants of amounts in excess of \$150,000 require the non-federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. § 7401- 7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. § 1251- 1387). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA). Vendor certifies that during the term of this Contract will comply with applicable requirements as referenced above.

F. DEBARMENT AND SUSPENSION (EXECUTIVE ORDERS 12549 AND 12689). A contract award (see 2 C.F.R. § 180.220) must not be made to parties listed on the government wide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at 2 C.F.R. §180 that implement Executive Orders 12549 (3 C.F.R. § 1986 Comp., p. 189) and 12689 (3 C.F.R. § 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. Vendor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any federal department or agency.

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have 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. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

H. RECORD RETENTION REQUIREMENTS. To the extent applicable, Vendor must comply with the record retention requirements detailed in 2 C.F.R. § 200.333. The Vendor further certifies that it will retain all records as required by 2 C.F.R. § 200.333 for a period of 3 years after grantees or subgrantees submit final expenditure reports or quarterly or annual financial reports, as applicable, and all other pending matters are closed.

I. ENERGY POLICY AND CONSERVATION ACT COMPLIANCE. To the extent applicable, Vendor must comply with the mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

J. BUY AMERICAN PROVISIONS COMPLIANCE. To the extent applicable, Vendor must comply with all applicable provisions of the Buy American Act. Purchases made in accordance with the Buy American Act must follow the applicable procurement rules calling for free and open competition.

K. ACCESS TO RECORDS (2 C.F.R. § 200.336). Vendor agrees that duly authorized representatives of a federal agency must have access to any books, documents, papers and records of Vendor that are directly pertinent to Vendor's discharge of its obligations under this Contract for the purpose of making audits, examinations, excerpts, and transcriptions. The right also includes timely and reasonable access to Vendor's personnel for the purpose of interview and discussion relating to such documents.

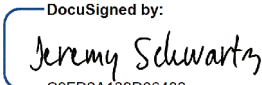
L. PROCUREMENT OF RECOVERED MATERIALS (2 C.F.R. § 200.322). A non-federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. § 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired during the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

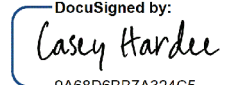
22. CANCELLATION

Sourcwell or Vendor may cancel this Contract at any time, with or without cause, upon 60 days' written notice to the other party. However, Sourcwell may cancel this Contract immediately upon discovery of a material defect in any certification made in Vendor's Proposal. Cancellation of this Contract does not relieve either party of financial, product, or service obligations incurred or accrued prior to cancellation.

Sourcwell

Petersen Industries, Inc.

DocuSigned by:

By: C0FD2A139D06489...
Jeremy Schwartz
Title: Chief Procurement Officer
Date: 5/26/2021 | 2:52 PM CDT

DocuSigned by:

By: 9A68D6BB7A324C5...
Casey Hardee
Title: President/CEO
Date: 5/26/2021 | 10:46 AM PDT

Approved:

DocuSigned by:

By: 7E42B8F817A64CC...
Chad Coauette
Title: Executive Director/CEO
Date: 5/26/2021 | 7:51 PM CDT

RFP 040621 - Bulk Solid Waste and Recycling Equipment

Vendor Details

Company Name: Petersen Industries, Inc.
4000 State Road 60 W
Address: LAKE WALES, FL 33859
Contact: Casey Hardee
Email: chardee@petersenind.com
Phone: 863-676-1493 257
Fax: 813-478-1454
HST#: 59-2979951

Submission Details

Created On: Friday February 19, 2021 12:44:13
Submitted On: Monday March 29, 2021 15:22:54
Submitted By: Casey Hardee
Email: chardee@petersenind.com
Transaction #: 9d573344-e8dc-40e7-866a-e3d93fae21d1
Submitter's IP Address: 73.255.132.23

Specifications

Table 1: Proposer Identity & Authorized Representatives

General Instructions (applies to all Tables) Sourcewell prefers a brief but thorough response to each question. Do not merely attach additional documents to your response without also providing a substantive response. Do not leave answers blank; respond "N/A" if the question does not apply to you (preferably with an explanation).

Line Item	Question	Response *	
1	Proposer Legal Name (and applicable d/b/a, if any):	Petersen Industries, Inc.	*
2	Proposer Address:	4000 S.R. 60 W. Lake Wales, FL 33859	*
3	Proposer website address:	www.petersenind.com	*
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Casey Hardee- President/CEO 4000 S.R. 60 W. Lake Wales, FL 33859 813-478-1454 chardee@petersenind.com	*
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Casey Hardee- President/CEO 4000 S.R. 60 W. Lake Wales, FL 33859 813-478-1454 chardee@petersenind.com	*
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Danielle Brown- Sales Admin/Marketing Manager 4000 S.R. 60 W. Lake Wales, FL 33859 863-676-1493 dbrown@petersenind.com	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	
7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	Petersen Industries began over 60 years ago by producing a knuckle boom loader used in the harvest of Florida citrus. A local municipality reached out and asked if we could mount one on a truck chassis so they could use it to collect bulky items. That was the first ever grapple truck purpose built for bulky municipal solid waste. Ever since then our model "Lightning Loader" has been synonymous with grapple trucks throughout the entire United States. Our mission at Petersen Industries is to help cities and counties stay clean and hazard free by providing the best possible equipment to safely and efficiently collect and dispose of discarded bulky items. We define bulky waste to mean anything that does not fit in your rollout container. What makes Petersen Industries uniquely qualified to do this is our laser focus on our products' intended use. Other than just a few purchased components, over 90% of our products are designed, machined and manufactured in-house. This includes most hydraulic cylinders, pins, bushings, and everything in between. This gives us control over both quality and delivery. We aren't reliant on other manufacturers, sometimes overseas, to provide us with components for our customers. We not only have parts for our new products, but know we also have the right part on the shelf for customers in the field. Our ability to continually service our equipment after the sale is the most common reason our customers say they only buy Petersen Lightning Loaders!	*

8	What are your company's expectations in the event of an award?	Petersen Industries has held a contract with Sourcewell for over 10 years. It has become our go-to strategy for selling our equipment with every new and existing customer or prospect we meet. The simplicity of using the contract, along with the ever-growing acceptance of it, make it our first choice for doing business every time. Our expectations are to continue to promote the contract first as our preferred method to provide our products to our customers.	*
9	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Petersen Industries has enjoyed continued successful growth over the past 10 years. We have grown on average over 20% year over year. That has also been profitable growth with EBITDA in the 16-22% range each year. We have been able to add plant and equipment of more than \$5 million in the past several years to meet our ever-growing demand. We have been able to do so without incurring any debt. We make all of our capital expenditures with cash on hand. Financial reports and a note from our CPA will be provided as an attachment.	*
10	What is your US market share for the solutions that you are proposing?	Although there is no independent reporting agency that collects market share data for grapple trucks, it is our belief the Petersen Industries holds more than 50% of the municipal bulk waste grapple market in the United States.	*
11	What is your Canadian market share for the solutions that you are proposing?	Our market share is slightly less in Canada, as is the demand for our product also.	*
12	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No	*
13	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	Manufacturer In certain states we sell our product directly to municipal/governmental agencies with our own employed sales force. We also have 26 contractual distributors in certain states around the country. Their sales force is not employed directly by Petersen Industries. Petersen Industries, being the OEM, completely up fit the chassis with our equipment and deliver it to our dealers "ready to use". Our dealers have been trained how to use the contract as our agent. Petersen Industries always has, and will remain, as the single point of responsibility for any item sold through the contract.	*
14	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	We are required to and hold a Florida business license, Polk County Occupation License, and a Florida Motor Vehicle Dealer License.	*
15	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	None	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	
16	Describe any relevant industry awards or recognition that your company has received in the past five years	Gator100- Awarded by the University of Florida for the 100 fastest growing alumnus owned or operated business. Route Assistant- U.S. Patent pending 2020- Should have final approval in Q2 2021.	*
17	What percentage of your sales are to the governmental sector in the past three years	83%	*
18	What percentage of your sales are to the education sector in the past three years	1%	*
19	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	Houston-Galveston Area Council (HGAC)- less than \$1 million per year Florida Sheriffs Association (FSA)- \$4-\$5 million per year	*
20	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	None	*

Table 4: References/Testimonials

Line Item 21. Supply reference information from three customers who are eligible to be Sourcwell participating entities.

Entity Name *	Contact Name *	Phone Number *	
City of Bryan, TX	Jared Birkhead	(979)574-6619	*
Hillsborough, County of (FL)	Andy Morris	(813) 612-9111	*
City of Chattanooga, TN	Gary Franks	(423) 643-5559	*

Table 5: Top Five Government or Education Customers

Line Item 22. Provide a list of your top five government, education, or non-profit customers (entity name is optional), including entity type, the state or province the entity is located in, scope of the project(s), size of transaction(s), and dollar volumes from the past three years.

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
Miami-Dade County, FL	Government	Florida - FL	Models RS3, TL3 and TR3 grapple loader and body	Between \$81,265 and \$106,417	\$2,290,342	*
City of Houston, TX	Government	Texas - TX	Model RS3 Rear Steer grapple loader and body	Between \$88,393 and \$100,025	\$2,634,394	*
City of Boca Raton, FL	Government	Florida - FL	Models AL1 and TL3 grapple loader and body	Between \$73,631 and \$93,929	\$710,837	*
City of Indianapolis, IN	Government	Indiana - IN	Model TL3 grapple loader and body	\$68,429	\$753,225	*
City of Memphis, TN	Government	Tennessee - TN	Models RS3 and TL3 grapple loader8 and body	Between \$76,845 and \$84,516	\$1,221,727	*

Table 6: Ability to Sell and Deliver Service

Describe your company's capability to meet the needs of Sourcwell participating entities across the US and Canada, as applicable. Your response should address in detail at least the following areas: locations of your network of sales and service providers, the number of workers (full-time equivalents) involved in each sector, whether these workers are your direct employees (or employees of a third party), and any overlap between the sales and service functions.

Line Item	Question	Response *	
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23	Sales force.	Petersen Industries, Inc. employs 1 Sales Director, 4 direct full time Regional Sales Managers (RSM), 4 Inside Sales Managers and one one Inside Sales Coordinator. Each Outside RSM is responsible for a portion of direct sales to municipal entities, as well as, managing the sales efforts of a select group of independently owned, contractual dealers and their sales teams at each.	*
24	Dealer network or other distribution methods.	Our dealer network consists of 28 independently owned distributor dealers that each have at a minimum one physical location within their assigned Area of Primary Sales Responsibility (APSR), as well as, multiple outside sales professionals and inside sales support staff. Our dealers have a minimum of one location in the following states: Massachusetts, New Hampshire, New York, Pennsylvania, Virginia, North Carolina, South Carolina, Georgia, Florida, Tennessee, Kentucky, Ohio, Indiana, Michigan, Illinois, Iowa, Missouri, Arkansas, Louisiana, Texas, Oklahoma, Nebraska, Montana, Colorado, Arizona, Nevada, Idaho, Washington, and California	*
25	Service force.	Petersen Industries has one mobile service truck that can be deployed within 24 hours anywhere within the state of Florida. In addition to that, we have a full in-house service team that can perform any repair, warranty or otherwise, utilizing our \$3+ million dollar parts inventory we keep on hand exclusively for replacement parts. In addition to our capabilities, each of our dealers also employ the use of mobile service technicians, in-house service technicians, and a minimum stocking level of Petersen parts. If they do not have a part in stock most parts can be shipped out within 24 hours of any request. Exceptional service after the sale is the primary reason we are told customer continue to buy Petersen only for their grapple truck needs.	*
26	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Our service procedure starts with directing all service related inquiries, whether initiated by phone or our online chat, to our customer service department where a team of 4 specialists, with a combined 120 years of Petersen experience, are able to fully diagnose the problem remotely, determine what parts are needed and decide the best course of action to getting the customer back up and running. Whether that is to ship out parts with installation instructions directly to customers with their own service capabilities, coordinate with one of our dealer distributors to have the work performed by one of their technicians, or handling the service portion ourselves, either in-house or with our mobile response unit. Most items are diagnosed and have parts shipped out within 24 hours. for service related requests, response is usually within 48-72 hours of initial contact. All of our dealer distributors participate in the profit of parts sales within their APSR, thereby ensuring the necessary commitment to have our customers taken care of in a timely fashion.	*
27	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	Sourcewell has been, and will remain, a large part of our business with municipal and governmental entities. Our dealers all appreciate, and are well versed in, our contract, its nuances, and how to get the customer what they need as easily and painlessly as possible. We include Sourcewell in every conversation we have with potential buyers, letting them know they have an easy alternative to the bid process. The largest advantage is that it will be more competitive than any price they can receive by going out to bid on their own. The work has largely been done for them and so the discounts are deeper than any other bid price we give out.	*
28	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	Although we currently have no location of our own in Canada, we have relationships with entities that are willing and able to sell and service our products. We have relationships with entities in Montreal, Ontario, and Kelowna that are familiar with our products, their capabilities and the repair and maintenance.	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	We have customers in all 50 states and every province in Canada. We are willing and able to assist any and all governmental entities within these two countries.	*
30	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	We will not be excluding ANY entity sectors.	*
31	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	No restrictions.	*

Table 7: Marketing Plan

Line Item	Question	Response *	
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	The primary marketing strategy starts with making existing customers and potential prospects aware of the opportunity to purchase through the Sourcewell contract. We have now held a contract long enough that our sales team and dealers' sales teams prefer to lead with this contract rather than use it as an option of last resort. We include the Sourcewell logo on our website for familiarity. We also put magnetic Sourcewell decals on all of our demonstrator vehicles while out demo'ing our products. We are starting to resume attendance at trade shows where we display the Sourcewell flag and magnet at our display booths. Lastly, we developed, in conjunction with our Sourcewell rep, Nick Trout, our Most Valuable Partner (MVP) Program for the dealer that records the largest number of sales through the Sourcewell contract for 2021. The winner will be announced and recognized at the Waste Expo in 2022. This will help promote healthy competition and awareness throughout our dealer network.	*
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Our most obvious use of digital data starts with our website where we receive thousands of hits monthly. We display the Sourcewell logo and link at the bottom of the home landing page so everyone knows right up front that Sourcewell is a buying option for them. We are also actively pursuing a social media strategy where we will be distributing a steady stream of product specific content. We intend to connect it to Sourcewell and promote the existence of our new Sourcewell contract on these platforms. This will enable us to quickly disseminate to our followers the ability to procure Petersen products via Sourcewell.	*
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	We don't rely on Sourcewell to do our marketing. Sourcewell, being a governmental entity, is responsible for developing, issuing, analyzing and awarding contracts. Although we appreciate any promotion or awareness campaign Sourcewell chooses to undertake, it is our responsibility to let our customers and prospects know about their ability to use our contract with Sourcewell to their betterment. AS stated previously, when we get to the point in any negotiation about how to procure our equipment, we lead with our Sourcewell contract as our preferred method. Every governmental customer of ours knows that is an option. It is by their choice if they choose to purchase by some other means.	*
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	Because each customer of ours is unique, we prefer to help build specifications though direct interaction rather than making someone attempt to spec out their own equipment on their own. We do not offer any e-procurement at this time and do not intend to in the near future.	*

Table 8: Value-Added Attributes

Line Item	Question	Response *	
36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Every Sourcewell customer can receive free onsite operator and maintenance training upon delivery of any unit purchased through the Sourcewell contract. We normally charge \$1500 for this expense since it involves travel anywhere in the U.S. and Canada. This training is done by a Petersen Industries employee that is a "trained trainer".	*
37	Describe any technological advances that your proposed products or services offer.	The beauty of the Petersen Lightning Loader products is their simplicity to use and maintain. We have intentionally avoided overcomplicating the equipment with computers, chips, and electronics that are hard to diagnose. We make sure that all new innovations to parts and products are backwards compatible so our existing customers can benefit from new innovations as well as new customers. The simplicity of our unit allows us to easily troubleshoot and diagnose problems remotely so we can quickly get out the parts and corrective action needed to get the truck back on route. That is what our customers tell us they appreciate the most. Where we are using technology is with our service and warranty department. By using live video chats, they can see first hand what is going on with the equipment and can diagnose remotely along with the customer's technician providing free, step-by-step instruction.	*
38	Describe any "green" initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	Although we are not pursuing any green initiatives that require an agency oversight, we are exploring options such as environmentally friendly hydraulic oil, better capture of solvent and paint emissions from our painting process, and even compatibility of our products with electric vehicles. We see electric power as a large part of the future and are exploring ideas to make our products run on battery power on electric or non-electric vehicles. This project is in its early stages and will take some time to see results.	*
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	N/A	*
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	N/A	*
41	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	We offer the widest variety of bulk waste solutions in the solid waste industry. When we pair that with our experience with the Sourcewell contract we become the most dynamic solution for all municipal and governmental entities to get exactly what they want to best suit their needs. Unlike other cooperative contracts in the U.S. that either separate the equipment from the chassis or only let the chassis dealers hold contracts, the Sourcewell contract allows us to establish the right chassis specifications to best fit our equipment. We are then able to offer the most complete package with the easiest path to acquisition.	*

Table 9: Warranty

Describe in detail your manufacturer warranty program, including conditions and requirements to qualify, claims procedure, and overall structure. You may upload representative samples of your warranty materials (if applicable) in the document upload section of your response in addition to responding to the questions below.

Line Item	Question	Response *	
42	Do your warranties cover all products, parts, and labor?	yes absolutely!	*
43	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	We only ask that it is a warrantable failure. Very seldom do we have a customer try to claim warranty on something they accidentally damaged, but it does happen. We often times will still cover an item that shouldn't be covered if the customer is willing to allow us to come explain what happened and train their operators to prevent it from happening again.	*
44	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	Yes in most cases it does. We cover it ourselves in the states we sell direct. We reimburse our dealers who are performing onsite warranties. Most warranty failures are able to be fixed at the customer's location with a service tech and service truck. Our customers really appreciate not having to take it somewhere and leave it for repairs.	*
45	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	No. we can provide service coverage throughout the U.S and Canada.	*
46	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	Any item that is supplied with our equipment at time of purchase that was part of the sale (meaning they paid for it in the initial acquisition price) will be covered by our warranty and we will take it up with the supplier, if necessary. Any items added to the vehicle without our knowledge or approval will not be covered.	*
47	What are your proposed exchange and return programs and policies?	For any potential warranty claim, we ask that the customer contact either Petersen directly or their local dealer to start an official warranty claim and receive a tracking number. We then identify the parts needed to perform the repair. We will invoice for the part and freight when we ship it out, but we will include a prepaid return freight authorization to have the failed part returned to us. Once we receive it, inspect it and determine it is a covered failure, we will issue a credit for all parts and freight sent to correct the issue along with an additional credit for any labor incurred.	*
48	Describe any service contract options for the items included in your proposal.	Each of our dealers has the ability to contract with their customer for a service contract for any length or time, if they so choose. We offer a factory service contract to our direct customers that provides for routine inspection and maintenance of the equipment. This can be added at an agreed upon price determined by the amount of responsibility the customer wants to transfer to us.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
49	What are your payment terms (e.g., net 10, net 30)?	We offer net30 day terms to all participating members of Sourcewell.	*
50	Describe any leasing or financing options available for use by educational or governmental entities.	We utilize NCL Government Capital for leasing and financing opportunities with our Sourcewell customers. We were introduced to them through Sourcewell. This is a very seamless transaction for the customer since they are also a Sourcewell contract holder.	*
51	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell participating entities' purchase orders.	Having been a Sourcewell contract holder for many years now, we have streamlined our order entry and reporting process to where it works without much effort. Although our dealers are able to use our Sourcewell contract for their orders, we collect all funds necessary to be distributed back to Sourcewell for the fees. We always ensure the customer has issued the purchase order with the correct contract number and pricing prior to accepting the order. We then require that they sign a purchase agreement contract that spells out that it will be a Sourcewell contract purchase and that fees will be paid by us for their use of the contract. The fees are not reflected in their pricing in any way. It is our expense and part of our initial acquisition cost.	*
52	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	We do accept it for smaller purchases (parts) and there are no additional charges.	*

Table 11: Pricing and Delivery

Provide detailed pricing information in the questions that follow below. Keep in mind that reasonable price and product adjustments can be made during the term of an awarded Contract as described in the RFP, the template Contract, and the Sourcwell Price and Product Change Request Form.

Line Item	Question	Response *	
53	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcwell discounted price) on all of the items that you want Sourcwell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Petersen has always worked off of a discounted price from our published list price. The price list uploaded will show the list price and then out to the side will show the percentage discount from that price offered to the Sourcwell member. Because the contract allow for additional discounts beyond what is stated on the price list, very often our customer using the contract will receive significantly more discount than what is shown.	*
54	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	The published price list and discount uploaded will show a standard 2% off of list. We have issued up to 10% discounts to customers using the contract that are buying multiple units. Because of the volatility in the steel and oil industries in recent years, it is difficult to offer a large discount across the board not knowing what the commodities market will look like at the time of purchase. Either way, our customers will always receive a larger discount on their Sourcwell quoted price than by any other means they attempt to purchase through. This is how we keep our Sourcwell contract primary.	*
55	Describe any quantity or volume discounts or rebate programs that you offer.	Certain models in our product mix have better economies the larger the quantity being purchased; others do not. We attempt to maximize the discount based on what model and option combination the customer chooses. If we can create efficiencies with multiple units, we will always pass that savings along to the customer by way of additional discount.	*
56	Propose a method of facilitating "sourced" products or related services, which may be referred to as "open market" items or "nonstandard options". For example, you may supply such items "at cost" or "at cost plus a percentage," or you may supply a quote for each such request.	We call these "non-contract items" and usually employ a cost plus model to the item depending on its cost and the amount of additional labor required to facilitate the request. The larger the dollar amount the smaller the additional markup factor. We will calculate our additional labor at our current labor rate of \$120/hr and then discount it according to the level of discount being offered on contract items.	*
57	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	We will provide a line item on our pricing called Pre-Delivery Inspection. This will be a flat rate of \$1,000 and will be included as a contract item. Not all dealers will participate in the PDI fee as some include it as part of their normal pricing and delivery model. Nothing will be in addition to the quoted price. Our Sourcwell quoted price will be all-inclusive.	*
58	If freight, delivery, or shipping is an additional cost to the Sourcwell participating entity, describe in detail the complete freight, shipping, and delivery program.	We provide a freight matrix as part of our Sourcwell pricing when we submit our price list. These are guaranteed maximum freight rates and are often less once delivered. Again, this will not be outside of our Sourcwell contract.	*
59	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	We provide freight to those locations currently through third party shippers that can haul the truck or equipment on a trailer rather than incurring any mileage to the vehicle. Again, our freight matrix will cover these costs.	*
60	Describe any unique distribution and/or delivery methods or options offered in your proposal.	For most of our deliveries within the continental U.S. the truck will be driven to its final destination. The customer can choose to have the vehicle transported on a trailer so as to not incur the mileage. Although this is more expensive, the optional rates will be included as part of the contract pricing.	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
61	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	

Table 13: Audit and Administrative Fee

Line Item	Question	Response *
62	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	We have been performing this audit for several years now with our contract. We have a sales administrator, Danielle Brown, who is responsible for recording all equipment sales. She ensures that all orders received for Sourcewell contract pricing has all of the proper documentation when accepting the order and that all fees to be paid are properly identified. Sourcewell contract orders are kept in a special file that notifies our Accounts Receivable team when a unit is ready to be invoiced. It is automatically entered into our Sourcewell fees payable account and held until the next payment is due. Our sales administrator personally reviews each Sourcewell payment due and matches it to the equipment sold. Our CFO gets final approval and oversight to ensure nothing was missed during the quarter for which the fee payment is being sent. This gives us 3 separate layers of verification to be certain all necessary fees are paid on time and in full.
63	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	We will pay one full percent of the contract purchase price for all equipment and related components due on the invoice. Most of our unit sales are in the 6 figure range. The average fee paid to Sourcewell per transaction for our products is \$1500 per. It can be lower at times, but it can also be as much as \$3,000 per unit. By making it a flat percentage of everything sold, it is easier to track and calculate than any other method we have explored.

Table 14A: Depth and Breadth of Offered Equipment Products and Services

Line Item	Question	Response *
64	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Our company is laser-focused on bulk waste collection solutions. We do not manufacture or sell any other waste related products. That being said, we have 13 different loader models and over 40 different standard bodies and 6 models of trailers to serve in conjunction with the loaders we manufacture. We offer the largest lineup and broadest variety of bulk waste collection solutions in the entire waste collection industry. You will be able to see this with the brochures in the download section.
65	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	on Page 3 Section II B. 1. b. Knuckleboom and grapple loaders, hook and hoist dumpster loaders, roll-off trucks, and container handlers The above best describes the equipment we will be bidding for this contract. We will not be submitting proposals for a. or c. containers, balers, or compactors.

Table 14B: Depth and Breadth of Offered Equipment Products and Services

Indicate below if the listed types or classes of equipment, products, and services are offered within your proposal. Provide additional comments in the text box provided, as necessary.

Line Item	Category or Type	Offered *	Comments	
66	Commercial/Industrial-sized refuse and recycling containers, roll-off containers and collection bins of metal construction	☐ Yes ☒ No	not offered	*
67	Knuckleboom and grapple loaders	☒ Yes ☐ No	Yes. This is the primary product we are bidding	*
68	Hook and hoist dumpster loaders	☒ Yes ☐ No	We have models that are designed to work in conjunction with hook and cable hoists. We will be submitting option pricing on the appropriate size and models that our loaders work with.	*
69	Roll-off trucks and container handlers	☒ Yes ☐ No	we have a model CP3 loader that is specifically designed and used for the transportation and placement of commercial front and rear load containers.	*
70	Refuse and recyclable material balers and compactors	☐ Yes ☒ No	not offered	*

Table 15: Industry Specific Questions

Line Item	Question	Response *	
71	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	Since we have had a contract for several years we already track metrics. It is our goal to have our sales % sold through Sourcwell to outpace our overall growth by at least 5%. so far we have been able to accomplish that goal and plan to see the trend continue	*
72	Describe the serviceability of the products included in your proposal (parts availability, warranty and technical support, etc.).	95% of the finished products we produce are machined and manufactured in-house. Because of this, we very seldom have supply chain issues. Here in the days of COVID delays, that has become a very significant advantage! not only are we able to meet our new unit production responsibilities but also supply the necessary repair and replacement parts for units already in service. Our technical support staff on-site is second to none. We excel most in customer service and response.	
73	Describe advancements reflected in the equipment or products offered in your proposal, such as safety, longevity or life cycle cost measures.	We have a continuous improvement plan in place where, lead by a team of our own production and engineering staff, we continuously look for, and find, ways where we can improve product and/or process. This provides our customers the most advance product and ensures we are striving to keep our costs in check. In addition to existing products, we have tripled our engineering staff in the past 2 years with the intent of developing and releasing new products to market that further benefit our customers' need to collect and handle bulk waste.	

Table 16: Exceptions to Terms, Conditions, or Specifications Form

Line Item 74. NOTICE: To identify any exception, or to request any modification, to the Sourcwell template Contract terms, conditions, or specifications, a Proposer must submit the exception or requested modification on the **Exceptions to Terms, Conditions, or Specifications Form** immediately below. The contract section, the specific text addressed by the exception or requested modification, and the proposed modification must be identified in detail. Proposer's exceptions and proposed modifications are subject to review and approval of Sourcwell and will not automatically be included in the contract.

Contract Section	Term, Condition, or Specification	Exception or Proposed Modification
		No Exceptions

Documents

Ensure your submission document(s) conforms to the following:

1. Documents in PDF format are preferred. Documents in Word, Excel, or compatible formats may also be provided.
 2. Documents should NOT have a security password, as Sourcewell may not be able to open the file. It is your sole responsibility to ensure that the uploaded document(s) are not either defective, corrupted or blank and that the documents can be opened and viewed by Sourcewell.
 3. Sourcewell may reject any response where any document(s) cannot be opened and viewed by Sourcewell.
 4. If you need to upload more than one (1) document for a single item, you should combine the documents into one zipped file. If the zipped file contains more than one (1) document, ensure each document is named, in relation to the submission format item responding to. For example, if responding to the Marketing Plan category save the document as "Marketing Plan."
- [Financial Strength and Stability](#) - Financial Strength CPA Letter & Altus Report.pdf - Tuesday March 23, 2021 12:30:41
 - [Marketing Plan/Samples](#) - Sourcewell_Marketing.zip - Tuesday March 23, 2021 13:24:29
 - WMBE/MBE/SBE or Related Certificates (optional)
 - [Warranty Information](#) - Warranty Statement.pdf - Monday March 22, 2021 13:38:51
 - [Pricing](#) - Sourcewell Price List 2021 (2).zip - Monday March 29, 2021 13:39:02
 - [Upload Additional Document](#) - COI and Terms.zip - Monday March 29, 2021 15:18:41

Proposer's Affidavit

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

I certify that I am the authorized representative of the Proposer submitting the foregoing Proposal with the legal authority to bind the Proposer to this Affidavit and Assurance of Compliance:

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.
2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.
3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.
4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor's objectivity in performing the contract is, or might be, impaired.
5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.
6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.
7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.
8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.
9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.
10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.
11. Proposer its employees, agents, and subcontractors are not:
 1. Included on the "Specially Designated Nationals and Blocked Persons" list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: <https://www.treasury.gov/ofac/downloads/sdnlist.pdf>;
 2. Included on the government-wide exclusions lists in the United States System for Award Management found at: <https://sam.gov/SAM/>; or

3. Presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from programs operated by the State of Minnesota; the United States federal government or the Canadian government, as applicable; or any Participating Entity. Vendor certifies and warrants that neither it nor its principals have been convicted of a criminal offense related to the subject matter of this solicitation.

☒ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Casey Hardee, President/CEO, Petersen Industries, Inc.

The Proposer declares that there is an actual or potential Conflict of Interest relating to the preparation of its submission, and/or the Proposer foresees an actual or potential Conflict of Interest in performing the contractual obligations contemplated in the bid.

☒ Yes ☐ No

The Bidder acknowledges and agrees that the addendum/addenda below form part of the Bid Document.

Check the box in the column "I have reviewed this addendum" below to acknowledge each of the addenda.

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_2_Bulk_Solid_Waste_Equipment_RFP_040621 Fri February 19 2021 08:07 AM	☒	1
Addendum_1_Bulk_Solid_Waste_Equipment_RFP_040621 Thu February 18 2021 01:07 PM	☒	1

-
- SO. CALIFORNIA: 2044 South Vineyard Avenue, Ontario, CA 91761 • (909) 930-1822 • FAX (909) 923-2356
□ NO. CALIFORNIA: 800 East Grant Line Road, Tracy, CA 95376 • (209) 830-8600 • FAX (209) 830-8884

City of Palmdale
39110 Third St E
Palmdale, CA 93550

June 13, 2022

Attention: Bruce Roadhouse
Reference: Petersen TL3 Grapple Truck (Demo Unit)
Nixon Quote: 100580
Sourcewell Contract: #040621-PII



Dear Bruce:

We are pleased to provide you a quotation on a **Petersen TL-3 Lightning** equipped as follows:

Loader:

- Heavy Duty Swing Motor
- Quadstick Mechanical Controls
- Grating Heat Shield
- HDHI Outtrigger Strobe
- Reflective Tape Outriggers
- Standard Bucket 60"
- Boom-up Warning Light/Audible Alarm
- Dual LED Strobe, Mounted on Head
- Hose Guards – Head & Valve Bank
- Work Lights (Set of 2) (1 each side of the boom)
- Tool Box, Truck Frame Mounted under body
- HD Control Box, (Throttle Engine Kill & Horn)
- Tandem Pump in Lieu of Single 18 GPM
- Kevlar Hose Sleaving
- Perfect Fit Hose Routing
- Front Mount-Strobes Amber
- Loader Single Color PI Orange

Dump Body:

- Model HDX-1824 Hardox Body (1/8" Sides, 3/16" Floor)
- Single Piece Rear Door (Replaces Standard Barn Doors)
- Wire-Loom for Body Wiring
- Alarm, Body Dump
- LED Type Body Lights 15
- Work Lights (2 Curbside Underbody)
- Work Lights (2 Streetside Underbody)
- Rear Camera Mounted in rear (Marker Light-tv-550)
- Petersen Smart Light System
- Body Color: Black
- PI Self-Winding Load Covering

NIXON-EGLI EQUIPMENT CO.

www.nixon-egli.com

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- ☐ SO. CALIFORNIA: 2044 South Vineyard Avenue, Ontario, CA 91761 • (909) 930-1822 • FAX (909) 923-2356
☐ NO. CALIFORNIA: 800 East Grant Line Road, Tracy, CA 95376 • (209) 830-8600 • FAX (209) 830-8884

Chassis:

- 2021 Freightliner M2 106
- Cummins L9 300 HP
- Allison 6-Speed Automatic Single Rear Axle, 33,000 GVWR

Unit Price:	\$193,729.64
Sales Tax (Los Angeles County 10.25%):	\$19,857.29
Dealer Items / Freight:	\$11,000.00
Total Price:	\$224,586.93

Freight will be via driveaway service.

The above price(s) are valid for 60 days.

Thank you for the opportunity to quote on your equipment needs. If you have any further questions, please feel free to contact me.

Sincerely,
NIXON-EGLI EQUIPMENT CO.

Christian Velasco
Municipal Area Manager



City Council Staff Report

DATE: JULY 20, 2022

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: PUBLIC WORKS

DISTRICT: 1

SUBJECT: ADOPT RESOLUTION NO. CC 2022-079 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE ADOPTING THE JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES ACTING ON BEHALF OF THE LOS ANGELES COUNTY GENERAL FUND AND THE LOS ANGELES COUNTY CONSOLIDATED FIRE PROTECTION DISTRICT, THE BOARD OF DIRECTORS OF THE COUNTY SANITATION DISTRICT NO. 14 OF LOS ANGELES COUNTY, AND THE GOVERNING BODIES OF THE ANTELOPE VALLEY CEMETARY DISTRICT, ANTELOPE VALLEY RESOURCE CONSERVATION DISTRICT, CITY OF PALMDALE, ANTELOPE VALLEY-EAST KERN WATER AGENCY, AND THE ANTELOPE VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT APPROVING AND ACCEPTING NEGOCIATED EXCHANGE OF PROPERTY TAX REVENUES RESULTING FROM ANNEXATION 14-433 TO COUNTY SANITATION DISTRICT NO. 14.

ISSUE

Adopt Resolution No. CC 2022-079, A Resolution of the City Council of the City of Palmdale adopting the Joint Resolution of the Board of Supervisors of the County of Los Angeles acting on behalf of the Los Angeles County General Fund and the Los Angeles County Consolidated Fire Protection District, the Board of Directors of the County Sanitation District No. 14 of Los Angeles County, and the governing bodies of the Antelope Valley Cemetery District, Antelope Valley Resource Conservation District, City of Palmdale, Antelope Valley-East Kern Water Agency, and the Antelope Valley Mosquito and Vector Control District approving and accepting negotiated exchange of property tax revenues resulting from Annexation No. 14-433 to County Sanitation District No. 14.

RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. CC 2022-079, a resolution of the City Council of the City of Palmdale adopting the Joint Tax Sharing

Resolution entitled “Annexation 14-433” with the County Sanitation District No. 14 of Los Angeles County.

BACKGROUND

In accordance with the Revenue and Tax Code (Sections 99 and 99.01) any time there is a jurisdictional change, the County Auditor is required to adjust the allocation of property tax revenue for local agencies whose service area or service responsibility would be altered by the jurisdictional change. This adjustment, or “Tax Sharing Agreement” determines the distribution of the annual property tax among all affected public agencies and special districts. In this case, the Copart Development located at 35th Street East and Ave. L-8 has requested annexation into the County Sanitation District (CSD) No. 14. This annexation is a condition of the developments entitlement and required prior to receiving sewer service.

DISCUSSION

In the attached letter dated August 10, 2020, the County Sanitation District has requested that the City of Palmdale enter into a tax sharing agreement for the annexation of parcel number 3170-015-007 as shown in Exhibit A, also known as the Copart Development.

The execution of the attached Joint Resolution will approve the tax sharing agreement by the City for the annexation of the subject property into the County Sanitation District No. 14 boundary. All public agencies and special districts that receive property tax revenues for this parcel execute and are a party to the same resolution.

Staff recommends that the City Council adopt Resolution No. CC 2022-079 authorizing the Mayor to execute the Joint Tax Sharing Resolution entitled Annexation No. 14-433 with the County Sanitation District No. 14 for the Copart Development.

FISCAL IMPACT

The current property tax share ratio for the City of Palmdale within the area of the Copart Development property is 0.068146113 (6.8146%) This Council action will allocate 0.000436142 (0.0436%) of the overall tax share to the County Sanitation District No. 14 resulting in a net City tax share rate of 0.067709971 (6.7709%). For example, a \$10,000 increase in assessed value for a parcel will generate an additional \$100 in total property taxes. The City would receive \$6.7709 as a condition of the tax share and the Sanitation District would receive \$0.0436142. This allocation is made in accordance with the State Revenue and Taxation Code and the allocation formula is established and calculated by the County Auditor-Controller.

STRATEGIC PLAN

Goal III: Invest in infrastructure to improve community livability.

- A. Seek innovative, cost effective, customer focused methods of service delivery.
- C. Plan and maintain safe and attractive neighborhoods, streets, facilities, and public spaces with exciting programming that promotes active fun for everyone.

Prepared by:	Chuck Heffernan, P.E., Director of Public Works
Certified as to availability of Funds:	Janelle Samson, Director of Finance
Approved by:	Ronda Perez, Interim City Manager
Approved as to form:	Scott E. Porter, Acting City Attorney

ATTACHMENTS

1. Resolution No. CC 2022-079
2. Sanitation District of Los Angeles County Transmittal Letter
3. County Joint Resolution for Annexation No. 14-433
4. Property Tax Transfer Resolution Worksheet
5. Exhibit A, Annexation Map No. 433

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2022-079

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES ACTING IN BEHALF OF THE LOS ANGELES COUNTY GENERAL FUND AND THE LOS ANGELES COUNTY CONSOLIDATED FIRE PROTECTION DISTRICT, THE BOARD OF DIRECTORS OF THE COUNTY SANITATION DISTRICT NO. 14 OF LOS ANGELES COUNTY, AND THE GOVERNING BODIES OF THE ANTELOPE VALLEY CEMETARY DISTRICT, ANTELOPE VALLEY RESOURCE CONSERVATION DISTRICT, CITY OF PALMDALE, ANTELOPE VALLEY – EAST KERN WATER AGENCY, AND THE ANTELOPE VALLEY MOSQUITO AND VECTOR CONTROL DISTRICT APPROVING AND ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES RESULTING FROM ANNEXATION TO COUNTY SANITATION DISTRICT NO. 14.

ANNEXATION NO. 433

WHEREAS, pursuant to Section 99 and 99.01 of the Revenue and Taxation Code, prior to the effective date of any jurisdictional change which will result in a special district providing a new service, the governing bodies of all local agencies that receive an apportionment of the property tax from the area must determine the amount of property tax revenues from the annual tax increment to be exchanged between the affected agencies and approve and accept the negotiated exchange of property tax revenues by resolution; and

WHEREAS, the governing bodies of the agencies signatory hereto have made determinations of the amount of property tax revenues from the annual tax increments to be exchanged as a result of the annexation to County Sanitation District No. 14 entitled Annexation No. 433;

NOW, THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF PALMDALE DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. The negotiated exchange of property tax revenues resulting from the annexation of territory to County Sanitation District No. 14 in the annexation entitled Annexation No. 433 is approved and accepted.

SECTION 2. For each fiscal year commencing on and after July 1, 2022, or after the effective date of this jurisdictional change, whichever is later, the County Auditor shall transfer to County Sanitation District No. 14 a total of 0.3355838 percent of the annual

tax increment attributable to the land area encompassed within Annexation No. 433 as shown on the attached Worksheet.

SECTION 3. No additional transfer of property tax revenues shall be made from any other tax agencies to County Sanitation District No. 14 as a result of annexation entitled Annexation No. 433.

SECTION 4. No transfer of property tax increments from properties within a community redevelopment project, which are legally committed to a Community Redevelopment Agency, shall be made during the period that such tax increment is legally committed for repayment of the redevelopment project costs.

SECTION 5. If at any time after the effective date of this resolution, the calculations used herein to determine initial property tax transfers or the data used to perform those calculations are found to be incorrect thus producing an improper or inaccurate property tax transfer, the property tax transfer shall be recalculated and the corrected transfer shall be implemented for the next fiscal year.

The foregoing resolution was adopted by the Board of Supervisors of the County of Los Angeles, the Board of Directors of County Sanitation District No. 14 of Los Angeles County, and the governing bodies of Antelope Valley Cemetery District, Antelope Valley Resource Conservation District, City of Palmdale, Antelope Valley – East Kern Water Agency, and Antelope valley Mosquito and Vector Control District, signatory hereto.

SECTION 6. The City Clerk shall certify to the adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 20th day of July, 2022.

Approved as to form:

Steven D. Hofbauer, Mayor

ATTEST:

Scott E. Porter
Acting City Attorney

Shanae S. Smith, City Clerk

I, Shanae S. Smith, City Clerk of Palmdale, California, do hereby certify that the foregoing resolution was duly passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the 20th day of July, 2022 by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

Date: _____

Shanae S. Smith, City Clerk

August 10, 2020

General Annexation File

Mr. Guillermo I. Padilla, City Engineer
City of Palmdale
38250 Sierra Highway
Palmdale, CA 93550

Dear Mr. Padilla:

Tax Sharing Resolutions

Thank you for signing and returning the last joint resolutions that were submitted to your office for tax sharing purposes.

Enclosed, in triplicate, is a Joint Tax Sharing Resolution (resolution) involving your city and others. The applicant has requested, in writing, annexation of his property into the County Sanitation District No. 14 (District) in order to receive off-site disposal of sewage. Please see the table below for the annexation and its associated project. The annexation process requires that a resolution for property tax revenue exchange be adopted by all the affected local agencies before an annexation may be approved. For any jurisdictional change which will result in a special district providing new service not previously provided to an area, the law requires the governing bodies of all local agencies that receive an apportionment of the property tax from the area to determine by resolution the amount of the annual tax increment to be transferred to the special district (Revenue and Taxation Code Section 99.01). Please note that by sharing the property tax increment with the District resulting from this annexation, your city will not lose any existing ad valorem tax revenue it currently receives from the affected territory. Your city would only be giving up a portion of the revenues it would receive on increased assessed valuation.

<u>Annexation No.</u>	<u>Type of Project</u>
14-433	one proposed office building

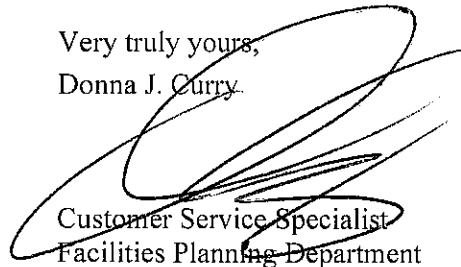
Also, attached for the annexation is a copy of the applicable worksheet and map showing the location of the annexation. The worksheet lists the annual tax increment to be exchanged between your city, other affected taxing entities, and the District. The tax sharing ratios listed in the worksheet were calculated by the County Auditor Controller by specific Tax Rate Area (TRA). For example, if the annexing territory were to lie within two separate TRAs, there would be a worksheet for each TRA. The Los Angeles County Chief Executive Office (CEO) is requiring the District to implement the worksheet for all District annexations in order to increase efficiency for the calculation of property tax sharing ratios.

August 10, 2020

The resolution is being distributed to all parties for signature in counterpart. Therefore, you will only be receiving a signature page for your city. Enclosed are three sets of the resolution. One set of the resolution is for your files and the other two sets of the resolution need to be returned to the District. Please execute the two sets of the resolution and return them to the undersigned within 60 days as required by the Government Code. In addition, the County CEO's legal counsel is also requesting that the signature pages be properly executed from all affected agencies. Therefore, please have the Attest line signed by the appropriate person. Upon completion of the annexation process, your office will receive a fully executed copy of the tax sharing resolution for your files.

Your continued cooperation in this matter is very much appreciated. If you have any questions, please do not hesitate to call me at (562) 908-4288, extension 2708.

Very truly yours,
Donna J. Curry



Customer Service Specialist
Facilities Planning Department

DC:

Enclosures: 14-433

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES
ACTING IN BEHALF OF

Los Angeles County General Fund

Los Angeles County Consolidated Fire Protection District

THE BOARD OF DIRECTORS OF COUNTY SANITATION DISTRICT NO. 14 OF LOS ANGELES
COUNTY, AND THE GOVERNING BODIES OF

Antelope Valley Cemetery District

Antelope Valley Resource Conservation District

City of Palmdale

Antelope Valley - East Kern Water Agency

Antelope Valley Mosquito & Vector Control District

APPROVING AND ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES
RESULTING FROM ANNEXATION TO COUNTY SANITATION DISTRICT NO. 14.

"ANNEXATION NO. 433"

WHEREAS, pursuant to Section 99 and 99.01 of the Revenue and Taxation Code, prior to the effective date of any jurisdictional change which will result in a special district providing a new service, the governing bodies of all local agencies that receive an apportionment of the property tax from the area must determine the amount of property tax revenues from the annual tax increment to be exchanged between the affected agencies and approve and accept the negotiated exchange of property tax revenues by resolution; and

WHEREAS, the governing bodies of the agencies signatory hereto have made determinations of the amount of property tax revenues from the annual tax increments to be exchanged as a result of the annexation to County Sanitation District No. 14 entitled *Annexation No. 433*;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. The negotiated exchange of property tax revenues resulting from the annexation of territory to County Sanitation District No. 14 in the annexation entitled *Annexation No. 433* is approved and accepted.

2. For each fiscal year commencing on and after July 1, 2020 or after the effective date of this jurisdictional change, whichever is later, the County Auditor shall transfer to County Sanitation District No. 14 a total of 0.3355838 percent of the annual tax increment attributable to the land area encompassed within *Annexation No. 433* as shown on the attached Worksheet.

3. No additional transfer of property tax revenues shall be made from any other tax agencies to County Sanitation District No. 14 as a result of annexation entitled *Annexation No. 433*.

4. No transfer of property tax increments from properties within a community redevelopment project, which are legally committed to a Community Redevelopment Agency, shall be made during the period that such tax increment is legally committed for repayment of the redevelopment project costs.

5. If at any time after the effective date of this resolution, the calculations used herein to determine initial property tax transfers or the data used to perform those calculations are found to be incorrect thus producing an improper or inaccurate property tax transfer, the property tax transfer shall be recalculated and the corrected transfer shall be implemented for the next fiscal year.

The foregoing resolution was adopted by the Board of Supervisors of the County of Los Angeles, the Board of Directors of County Sanitation District No. 14 of Los Angeles County, and the governing bodies of Antelope Valley Cemetery District, Antelope Valley Resource Conservation District, City of Palmdale, Antelope Valley - East Kern Water Agency, and Antelope Valley Mosquito & Vector Control District, signatory hereto.

CITY OF PALMDALE

SIGNATURE

ATTEST:

PRINT NAME AND TITLE

Secretary

Date

(SIGNED IN COUNTERPART)

ANNEXATION TO: CO.SANITATION DIST.NO 14 DEBT S.
 ACCOUNT NUMBER: 066.45
 TRA: 03456
 EFFECTIVE DATE: 07/01/2020
 ANNEXATION NUMBER: 433 PROJECT NAME: A-14-433
 DISTRICT SHARE: 0.006164814

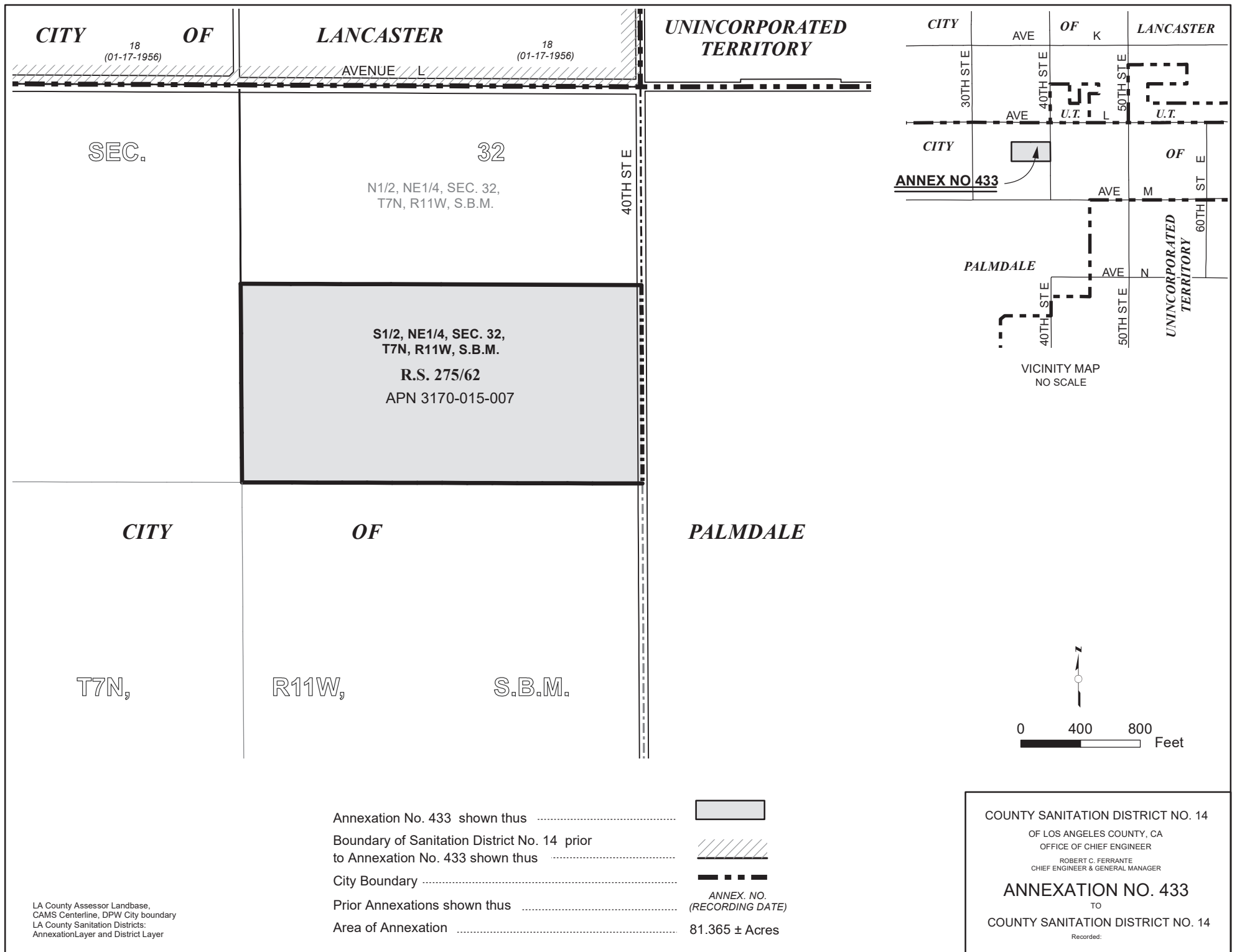
ACCOUNT #	TAXING AGENCY	CURRENT TAX SHARE	PERCENT	PROPOSED DIST SHARE	ALLOCATED SHARE	ADJUSTMENTS	NET SHARE
001.05	LOS ANGELES COUNTY GENERAL	0.260430282	26.0441 %	0.006164814	0.001605511	-0.001652940	0.258777342
001.20	L.A. COUNTY ACCUM CAP OUTLAY	0.000125671	0.0125 %	0.006164814	0.000000774	0.000000000	0.000125671
007.30	CONSOL. FIRE PRO.DIST.OF L.A.CO.	0.184335691	18.4335 %	0.006164814	0.001136395	-0.001136395	0.183199296
007.31	L A C FIRE-FFW	0.007568010	0.7568 %	0.006164814	0.000046655	0.000000000	0.007568010
053.30	ANTELOPE VY CEMETERY DISTRICT	0.001525134	0.1525 %	0.006164814	0.000009402	-0.000009402	0.001515732
061.05	ANTELOPE VLY MOSQ & VECTOR CONTR	0.001915570	0.1915 %	0.006164814	0.000011809	-0.000011809	0.001903761
068.05	ANTELOPE VY RESOURCE CONSER DIST	0.001041558	0.1041 %	0.006164814	0.000006421	-0.000006421	0.001035137
225.01	CITY-PALMDALE TD #1	0.066294047	6.6294 %	0.006164814	0.000408690	-0.000408690	0.065885357
300.10	ANTELOPE VY.-EAST KERN WATER AGY	0.021116811	2.1116 %	0.006164814	0.000130181	-0.000130181	0.020986630
400.00	EDUCATIONAL REV AUGMENTATION FD	0.057855713	5.7855 %	0.006164814	0.000356669	EXEMPT	0.057855713
400.01	EDUCATIONAL AUG FD IMPOUND	0.128757180	12.8757 %	0.006164814	0.000793764	EXEMPT	0.128757180
400.15	COUNTY SCHOOL SERVICES	0.001558950	0.1558 %	0.006164814	0.000009610	EXEMPT	0.001558950
400.21	CHILDREN'S INSTIL TUITION FUND	0.003093883	0.3093 %	0.006164814	0.000019073	EXEMPT	0.003093883
464.01	EASTSIDE UNION SCHOOL DISTRICT	0.061157941	6.1157 %	0.006164814	0.000377027	EXEMPT	0.061157941
464.06	CO.SCH.SERV.FD.- EASTSIDE UNION	0.011715875	1.1715 %	0.006164814	0.000072226	EXEMPT	0.011715875
464.07	DEV CTR HDCPD MINOR EASTSIDE UN	0.000928643	0.0928 %	0.006164814	0.000005724	EXEMPT	0.000928643
717.02	ANTELOPE VALLEY UNION HIGH SCH.	0.107594712	10.7594 %	0.006164814	0.000663301	EXEMPT	0.107594712
717.06	CO.SCH.SERV.FD.- ANTELOPE VALLEY	0.000395404	0.0395 %	0.006164814	0.000002437	EXEMPT	0.000395404
717.07	ANTELOPE VY.UN.HI.-ELEM SCH FD.	0.052712745	5.2712 %	0.006164814	0.000324964	EXEMPT	0.052712745

ANNEXATION NUMBER: 433

PROJECT NAME: A-14-433

TRA: 03456

ACCOUNT #	TAXING AGENCY	CURRENT TAX SHARE	PERCENT	PROPOSED DIST SHARE	ALLOCATED SHARE	ADJUSTMENTS	NET SHARE
792.04	ANTELOPE VY.JT. COMMUNITY COLL.	0.029876180	2.9876 %	0.006164814	0.000184181	EXEMPT	0.029876180
***066.45	CO.SANITATION DIST.NO 14 DEBT S.	0.000000000	0.0000 %	0.006164814	0.000000000	0.000000000	0.003355838
TOTAL:		1.000000000	100.0000 %		0.006164814	-0.003355838	1.000000000





City Council Staff Report

SDATE: JULY 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: PUBLIC WORKS DEPARTMENT
CAPITAL IMPROVEMENT PROGRAM DIVISION
DISTRICT: 1
SUBJECT: AWARD CONSTRUCTION AGREEMENT WITH R.C. BECKER AND SON, INC., FOR PN 761, PALMDALE CIVIC CENTER COMPLETE STREETS PROJECT, IN THE AMOUNT OF \$6,405,63. FOR A TERM OF 12 MONTHS FROM THE DATE OF NOTICE TO PROCEED.

ISSUE

Award construction agreement with R.C. Becker and Son, Inc., for PN 761, Palmdale Civic Center Complete Streets Project, in the amount of \$6,405,637. for a term of 12 months from the date of Notice to Proceed.

RECOMMENDATION

Staff recommends that the City Council:

1. Award construction Agreement No. A-7919 with R.C. Becker and Son, Inc., for PN 761, Palmdale Civic Center Complete Streets Project, in the amount of \$6,405,637.
2. Authorize the transfer of \$2,210,600 of unappropriated Measure M Fund Balance into Account S0067209; and
3. Authorize the Interim City Manager or her designee to execute Agreement No. A-7919 with R.C. Becker and Son, Inc., including minimal and/or non-substantive changes.

BACKGROUND

Project No. 761, Palmdale Civic Center Complete Streets, provides for the complete street improvements along 9th Street East and 10th Street East from Avenue Q-9 to Avenue Q-12. Work includes construction of mini roundabouts, curb, gutter, accessible ramps, and bus stations, upgrades to crosswalk striping and pavement markings, sidewalk improvement, pavement reconstruction, street lighting, utility relocation, traffic control plan development, and material certification submittals. All work will be performed within the existing right of way. It is anticipated that construction will take approximately twelve (12) months from the date the City issues the Notice to Proceed.

DISCUSSION

Two (2) bids were received for this project on June 2, 2022, and are summarized below:

BIDDER	LOCATION	AMOUNT
1. R.C. Becker and Son, Inc.,	Santa Clarita, CA	\$6,405,637
2. Sully-Miller Contracting Co.	Brea, CA	\$7,867,659

The project was released for public bid electronically on April 26, 2022, and 726 vendors were notified. Thirty-six (36) prime contractors downloaded the bid documents for review, two contractors posted questions regarding the project, and two contractors ultimately elected to submit their bids.

R.C. Becker has been awarded and completed six (6) Public Works projects from 2016 – March 2021. The following table show the projects along with percentage over or under the original contract prices:

PROJECT	ORIG. CONTRACT	FINAL CONTRACT	% CHANGE
Avenue S Widening	\$8,377,302	\$8,307,083	-0.84%
Rancho Vista Blvd Sidewalk Gap Closure	\$7,053,969	\$6,758,277	-4.28%
Hillcrest Sidewalk Gap Closure	\$290,391	\$277,840	-4.42%
40 th Street East Rehabilitation	\$190,198	\$160,546	-16.9%
Yellen Park, Phase 1	\$3,090,803	\$3,556,187	+14% *
9 th Street East Street Improvement	\$120,230	\$127,178	+5.61%

*Project scope was increased at City's direction

Of their projects, four have been under the original contract price. Upon review of the two overrun projects, the overruns occurring on Yellen Park Phase 1, were attributed to additional scope change requested by the City and unforeseen utility conflicts; and for 9th Street East, overruns were attributed to actual field quantity measurements as compared to the plans.

References have been checked and staff recommends that the City Council award Project No. 761 to the lowest bidder, R.C. Becker and Son, Inc., in the amount of \$6,405,637. The ATP State Funds have a deadline to award the project within six by July 30, 2022. If not awarded, the City could potentially lose the funding source of approximately \$1.4 million.

FISCAL IMPACT

The project has been funded through Measure R (208), Measure M (209) and ATP State Grant (241) funds, which have been allocated in Account No. S0067. The account has a current cumulative balance of \$4,995,601. To compensate for the shortfall, unappropriated Measure M funds in the amount of \$2,210,600 are proposed to be transferred into Account S0067209. The fiscal impact and remaining account balance can be seen in the following table:

SCOPE OF WORK		COST	
PN 761 – Palmdale Civic Center Complete Streets		\$6,405,637	
Construction Contingency (10%)		\$640,564	
Administration and Inspection		\$95,000	
Construction testing		\$45,000	
Labor Compliance		\$20,000	
Total Cost:		\$7,206,201	
Account Number	Starting Balance	Balance Transfer	Remaining Balance
S0067201	\$680,936	\$0	\$0
S0067208	\$208,880	\$0	\$0
S0067209	\$2,718,500	\$2,210,600	\$0
S0067241	\$1,387,285	\$0	\$0
TOTAL	\$4,995,601	\$2,210,600	\$0

STRATEGIC PLAN

Goal III: Invest in infrastructure to improve community livability.

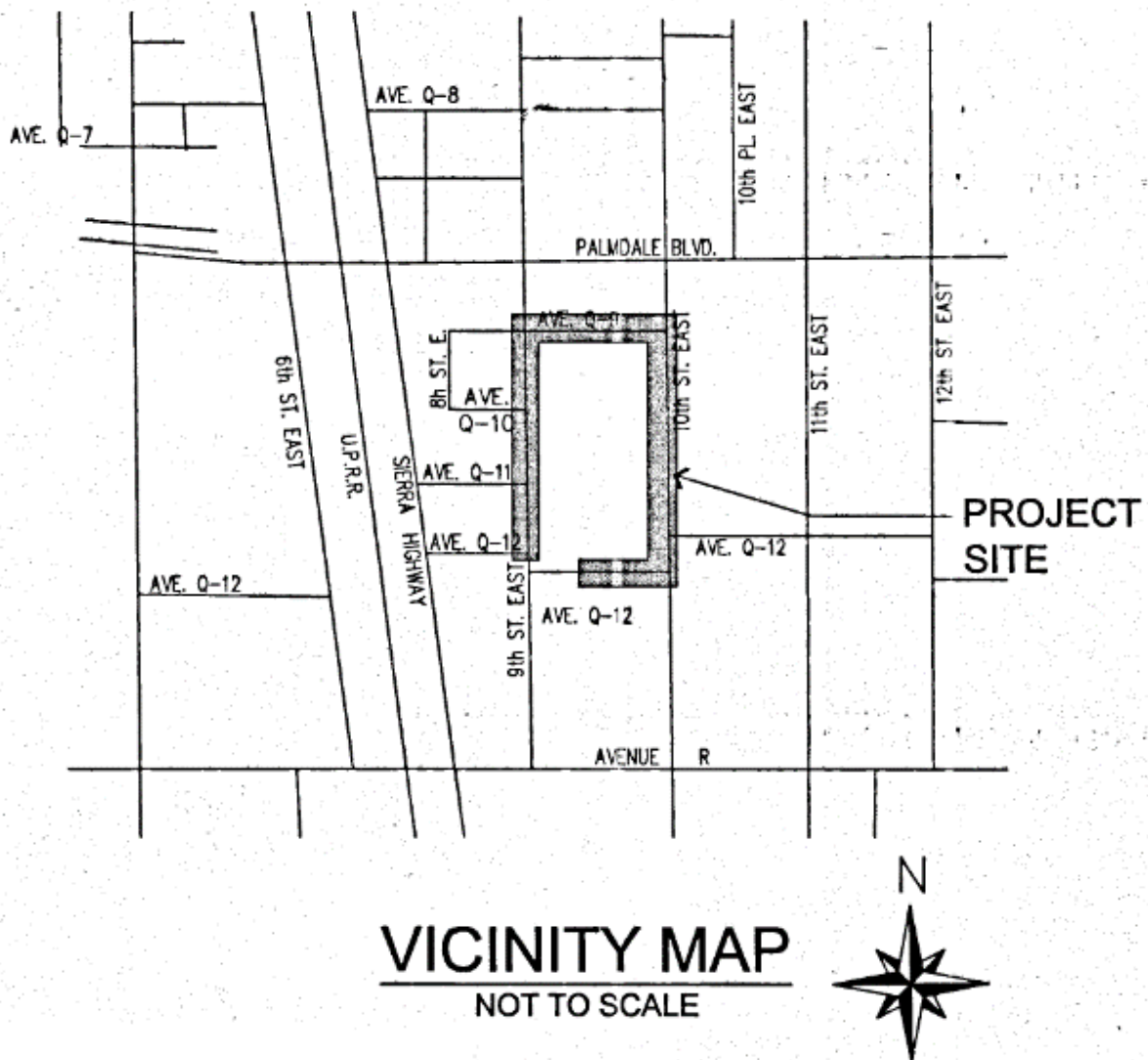
- C. Plan and maintain safe and attractive neighborhoods, streets, facilities, and public spaces with exciting programming that promotes active fun for everyone.

Prepared by:	Chuck Heffernan, P.E., Director of Public Works
Certified as to availability of Funds:	Janelle Samson, Director of Finance
Approved by:	Ronda Perez, Interim City Manager
Approved as to form:	Scott E. Porter, Acting City Attorney

ATTACHMENTS:

1. PN 761 Site Map

ATTACHMENT 1:
PN 761 Site Map





City Council Staff Report

DATE: JULY 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
DISTRICT: 1
SUBJECT: PUBLIC HEARING TO ADOPT RESOLUTION NO. CC 2022-071, A
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE
APPROVING GUN DEALER PERMIT 22-07 FOR PUNG WHEA INC.
DOING BUSINESS AS BEEEFT

ISSUE

Public Hearing to Adopt Resolution No. CC 2022-071, a Resolution of the City Council of the City of Palmdale approving Gun Dealer Permit 22-07 for Pung Whea Inc. doing business as Beeeft.

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. CC 2022-071 approving Gun Dealer Permit 22-07 for Pung Whea Inc. doing business as Beeeft.

BACKGROUND

Gun Dealer Permit 22-07 is a request by Pung Whea Inc. to obtain a Gun Dealer's Permit for Beeeft located at 550 West Rancho Vista Boulevard, Suite G. Beeeft will operate as a sporting goods store within a 1,200 square foot tenant space, with gun sales being less than 30 percent of the overall sales. The applicant applied for a business license on December 1, 2021, and has been operating as retail sales of sporting goods only. On May 18, 2022, the applicant applied for the Gun Dealer Permit.

DISCUSSION

The Planning and Building & Safety Divisions reviewed and approved a Zoning Clearance (Z22-264 application) determining that the above referenced business is located within the Palmdale Trade and Commerce Center Specific Plan (SP). The property is designated PD (Planned Development) within the SP. The SP Table 3: Land Use Matrix, states that firearm sales are permitted if they are ancillary to a sporting goods store. Beeeft will operate as a sporting goods store and gun sales will be an ancillary use. The Building Official has reviewed the Zoning Clearance application and found the structure,

premises and equipment to conduct the business activity all comply with applicable health, fire, building and safety laws of the State and the City.

The Los Angeles County Sheriff's Department has reviewed the application, completed background checks on the applicant and corporate directors, and has found that no false statements have knowingly been made regarding the application for the Gun Dealer Permit. Also, there are no criminal records for the applicant or corporate directors; therefore, the Sheriff's Department has recommended approval of Gun Dealer Permit 22-07.

The Federal Firearms application and the Gun Dealer Permit applications have been completed and are on file in the Business License Division. The Gun Dealer Permit requires City Council approval pursuant to Palmdale Municipal Code (PMC) Section 5.04.150. Upon approval of the Gun Dealer Permit the applicant will be able to obtain a Federal Firearms License from the United States Department of Justice.

The applicant has demonstrated compliance with PMC Section 5.04.190 requirements for the issuance of a Gun Dealer Permit. Therefore, it is recommended that City Council adopt Resolution No. CC 2022-071 approving Gun Dealer Permit 22-07 with the following condition:

- The applicant shall provide a copy of the Federal Firearms License prior to selling firearms and ammunition.

FISCAL IMPACT

Minimal. The City will collect \$155.40 in permit fees annually.

STRATEGIC PLAN

Goal IV: Maintain a desirable community where everyone wants to live, work and play.

- A. Support opportunities to celebrate rich traditions and diverse cultures in the community.

Prepared by:

Certified as to availability of Funds:

Approved by:

Approved as to form:

Leslie Andrews, Business License Coordinator

Janelle Samson, Director of Finance

Ronda Perez, Interim City Manager

Scott E. Porter, Acting City Attorney

ATTACHMENT

Resolution No. CC 2022-071

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2022-071

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE
APPROVING GUN DEALER PERMIT 22-07 FOR PUNG WHEA INC.
DOING BUSINESS AS BEEFT LOCATED AT 550 WEST RANCHO
VISTA BOULEVARD, SUITE G

WHEREAS, on May 18, 2022, Pung Whea Inc. doing business as Beeft applied for Gun Dealer Permit No. 22-07;

WHEREAS, on July 10, 2022, the City of Palmdale published a legal notice in the Antelope Valley Press indicating that the City Council of the City of Palmdale would hold a public hearing on the application on July 20, 2022, at 7:00 p.m. at the Council Chamber, 38300 Sierra Highway, Suite B, Palmdale, CA 93550; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF PALMDALE DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby specifically finds that all of the facts set forth in the recitals of this Resolution are true and correct.

SECTION 2. Based upon substantial evidence presented to the City Council during the July 20, 2022, public hearing, including public testimony, and written and oral staff reports, the City Council specifically finds as follows:

- a) A Gun Dealer Permit is legally established use within the Palmdale Trade and Commerce Center Specific Plan (SP). The property is designated PD (Planned Development) within the SP, because the SP Table 3: Land Use Matrix states that firearm sales are permitted if they are ancillary to a sporting goods store. Beeft will operate as a sporting goods store and gun sales will be an ancillary use.
- b) The structure, premises and equipment to conduct the business activity complies with all applicable health, fire, building and safety

laws of the state and the City, because the Planning Manager and Building Official have reviewed the Zoning Clearance application and found it consistent with the applicable laws.

- c) A review of the application by the Los Angeles County Sheriff's Department has revealed that the applicant has not knowingly made any false, misleading or fraudulent statement of the material fact in the application for the Gun Dealer Permit and there are no criminal records for the applicant or corporate directors.
- d) The applicant has completed the application for the Federal Firearms License and is waiting for approval. A Gun Dealer Permit application has been submitted to the City of Palmdale and copies of both applications are on file in the Business License Division.

SECTION 3. Based on the findings and conclusions set forth in the above sections, and based on all other evidence in the record, the City Council hereby approves Gun Dealer Permit 22-07, subject to the following condition:

- The applicant shall provide a copy of the issued Federal Firearms License prior to selling firearms and ammunition.

SECTION 4. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED and ADOPTED this 20th day of July, 2022.

Approved as to form:

Steven D. Hofbauer, Mayor

ATTEST:

Scott E. Porter
Acting City Attorney

Shanae S. Smith, City Clerk

I, Shanae S. Smith, City Clerk of Palmdale, California, do hereby certify that the foregoing resolution was duly passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the 20th day of July, 2022, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

Date: _____
Shanae S. Smith, City Clerk



City Council Staff Report

DATE: JULY 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION
DISTRICT: 1
SUBJECT: PUBLIC HEARING TO ADOPT RESOLUTION NO. CC 2022-072, A
RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE
APPROVING ENTERTAINMENT PERMIT 22-08 AND DANCE
PERMIT 22-09 FOR LOROCCO'S RESTAURANT LOCATED AT 1645
EAST PALMDALE BOULEVARD, SUITES G AND H

ISSUE

Public Hearing to adopt Resolution No. CC 2022-072, a Resolution of the City Council of the City of Palmdale approving Entertainment Permit 22-08 and Dance Permit 22-09 for Lorocco's Restaurant located at 1645 East Palmdale Boulevard, Suites G and H

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. CC 2022-072 approving Entertainment Permit 22-08 and Dance Permit 22-09 for Lorocco's Restaurant located at 1645 East Palmdale Boulevard, Suites G and H.

BACKGROUND

On April 8, 2021, the Planning Commission adopted Resolution No. PC-2020-036, approving Conditional Use Permit 19-016, for Lorocco's Restaurant to establish a Type 41 (On-Sale Beer and Wine) Department of Alcoholic Beverage Control (ABC) License and expand the existing restaurant to include a dance floor, stage area for live entertainment and karaoke.

On June 2, 2022, Gilto Enterprises Incorporated, doing business as Lorocco's Restaurant, applied for Entertainment Permit 22-08 and Dance Permit 22-09, requesting to provide live family entertainment such as karaoke, DJ's, and small band ensembles, with a dance floor not to exceed 30 percent of the gross floor area.

DISCUSSION

The provision of live entertainment and dancing, in conjunction with a bona fide restaurant is permitted within the CC (Community Commercial) General Plan land use designation, and C-3 (General Commercial) zone, subject to approval of Entertainment and Dance Permits. The proposed use is beneficial and desirous to the community and is consistent with the purpose, intent, and standards of the Palmdale Municipal Code (PMC) and other applicable ordinances and codes adopted by the City of Palmdale.

Lorocco's is a bona fide restaurant that holds a Type 41 (On-Sale Beer and Wine) ABC License with the primary use as sit-down dining. As specified within the conditions of approval for CUP 19-016, the restaurant will not be conducting a bar or night club. Entertainment and dance will consist of live family entertainment, karaoke, and small band ensembles with designated dance floor space of 250 square feet, which is no more than 30 percent of the gross area.

The hours of operation are Monday through Thursday from 9:00 a.m. to 10:00 p.m., and Friday through Sunday from 9:00 a.m. to 12:00 a.m. To maintain a safe environment for its patrons, the restaurant is equipped with an on-site alarm system and security cameras, as well as burglar and fire alarm systems.

The Los Angeles County Sheriff's Department has reviewed the application, completed background checks on the applicant and manager, and has found that no false statements have knowingly been made regarding the application for the Entertainment and Dance Permits. Also, there are no criminal records for the applicant or manager; therefore, the Sheriff's Department has recommended approval of Entertainment Permit 22-08 and Dance Permit 22-09.

Pursuant to PMC Sections 5.04.150 and 5.04.170, staff has authority to approve a Dance Permit, however, an Entertainment Permit requires City Council approval. Given that the Dance Permit is associated with the Entertainment Permit, the Director of Economic and Community Development is recommending approval from the City Council.

Staff recommends that the City Council adopt Resolution No. CC 2022-072 approving Entertainment Permit 22-08 and Dance Permit 22-09 for Lorocco's Restaurant with the following conditions:

1. All entertainment activities shall be conducted in compliance with PMC Chapter 9.18.020. The operation of any sound amplifier or similar machine or device shall not be plainly audible at a distance of 50 feet from the building between the hours of 10:00 p.m. to 8:00 a.m.
2. Approval of a Manager's Permit shall be required if the owner is not present during periods of live entertainment or dancing.

Report to Mayor and City Council

Re: Resolution No. CC 2022-072-Entertainment Permit 22-08 and Dance Permit 22-09

July 20, 2022

Page 3

FISCAL IMPACT

Minimal. The City will collect \$362.60 in permit fees annually for this business.

STRATEGIC PLAN

Goal IV: Maintain a desirable community where everyone wants to live, work and play.

- A. Support opportunities to celebrate rich traditions and diverse cultures in the community.

Prepared by:

Certified as to availability of Funds:

Approved by:

Approved as to form:

Leslie Andrews, Business License Coordinator

Janelle Samson, Director of Finance

Ronda Perez, Interim City Manager

Scott E. Porter, Acting City Attorney

ATTACHMENT

1. Resolution No. CC 2022-072

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2022-072

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE
APPROVING ENTERTAINMENT PERMIT 22-08 AND DANCE PERMIT
22-09 FOR LOROCCO'S RESTAURANT LOCATED AT 1645 EAST
PALMDALE BOULEVARD, SUITES G AND H

WHEREAS, on April 8, 2021, the Planning Commission adopted Resolution No. PC-2020-036, approving Conditional Use Permit 19-016, for Lorocco's Restaurant to establish a Type 41 (On-Sale Beer and Wine) Alcoholic Beverage Control (ABC) License and expand the existing restaurant to include a dance floor, stage area for live entertainment and karaoke;

WHEREAS, on June 2, 2022, Gilto Enterprises Incorporated, doing business as Lorocco's Restaurant, applied for Entertainment Permit 22-08 and Dance Permit 22-09;

WHEREAS, on July 10, 2022, the City of Palmdale published a legal notice in the Antelope Valley Press indicating that the City Council of the City of Palmdale would hold a public hearing on the application on July 20, 2022, at 7:00 p.m. at the Council Chamber, 38300 Sierra Highway, Suite B, Palmdale, CA 93550; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF THE CITY OF PALMDALE DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:

SECTION 1. The City Council hereby specifically finds that all of the facts set forth in the recitals of this Resolution are true and correct.

SECTION 2. Pursuant to Palmdale Municipal Code (PMC) Sections 5.04.150 and 5.04.170, the Director has authority to approve a Dance Permit, and an Entertainment Permit requires City Council approval. Given the Dance Permit is associated with the Entertainment Permit, the Director of Economic and Community Development is recommending approval from the City Council.

SECTION 3. Based upon substantial evidence presented to the City Council during the July 20, 2022, public hearing, including public testimony, and written and oral staff reports, the City Council specifically finds as follows:

- a) The provision of entertainment and dancing, in conjunction with a bona fide restaurant is permitted within the CC (Community Commercial) General Plan land use designation and C-3 (General Commercial) zone.
- b) No more than 30 percent of the gross floor area will be utilized as a dance floor.
- c) The applicant is required to obtain approval of an Entertainment Permit prior to the start of operations.
- d) A review of the application by the Los Angeles County Sheriff's Department has revealed that the applicant has not knowingly made any false, misleading or fraudulent statement of the material fact in the application for the Entertainment and Dance Permits and there are no criminal records for the applicant or manager.
- e) Entertainment and Dance Permit applications have been submitted to the City of Palmdale and copies of both applications are on file in the Business License Division.

SECTION 4. Based on the findings and conclusions set forth in the above sections, and based on all other evidence in the record, the City Council hereby approves Entertainment Permit 22-08 and Dance Permit 22-09, for Lorocco's Restaurant subject to the following conditions:

- 1. All entertainment activates shall be conducted in compliance with PMC Chapter 9.18.020. The operation of any sound amplifier or similar machine or device shall not be plainly audible at a distance of 50 feet from the building between the hours of 10:00 p.m. to 8:00 a.m.
- 2. Approval of a Manager's Permit shall be required if the owner is not present during periods of live entertainment or dancing.

SECTION 5. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED and ADOPTED this 20th day of July, 2022.

Approved as to form:

Steven D. Hofbauer, Mayor

ATTEST:

Scott E. Porter
Acting City Attorney

Shanae S. Smith, City Clerk

I, Shanae S. Smith, City Clerk of Palmdale, California, do hereby certify that the foregoing resolution was duly passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the 20th day of July, 2022, by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

Date: _____
Shanae S. Smith, City Clerk

Entertainment Permit 22-08

Dance Permit 22-09

Lorocco's Restaurant

City Council
July 20, 2022

Aerial view of Lorocco's Restaurant

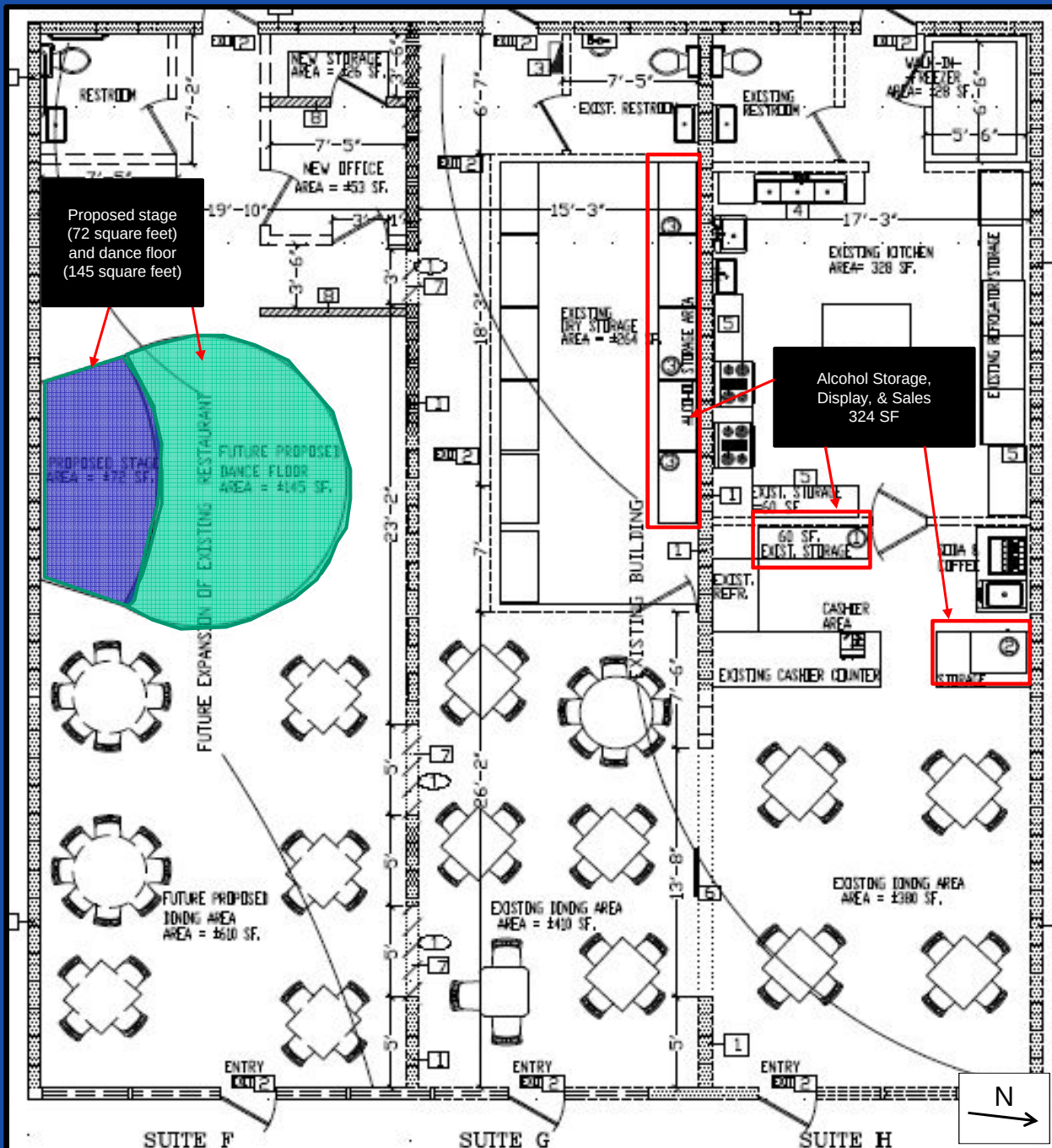


- Lorocco's is a bona fide restaurant located at 1645 East Palmdale Boulevard

Request to adopt Resolution No. CC 2022-072

A Resolution of the City Council of the City of Palmdale approving Entertainment Permit 22-08 and Dance Permit 22-09 for Lorocco's Restaurant located at 1645 East Palmdale Boulevard

Floor Plan



- 4.4% of floor area will be used for a dance floor
- Hours of operation:
 - Monday through Thursday from 9:00 a.m. to 10:00 p.m., and Friday through Sunday from 9:00 a.m. to 12:00 a.m.

Recommendation

Adopt Resolution No. CC 2022-072
approving Entertainment Permit 22-08
and Dance Permit 22-09 for Lorocco's
Restaurant located at 1645 East
Palmdale Boulevard



City Council Staff Report

DATE: JULY 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: CITY ATTORNEY
DISTRICT: ALL
SUBJECT: REMOVAL AND/OR APPOINTMENT AND/OR
REAPPOINTMENT OF PLANNING COMMISSIONERS

ISSUE

Removal and/or appointment and/or reappointment of Planning Commissioners.

RECOMMENDATION

Staff recommends that the City Council fill the Planning Commission to its full capacity of five members.

BACKGROUND

The following charts show how the commission membership existed before and after the Council seats were redistricted pursuant to ordinance 1579 which was adopted on April 6, 2022.

BEFORE REDISTRICTING

(Districts 1, 2, 4 expire in 2022)

(3 and at large expired in 2023)

<u>District</u>	<u>Commissioner</u>	<u>Term Scheduled to Expire (prior to redistricting)</u>
1	Christina Fraga-Saenz	June 30, 2022
2	Dean Henderson	June 30, 2022
3	Stacia Nemeth	June 30, 2023
4	V. Jesse Smith	June 30, 2022
AT LARGE	Bart Avery	June 30, 2023

AFTER REDISTRICTING

<u>District</u>	<u>Commissioner</u>	<u>Term Scheduled to Expire (prior to redistricting)</u>
1	n/a	n/a
2	Dean Henderson (still in 2) Bart Avery (was at-large)	June 30, 2022 June 30, 2023
3	n/a	n/a
4	V. Jesse Smith (still in 4)	June 30, 2022
5	Christina Fraga-Saenz (was in 1) Stacia Nemeth (was in 3)	June 30, 2022 June 30, 2023

At the July 13 meeting, the Council adopted an urgency ordinance to amend Chapter 2.46, the Chapter which regulates Planning Commission appointments. Among other things, the urgency ordinance temporarily suspended the rules that would otherwise have required that each planning commissioner be nominated by the councilmember representing the particular district for which they were appointed to represent.

As a result of the urgency ordinance, the City Council has the option (but not the duty) to re-appoint some or all of the Planning Commissioners, despite the districts they reside in. It is expected that sometime after the new City Council takes office at the end of 2022, the new City Council would appoint pursuant to the permanent requirements of the urgency ordinance that each of the five districts have only one planning commissioner.

Immediately after the July 13, 2022 Council meeting, the City advertised that the Council was soliciting applications from Palmdale residents wishing to serve on the Planning Commission.

FISCAL IMPACT

Commissioners receive \$100 per meeting, a maximum of \$200 per month.

STRATEGIC PLAN

Goal II: Ensure long-term fiscal health of the City and maintain funding for services.

C. Involve and expand engagement to enhance public oversight and transparency.

Prepared by:	Scott E. Porter, Acting City Attorney
Certified as to availability of Funds:	Janelle Samson, Director of Finance
Approved by:	Ronda Perez, Interim City Manager
Approved as to form:	Scott E. Porter, Acting City Attorney



City Council Staff Report

DATE: JULY 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: OFFICE OF THE CITY MANAGER
CITY CLERK DIVISION
DISTRICT: ALL
SUBJECT: APPROVE APPOINTMENT TO THE PALMDALE AEROSPACE
ACADEMY

ISSUE

Approve nomination for appointment to The Palmdale Aerospace Academy Board of Directors.

RECOMMENDATION

Pursuant to Palmdale Municipal Code Section 2.080.030, the City Council is to approve nomination for appointment to The Palmdale Aerospace Academy Board of Directors and ratified by The Palmdale Aerospace Academy, pursuant to the By-laws, as follows:

1. Approve appointment of one of the following individuals to serve as Board of Director for a new three (3) year term to expire on July 31, 2025.

1. David F. Lujan
2. Sophia Avalos
3. Leslie Vickers
4. Francisco A. Lopez
5. Alvin S. Robinson, Jr.
6. Robert C. Zuniga

BACKGROUND

According to The Palmdale Aerospace Academy ("TPAA") Bylaws, Article 3 Directors, Section 3.3, the City shall designate three (3) Directors to serve on the Board of Directors. According to Section 3.3 (b), "All Directors of the Corporation shall serve a term of three (3) years expiring on July 31st of the third year of office and shall hold office until the expiration of the term, for which selected and until a successor has been duly designated, or until that Director's earlier resignation or removal in accordance with these Bylaws and the California Nonprofit Corporation Law."

DISCUSSION

On July 31, 2022, the term to serve on the TPAA Board of Directors, held by Mr. John Porter, is set to expire. Pursuant to Section 3.4. Vacancies, of the By-laws, Section (a), vacancies shall be filled as followed:

- A vacancy on the Board shall be deemed to exist at the occurrence of any of the following: (i) the death, resignation, or removal of any Director. Directors are designated by the Mayor and City Council and later ratified by TPAA Board of Directors.”

The City Clerk’s office was notified that Mr. Porter would not be seeking reappointment due to his relocation out of state. As a result, the City Clerk, in conjunction with the Human Resources Department conducted a recruitment to attract interested individuals. The application, Director’s duties and responsibilities was made available on the City’s website at <https://www.governmentjobs.com/careers/palmdale>, as well as the Classified Ad placed in the Antelope Valley Press. Staff received six (6) employment applications by the Thursday, June 2, 2022, deadline. The City Clerk provided Mayor and City Council with the applications package to consider approval of one (1) qualified applicant. The enclosed table identifies each applicant by District:

David F. Lujan	District 1
Sophia Avalos	District 3
Leslie Vickers	District 5
Francisco A. Lopez	Outside city boundaries
Alvin S. Robinson, Jr.	Outside city boundaries
Robert C. Zuniga	Outside city boundaries

Attached is a copy of TPAA Board of Director’s Duties and Responsibilities, as well as the By-laws. Both outlining the requirements of a Board Director.

TPAA meetings are generally held on the 3rd Monday every month at 4:15 p.m., at the Palmdale Aerospace Academy, located at 3300 East Palmdale Boulevard, Palmdale, California.

FISCAL IMPACT

There is no fiscal impact associated with this volunteer position.

STRATEGIC PLAN

Goal II: Ensure long-term fiscal health of the City and maintain funding for services.

C. Involve and expand engagement to enhance public oversight and

transparency.

Prepared by:	Shanae S. Smith, City Clerk
Certified as to availability of Funds:	Janelle Samson, Director of Finance
Approved by:	Ronda Perez, Interim City Manager
Approved as to form:	Scott E. Porter, Acting City Attorney

ATTACHMENTS

1. The Palmdale Aerospace Academy's Board of Directors Duties and Responsibilities
2. By-laws



38060 20th Street West
Palmdale, CA 93550
(661) 273-3680
www.tpaa.org

Laura U. Herman, Ed.D., Headmaster
Matthew C. Winheim, Deputy Headmaster
Brandy Price, Assistant Headmaster
Lisa Rubin, Assistant Headmaster

Board of Directors Duties and Responsibilities

Board Directors for the Palmdale Aerospace Academy provide an invaluable service to the Academy. TPAA's Directors come from a variety of backgrounds, and bring many levels of expertise to their work on the Board. The Board values diversity, and looks for expertise in curriculum, instruction, assessment, finance, business management, special education, law, facilities, and governance.

All Board Directors serve in the following ways:

- Consistently attend regular Board of Director's meetings
- Participate in fund-raising activities in a manner appropriate for that Board Director
- Participate in the annual Board planning meeting
- Prepare in advance before regular Board meetings by reading and studying materials sent in advance regarding key actions the Board is expected to take at the next meeting

Members of the Board of Directors may also attend special events and participate in professional development activities, as appropriate.

In accordance with The Palmdale Aerospace Academy, Inc.'s approved Bylaws, all Board Directors shall

- Act in good faith in what they believe to be in the best interests of the organization
- Act with care, including reasonable inquiry, as an ordinarily prudent person would use in similar circumstances
- Act as a member of the group, and as a group:
 - Exercise fiduciary role to ensure that the organization is properly managed but not manage the organization
 - Validate information from the Headmaster
 - Maintain corporate status; ensure that proper paperwork is submitted to governmental agencies
 - Approve the annual budget
 - Review periodic financial reports
 - Ensure proper internal controls are in place
 - Establish a mission and program direction for the organization
 - Review and evaluate program plan and progress
 - Set policy
 - Elect officers
 - Hire Headmaster and review performance of same
 - Establish fundraising goals and participate in fundraising efforts
 - Oversee maintenance of minutes, attendance records, and deal with Board Directors who have lapsed in responsibilities

BYLAWS
of
THE PALMDALE AEROSPACE ACADEMY, INC.,
a California Nonprofit Public Benefit Corporation

ARTICLE 1. OFFICES

Section 1.1. Principal Office The principal office of The Palmdale Aerospace Academy, Inc. (the “Corporation”) is hereby fixed and located at 38060 20th Street East, Palmdale, CA 93550. The board of directors of the Corporation (the “Board”) shall have the full power and authority to change the principal office from one location to another, and such location may be at any place where the Corporation is qualified to conduct its activities. The Secretary shall note any change of location of the principal office.

Section 1.2. Other Offices. Branch or subordinate offices may be established at any time by the Board at any place or places where the Corporation is qualified to conduct its activities.

ARTICLE 2. MEMBERSHIP

Section 2.1. Members. The Corporation shall have no members within the meaning of Section 5056 of the California Nonprofit Corporation Law. Any action that would otherwise require approval by a majority of all members or approval by the members shall require only approval of the Board. All rights which would otherwise vest in the members shall vest in the Board.

Section 2.2. Associates. Nothing in this Article 2 shall limit the right of the Corporation to refer to persons associated with it as “members” even though such persons are not members, and no such reference shall constitute anyone a member, within the meaning of Section 5056 of the California Nonprofit Corporation Law. The Board may adopt policies and procedures for the admission of associate members or other designated members who shall have no voting rights in the Corporation, and such associate or other members shall not be “members” of the Corporation as defined in Section 5056 of the California Nonprofit Corporation Law. The Corporation may confer some or all of the rights of a member, as set forth in the California Nonprofit Corporation Law, upon any person or persons who do not have the right to vote for or regarding (i) the election of Directors, (ii) a disposition of all or substantially all of the assets of the Corporation, (iii) a merger or dissolution of the Corporation, (iv) changes to the Corporation’s Articles of Incorporation or Bylaws, or (v) the selection of delegates who possess any of the preceding voting rights, but no such person shall be a member within the meaning of Section 5056 of the California Nonprofit Corporation Law.

ARTICLE 3. DIRECTORS

Section 3.1. Powers. Subject to provisions of the California Nonprofit Public Benefit Corporation Law and any other applicable laws and any limitations of the Articles of Incorporation and these Bylaws, the activities and affairs of the Corporation shall be conducted and all corporate powers shall be exercised by or under the direction of the Board. The Board may delegate the management of the activities of the Corporation to any person or persons, a management company or Committees however composed, provided that the activities and affairs of the Corporation shall be managed and all corporate powers shall be exercised under the

ultimate direction of the Board. Without prejudice to such general powers, but subject to the same limitations, it is hereby expressly declared that the Board shall have the following powers in addition to the other powers enumerated in these Bylaws:

(a) to select, remove, and supervise all the officers, agents and employees of the Corporation, prescribe qualifications, powers, and duties for them that are not inconsistent with law, the Articles of Incorporation or these Bylaws, fix their compensation, and require from them security or otherwise provide for faithful service;

(b) to conduct, manage and control the affairs and activities of the Corporation and to make such rules and regulations therefor not inconsistent with law, the Articles of Incorporation or these Bylaws, as they may deem best;

(c) to adopt, make and use a corporate seal and alter the form of the seal;

(d) to borrow money and incur indebtedness on behalf of the Corporation and cause to be executed and delivered for the Corporation's purposes, in the corporate name, promissory notes, bonds, debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities therefor; and

(e) seek out and actively pursue outside resources and funding for the purposes of improving, maintaining or expanding the services provided by the Corporation.

Section 3.2. Number of Directors. There shall be no more than twelve (12) directors of the Board. As per section 3.3 there shall be nine (9) positions filled by the original designating agencies. The Board reserves the right to fill and designate an additional three (3) "at large" directors at its discretion without further notice except as provided by Government Code 54950 et. seq.

Section 3.3. Selection and Term of Office.

(a) Designation of Directors. The directors of the Board (the "Directors") shall be selected in the following manner: the Palmdale School District shall designate three (3) Directors, the City of Palmdale shall designate three (3) Directors, and the AERO Institute shall designate one (1) Director. By a majority vote of the Directors present and voting at the annual meeting of the Board, provided that a quorum is present, the Board shall elect one (1) Director employed in or with experience in the private sector in a field related to the areas of study emphasized at the Academy (as defined herein) (the "Private Sector Director"). The final Director shall be selected by the parent association (or the parent-teacher association, or the parent-teacher-student association, as applicable) of the Academy, subject to the approval of the Board (the "Parent Director"). The Board, or any committee of the Board so authorized, shall administer and oversee the appointment or approval, as applicable, of the Private Sector Director and the Parent Director to the Board.

(b) Term of Office. All Directors of the Corporation shall serve a term of three (3) years, expiring on July 31 of the third year of office, and shall hold office until the expiration of the term for which selected and until a successor has been duly designated, or until that Director's earlier resignation or removal in accordance with these Bylaws and the California Nonprofit Corporation Law.

The terms of the Directors shall be staggered, with the intention that only one-

third (1/3) of the directors of the Board shall be selected each year to replace the one-third (1/3) of the Directors whose terms shall expire each year. The Directors in the first election group shall have their initial term as Director reduced to only one (1) year, and such Directors shall include one (1) Director designated by the Palmdale School District, one (1) Director designated by the City of Palmdale, and the Parent Director. The Directors in the second election group shall have their initial term as Director reduced to only two (2) years, and such Directors shall include one (1) Director designated by the Palmdale School District, one (1) Director designated by the City of Palmdale, and the Director designated by the AERO Institute. The Directors in the third election group shall have their initial term remain as three (3) years, and shall include one (1) Director designated by the Palmdale School District, one (1) Director designated by the City of Palmdale, and the Private Sector Director. With respect to the initial Directors appointed by them, each of the Palmdale School District and the City of Palmdale shall determine which of such initial Directors shall be allocated to each election group. If these Bylaws are amended to alter the number of Directors comprising the Board, any increase or decrease in such number shall be apportioned among the election groups so as to maintain the number of Directors in each election group as nearly equal as practicable, and any additional Directors elected to fill a vacancy resulting from an increase in any election group shall hold office for a term that shall coincide with the remaining term of that election group.

After the expiration of the initial terms of the Directors in each of the three (3) election groups, all Directors in each election group shall serve terms of three (3) years. No Director shall serve more than two (2) complete, consecutive three-year terms. A Director who has served two (2) such consecutive three-year terms shall be eligible to serve again as a Director after one (1) year has passed since the expiration of such Director's last term of office.

For purposes of this Section 3.3, any Director elected to serve an unexpired term created by an existing vacancy on the Board (provided that the vacancy occurs during, rather than prior to, such term and therefore such Director serves less than three (3) full years during his or her initial term as a Director), or any Director whose initial term as a Director is less than three years as a result of the initial staggering of the terms of Director positions as described in this Section 3.3, shall be eligible to serve two (2) full three-year terms thereafter, regardless of the length of time served in the unexpired term created by such vacancy or in such initial term.

(c) Selection Criteria. When selecting and designating Directors to the Board, each designator shall be mindful of the benefits of the inclusion of Directors with expertise in curriculum, instruction and assessment, finance, business management, special education, law and facilities.

The Parent Director shall be chosen from among the parents of students then enrolled at the Academy. The Parent Director shall not be required to be the parent of a student who will be enrolled at the Academy during the entirety of such Parent Director's three (3) year term, provided, however, that, if at any time during such Parent Director's term, the child of the

Parent Director ceases to be a student then enrolled in the Academy, the Parent Director shall be deemed to have resigned from the Board, creating a vacancy under Section 3.4.

Section 3.4. Vacancies.

(a) Events Causing Vacancies. A vacancy on the Board shall be deemed to exist at the occurrence of any of the following:

- (i) the death, resignation or removal of any Director;
- (ii) the failure of the applicable designator to designate the number of Directors required to be designated at such time as a vacancy occurs;
- (iii) with respect to the Parent Director, the deemed resignation of such Director upon the child of such Parent Director ceasing to be a student then enrolled in the Academy; or
- (iv) the increase of the authorized number of Directors.

(b) Removal.

(i) Any Director may be removed, with or without cause, by a vote of a majority of the Directors then in office.

(ii) Any Director shall be removed automatically from the Board without any action required by the Board, if such Director has been declared of unsound mind by a final order of court, or convicted of a felony, or found by a final order or judgment of any court to have breached any duty under Chapter 2, Article 3 of the California Nonprofit Public Benefit Corporation Law.

(iii) No reduction in the authorized number of Directors shall effect a removal of any Director prior to the expiration of such Director's term of office.

(c) Resignations. Any Director may resign, which resignation shall be effective upon giving written notice to the Chairperson of the Board, the President (if any), the Secretary or the Board, unless the notice specifies a later time for the effectiveness of such resignation, provided that, except upon notice to the Attorney General of the State of California, no Director may resign if the Corporation would then be left without a duly-elected Director or Directors in charge of its affairs. If the resignation of a Director is effective at a future time, a successor may be designated before that time, to take office when the resignation becomes effective. In addition, unexcused absence of any Director from four (4) regular Board meetings over a one (1) year period shall be deemed a resignation of such absent Director from the Board, creating a vacancy to be filled as provided in Section 3.4(d). The determination of whether an absence is excused or unexcused shall be made by the Chairperson of the Board.

(d) Filling of Vacancies. Vacancies in the Board shall be filled in the same manner as the vacant position was last filled; that is, either by the same designator as the designator who appointed the Director(s) whose office is vacant, if applicable, or by the Board of Directors, if the Director(s) whose office is vacant was elected by the Board . Each Director so

selected shall hold office until the expiration of the term of the replaced Director and until a successor has been selected and qualified.

Section 3.5. Place of Meeting. Meetings of the Board shall be held at the principal office of the Corporation. The Board may designate that a meeting be held at any place within California that has been designated by resolution of the Board or in the notice of the meeting provided that all meetings of the Board shall be called, held and conducted in accordance with the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation.

Section 3.6. Regular Meetings. Regular meetings of the Board shall be held on the third Monday of each month at 4:15 p.m. local time. The Board shall hold an annual meeting for the purpose of organization, appointment of officers, election of such directors, if any, as are to be elected by the Board in the applicable year, and the transaction of other business. Annual meetings of the Board shall be held without call or notice on the first Wednesday of July of each year at 4:00 p.m. local time; provided, however, that the Board may designate another date or time for the annual meeting in any year. If for any reason the annual meeting is not held on the date scheduled, the term of office for the incumbent directors and officers shall continue until adjournment of the succeeding Board meeting at which such elections take place. Notice of regular and annual meetings is not required if conducted in accordance with these Bylaws. Agendas for each such meeting must be posted seventy-two (72) hours previous to such meeting.

All meetings of the Board shall be called, held and conducted in accordance with the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation.

Section 3.7. Special Meetings. Special meetings of the Board for any purpose or purposes may be called at any time by the Chairperson of the Board or by a majority of the Directors, or as otherwise provided by the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation.

Notice of the time and place of special meetings, and the business to be transacted at the meeting, shall be provided to the Directors and to all media who have provided written notice to the Corporation. All notices shall provide such information and be given with at least such notice as is required in accordance with the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation that is applicable to the type of meeting called.

Section 3.8. Quorum and Action of the Board.

(a) Quorum. A majority of the Directors then in office (excluding non-voting Directors) constitute a quorum of the Board for the transaction of business, except to adjourn as provided in Section 3.11.

(b) Valid Board Actions. Every act or decision done or made by a vote of a majority of the Directors present at a meeting duly held at which a quorum is present shall be

regarded as the act of the Board, unless a greater number be required by law, by the Articles of Incorporation, or by these Bylaws, including, without limitation, acts or decisions relating to (a) approval of contracts or transactions in which a Director has a direct or indirect material financial interest, (b) approval of certain transactions between corporations having common directorships, and (c) creation of and appointments to Committees, and (d) indemnification of Directors. Notwithstanding the foregoing, a meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of Directors from the meeting, if any action taken is approved by at least a majority of the required quorum for such meeting.

Section 3.9. Participation in Meetings by Conference Telephone. Meetings of the Board may be held by teleconference, provided that all Directors participating in the meeting must be able to hear one another. All meetings held by teleconference must comply with the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation.

Section 3.10. Waiver of Notice. Except as otherwise provided in the Ralph M. Brown Act California Government Code Sections 54950, et seq. with respect to waivers of notice of special meetings, notice of a meeting need not be given to any Director who signs a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such Director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings. A waiver of notice need not specify the purpose of any regular or special meeting of the Board. Directors can protest a lack of notice only by presenting a written protest to the Secretary either in person, by first-class mail addressed to the Secretary at the principal office of the Corporation as contained on the records of the Corporation as of the date of the protest, or by facsimile addressed to the facsimile number of the Corporation as contained on the records of the Corporation as of the date of the protest.

Section 3.11. Adjournment. A Board meeting may be adjourned in accordance with the provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation.

Section 3.12. Conduct of Meetings. Meetings of the Board shall be presided over by the Chairperson of the Board, or, in his or her absence, the Treasurer or, in the absence of each of these persons, by a chairperson chosen by a majority of the Directors present at the meeting. The Secretary of the Corporation shall act as secretary of all meetings of the Board, provided that, in his or her absence, the presiding officer shall appoint another person to act as secretary of the meeting.

All meetings of the Board shall be called, held and conducted in accordance with the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation.

Section 3.13. Fees and Compensation. Directors shall not receive any compensation for their service as Directors or as members of Committees of the Board; provided, however, that any Director may receive advances or reimbursement of actual reasonable expenses incurred by such Director in carrying out his or her duties as a Director or as

a member of a Committee of the Board, as may be authorized by the Board. This Section 3.13 shall not be construed to preclude any Director from serving the Corporation in any other capacity as an officer, agent, employee or otherwise, and receiving reasonable compensation for those services, as may be authorized by the Board.

Section 3.14. Restrictions on Interested Directors. Not more than forty-nine percent (49%) of the persons serving on the Board at any time may be Interested Persons. An “Interested Person” is (a) any person currently being compensated by the Corporation for services rendered to it within the previous 12 months, whether as a full-time or part-time employee, independent contractor or otherwise; (b) any employee or officer of any corporation, or any shareholder holding more than 3 percent of the shares in any corporation, or any partner or employee of any partnership, that has rendered compensated services to the Corporation within the previous 12 months; and (c) any brother, sister, ancestor, descendant, spouse, brother-in-law, sister-in-law, mother-in-law, father-in-law, daughter-in-law or son-in-law of any person described in clause (a) or (b) above. Any violation of the provisions of this paragraph shall not, however, affect the validity or enforceability of any transaction entered into by the Corporation.

Section 3.15. Rights of Inspection. Every Director shall have the absolute right at any reasonable time to inspect and copy all books, records, and documents of every kind and to inspect the physical properties of the Corporation.

Section 3.16. Guests of Honor. From time to time the Board, or any Committee so authorized, may place in nomination before the Board the names of individuals for election to life terms as Guests of Honor in recognition of especially meritorious service to the Corporation. The specific requirements and procedures for nomination and election shall be established by the Board, or any Committee so authorized, provided that any Director who has served at least one full term as the Chairperson of the Board or the President (if any) shall be eligible for nomination to the status of Guest of Honor.

Guests of Honor shall receive notice of and be permitted to attend all meetings of the Board and all functions of the Board, unless the Board by resolution has determined that such Guest of Honor shall be excluded from any such meeting, but shall not be deemed Directors and therefore shall not (i) have voting power or any notice rights as a Director, (ii) have any authority to act as a Director, or (iii) be counted for quorum purposes. There shall be no limit to the number of Guests of Honor.

Section 3.17. Non-liability of Directors. The Directors shall not be personally liable for the debts, liabilities or other obligations of the Corporation.

The personal liability (including personal liability to a third party for monetary damages) of any Director for such person’s acts or omissions occurring within the scope of the performance of such person’s duties as such shall be limited to the fullest extent permitted by law (including Section 5047.5 of the California Nonprofit Corporation Law or Section 5239 of the Nonprofit Public Benefit Law, as applicable). Such Directors shall also have a right to indemnification by the Corporation as and to the extent set forth in Article 9 hereof.

ARTICLE 4. COMMITTEES

Section 4.1. Committees of Directors. The Board may, by resolution adopted by a majority of the Directors then in office, provided that a quorum is present, create one (1) or more committees (“Committees”), each consisting of two (2) or more Directors, and only of Directors, to serve at the pleasure of the Board. Notwithstanding the foregoing, the Corporation shall establish an Audit Committee if required pursuant to Section 7.1 hereof. The Board may designate one (1) or more Directors as alternate members of any Committee, who may replace any absent member at any meeting of the Committee. By a majority vote of the Directors then in office, the Board may, at any time, appoint members or alternate members to any Committee from the Directors, remove with or without cause any member of any Committee, fill any vacancies on any Committee from the Directors and revoke or modify any or all of the authority delegated to any Committee. Any Committee, to the extent provided in the resolution of the Board, shall have all or a portion of the authority of the Board, except with respect to:

- (a) the approval of any action that, under the California Nonprofit Public Benefit Corporation Law, would also require approval of all members or approval of a majority of all members, if the Corporation had members;
- (b) the filling of vacancies on the Board or on any Committee that has the authority of the Board;
- (c) the fixing of compensation of the Directors for serving on the Board or on any Committee;
- (d) the amendment or repeal of the Articles of Incorporation or these Bylaws or the adoption of new bylaws of the Corporation;
- (e) the amendment or repeal of any resolution of the Board that by its express terms is not so amendable or repealable;
- (f) the appointment of Committees of the Board or the members thereof;
- (g) the expenditure of corporate funds to support a nominee for Director after there are more people nominated for Director than can be elected; or
- (h) the approval of any self-dealing transaction, as defined in the California Nonprofit Public Benefit Corporation Law, except as expressly provided in Section 5233(d)(3) thereof.

Section 4.2. Meetings and Actions of Committees. All meetings of any Committee shall be called, held and conducted in accordance with the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation. The Board shall have the power to prescribe the manner in which proceedings of any Committee shall be conducted. In the absence of any such prescription, each Committee shall have the power to prescribe the manner in which its proceedings shall be conducted. Unless the Board or such Committee shall otherwise provide, the regular and special meetings and other actions of any such Committee shall be governed by

the provisions of this Article 4 applicable to meetings and actions of the Board. Each Committee shall keep regular minutes of its meetings, cause them to be filed with the records of the Corporation and report the same to the Board from time to time as the Board may require.

Section 4.3. Advisory Committees. The Board may create one or more advisory committees to serve at the pleasure of the Board, which shall be clearly titled as “advisory” committees. Members of such advisory committees need not, but may, be Directors. The Board shall appoint and discharge advisory committee members. All actions and recommendations of an advisory committee shall require ratification by the Board before being given effect. All meetings of any advisory committee shall be called, held and conducted in accordance with the terms and provisions of the Ralph M. Brown Act California Government Code Sections 54950, et seq., as said chapter may be modified by subsequent legislation.

Section 4.4. Technical Advisory Committee. The Technical Advisory Committee shall be an advisory committee, as described in Section 4.3 above, responsible for (i) monitoring the quality of technical and scientific instruction provided and the curriculum used by the Academy, and (ii) making related recommendations for improvement to the Board. The Technical Advisory Committee shall have a minimum of five (5) members. In addition, the Head of School shall attend the meetings of the Technical Advisory Committee. The chairperson of the Technical Advisory Committee must be a director of the Board.

ARTICLE 5. OFFICERS

Section 5.1. Officers. The officers of the Corporation shall be a Chairperson of the Board, a Secretary and a Treasurer. The Corporation may elect or appoint, in accordance with the provisions of Section 5.3, additional officers, including but not limited to a President, one or more Vice Presidents, one or more Assistant Secretaries, and/or one or more Assistant Treasurers. Any number of offices may be held by the same person, except that neither the Secretary nor the Treasurer may serve concurrently as the Chairperson of the Board or the President (if any).

Section 5.2. Election of Officers. The Chairperson of the Board, the Secretary and the Treasurer, unless elected or appointed in accordance with the provisions of Section 5.5, shall be chosen annually by, and shall serve at the pleasure of, the Board, and shall hold their respective offices until their resignation, removal, or other disqualification from service, or until their respective successors shall be appointed.

Section 5.3. Subordinate Officers. The Board may elect, and may empower the Chairperson of the Board or another officer to appoint, such other officers as the business of the Corporation may require, in the discretion of the Board, each of whom shall hold office for such period, have such authority and perform such duties as are provided in these Bylaws or as the Board may from time to time determine. The Board shall approve in advance any employment contract entered into with any such officer.

Section 5.4. Removal and Resignation. Any officer may be removed by the Board at any time (subject to the provisions of any employment contract approved by the Board

pursuant to Section 5.3), either with or without cause and either with or without prior notice, at a regular or special meeting of the Board or, except in the case of an officer chosen by the Board, by any officer upon whom such power of removal may be conferred by the Board.

Any officer may resign at any time (subject to the provisions of any employment contract approved by the Board pursuant to Section 5.3) by giving written notice to the Corporation addressed and sent to the Board, the Chairperson of the Board or the Secretary. An officer's resignation shall take effect at the date notice of resignation is received by the addressee or at any later time specified in the notice and, unless otherwise specified in the notice, the acceptance of the resignation shall not be necessary to make it effective.

Section 5.5. Vacancies. A vacancy in any office because of death, resignation, removal, disqualification, or any other cause shall be filled in the manner prescribed in these Bylaws for regular election or appointment to such office, provided that such vacancies shall be filled as they occur and not on an annual basis. In the event of a vacancy in any office other than the Chairperson of the Board, such vacancy may be filled by appointment by the Chairperson of the Board, and such officer shall remain in office for sixty (60) days, or until the next regular meeting of the Board, whichever comes first. Thereafter, the office can be filled only by action of the Board.

Section 5.6. Chairperson of the Board. The Chairperson of the Board shall, if present, preside at all meetings of the Board and exercise and perform such other powers and duties as may be from time to time assigned by the Board or prescribed by these Bylaws. If there is no President, then the Chairperson of the Board shall also be the chief executive officer of the Corporation and shall have the powers and duties prescribed in Section 5.7.

Section 5.7. President. Subject to such powers, if any, as may be given by the Board to the Chairperson of the Board, the President, if any, shall be the general manager and chief executive officer of the Corporation and shall have responsibility for, subject to the control of the Board, the general supervision, direction, and control of the business and officers of the Corporation. The President, if any, shall have the general powers and duties of management usually vested in the office of president and general manager of a corporation and such other powers and duties as may be prescribed by the Board.

Section 5.8. Vice Presidents. In the absence or disability of the President, or in the event of his or her inability or refusal to act, the Vice Presidents, if any, in order of their rank as fixed by the Board or, if not ranked, a Vice President designated by the Board, shall perform all the duties of the President and, when so acting, shall have all the powers of, and be subject to all the restrictions upon, the President. The Vice Presidents, if any, shall have such other powers and perform such other duties as from time to time may be prescribed for them respectively by the Board, these Bylaws, the Chairperson of the Board or the President, if any.

Section 5.9. Secretary. The Secretary shall keep, or cause to be kept, minutes of all meetings of the Board and Board Committees. If the Secretary is unable to be present, the secretary or the presiding officer of the meeting shall designate another person to take the minutes of the meeting. Unless otherwise determined by the Board, the Secretary shall keep or cause to be kept, at the principal office of the Corporation or such other place as the Board may order, a book of minutes of all meetings of the Board and its Committees, with the time and

place of holding, whether regular or special, and if special, how authorized, the notice thereof given, the names of those present at Board and Committee meetings, and the proceedings thereof. The Secretary shall keep, or cause to be kept, at the principal office of the Corporation or such other place as the Board may order, the original or a copy of the Corporation's Articles of Incorporation and Bylaws, as amended to date.

The Secretary shall give, or cause to be given, notice of all meetings of the Board and any Committees thereof required by these Bylaws or by law to be given. If the Secretary or other person authorized by the Secretary to give notice fails to act, notice of any meeting may be given by any other Director or officer of the Corporation.

The Secretary shall keep the records of the Corporation and the seal of the Corporation, if one be adopted, in safe custody. The Secretary shall have such other powers and shall perform such other duties as from time to time may be prescribed by the Board.

Section 5.10. Treasurer. The Treasurer shall be deemed to be the chief financial officer of the Corporation. The Treasurer shall keep and maintain, or cause to be kept and maintained, adequate and correct books and records of accounts of the properties and business transactions of the Corporation, including accounts of its assets, liabilities, receipts, disbursements, gains, losses, capital, retained earnings and other matters customarily included in financial statements. The books of account shall be open to inspection, at all reasonable times, by any Director or his or her agent or attorney. The Treasurer shall send or cause to be given to the Directors such financial statements and reports as are required to be given by law, by these Bylaws, or by the Board.

The Treasurer shall prepare, or cause to be prepared, and certify, or cause to be certified, the financial statements to be included in any required report. The Treasurer shall also prepare, or cause to be prepared, an annual report that shall be sent by the Board to each Director within one hundred and twenty (120) days after the close of the Corporation's fiscal year, containing the following information in reasonable detail:

- (a) the assets and liabilities, including the trust funds, of the Corporation as of the end of the fiscal year;
- (b) the principal changes in assets and liabilities, including trust funds, during the fiscal year;
- (c) the revenue or receipts of the Corporation, both unrestricted and restricted to particular purposes, for the fiscal year;
- (d) the expenses or disbursements of the Corporation for both general and restricted purposes during the fiscal year;
- (e) an independent accountants' report or, if none, the certificate of an authorized officer of the Corporation that such statements were prepared without audit from the Corporation's books and records; and

(f) a statement regarding any transaction (i) to which the Corporation, its parent, or its subsidiary was a party, (ii) in which any Director or officer of the Corporation, its parent or its subsidiary, or any holder of more than ten percent (10%) of the voting power of the Corporation, its parent or its subsidiary, had a direct or indirect material financial interest (a mere common directorship shall not be considered such an interest) and (iii) that involved either (A) more than \$50,000 or that was one of a number of such transactions with the same interested person involving, in the aggregate, more than \$50,000 or (B) any loans, guaranties, indemnifications, or advances aggregating more than \$10,000 paid during the fiscal year to any Director or officer of the Corporation under Article 10 of these Bylaws; which statement shall include: (1) a brief description of the transaction; (2) the names of interested persons involved; (3) their relationship to the Corporation; (4) the nature of their interest in the transaction, and; (5) when practicable, the amount of that interest.

The Treasurer shall deposit, or cause to be deposited, all moneys and other valuables in the name and to the credit of the Corporation with such depositories as may be designated by the Board. The Treasurer shall disburse the funds of the Corporation as may be ordered by the Board, shall render to the Chairperson of the Board, the President (if any) and the Directors, whenever they request it, an account of all transactions as Treasurer and of the financial condition of the Corporation. The Treasurer shall also have such other powers and perform such other duties as may be prescribed by the Board or these Bylaws.

Section 5.11. Compensation. Neither the Chairman of the Board, nor the Secretary, nor the Treasurer shall receive any compensation for his or her service as such officer; provided, however, that each such officer may receive advances or reimbursement of actual reasonable expenses incurred by him or her in carrying out his or her duties as such officer, as may be authorized by the Board. The compensation of other officers of the Corporation, if any, shall be fixed from time to time by resolution of the Board or established in employment contracts approved by the Board pursuant to Section 5.3. No officer shall be prevented from receiving any compensation pursuant to this Section 5.11 by reason of the fact that he or she is also a Director of the Corporation; provided, however, that such compensation paid to a Director for serving as an officer of the Corporation shall only be allowed if permitted under the provisions of Section 3.14 of these Bylaws. In all cases, any compensation received by officers of the Corporation shall be reasonable and given in return for services actually rendered for the Corporation that relate to the performance of the public benefit purposes of the Corporation.

Section 5.12. Nonliability of Officers. The personal liability (including personal liability to a third party for monetary damages) of any officer for such person's acts or omissions occurring within the scope of the performance of such person's duties as such shall be limited to the fullest extent permitted by law (including Section 5047.5 of the California Nonprofit Corporation Law or Section 5239 of the Nonprofit Public Benefit Law, as applicable). Such officers shall also have a right to indemnification by the Corporation as and to the extent set forth in Article 9 hereof.

ARTICLE 6. HEAD OF SCHOOL

Section 6.1. Appointment. The school operated and maintained by the Corporation pursuant to these Bylaws (the "Academy") shall have a Head of School selected by

the Board. The Head of School shall be an employee of the Corporation and shall receive a compensation package fixed by the Board, and the Board shall ensure that such compensation package be just and reasonable. The Board may extend the Head of School a contract of employment and shall devise and implement a mechanism for periodic (e.g., annual) review of the Head of School's performance. The Head of School shall attend the meetings of the Board.

Section 6.2. Responsibilities. Subject to the authority of the Board, the Head of School shall:

(a) be responsible for supervising and managing the day-to-day business and affairs of the Academy;

(b) be responsible for the hiring, supervision, and termination of employment of school employees and staff, subject to salary guidelines and previous discussion with, and other reasonable requirements as may be set forth by, the Board, if any;

(c) advance the purposes of the Corporation through the Academy, and shall otherwise operate such school in a manner consistent with the policies and plans adopted by the Board, and as directed by the Board;

(d) assist the Board in developing plans for the near- and long-term future of the Academy;

(e) be responsible for prudent budgeting and fiscal management, managing the Academy's operations and property in a fiscally responsible manner; and

(f) be responsible, together with the Board, for fund-raising for the Academy.

The Head of School shall have such other powers and duties as may be prescribed from time to time by the Board or by these Bylaws.

ARTICLE 7. FINANCIAL OVERSIGHT

Section 7.1. Appointment of an Audit Committee. In a fiscal year in which the Corporation's gross revenue is \$2,000,000 or more (excluding grants from, and contracts for services with, governmental entities for which the governmental entity requires an accounting of the funds received), the Corporation shall appoint an audit committee (the "Audit Committee").

(a) Members. The Audit Committee may include non-Directors, but it may not include any members of the staff, the Chairman of the Board, the Treasurer, or the President (if any). If the Corporation has a Finance Committee, it shall be separate from the Audit Committee. The Audit Committee may include members of the Finance Committee, but such overlapping Committee members shall constitute less than half of the Audit Committee and the chairperson of the Audit Committee may not be a member of the Finance Committee. Any person who has any material financial interest in any entity doing business with the Corporation may not serve on the Audit Committee. Each member of the Audit Committee shall serve as such until such member's successor shall be appointed by the Board. In the event that any member of the Audit Committee shall resign or cease to be a Director of the Corporation, the vacancy thus caused shall be filled by the Board.

(b) Duties of the Audit Committee. Subject to the supervision of the Board, the Audit Committee shall exercise the following powers, responsibilities, and duties:

(i) make recommendations to the Board regarding the appointment, retention, and termination of the independent auditor for the Corporation;

(ii) negotiate the auditor's compensation on behalf of the Board;

(iii) confer with the auditor to satisfy the members of the Audit Committee that the financial affairs of the Corporation are in order;

(iv) review the audit and decide whether to recommend acceptance of it to the Board; and

(v) approve non-audit services by the auditor and ensure that such services conform to the applicable independent standards.

(c) Compensation. No member of the Audit Committee shall receive compensation for serving on the Audit Committee. An Audit Committee member may be reimbursed for reasonable expenses incurred in attending such meetings.

(d) Quorum, Meetings of the Audit Committee, Records of the Audit Committee. Determinations of quorum, procedures for meetings, and records of the Audit Committee shall be in accordance with the provisions of Section 4.2.

(e) Control by the Board. The Audit Committee shall be subject at all times to the control of the Board, which shall have the power to revise or alter any action taken by the Audit Committee; provided, however, that no rights of third parties shall be affected thereby.

Section 7.2. Financial Statements Must Be Made Available. If the Corporation prepares an audited financial statement, such audited financial statement shall be made available for inspection by the California Attorney General and by all members of the public no later than nine months after the close of the relevant fiscal year in the same manner as the Corporation's Internal Revenue Service Form 990. Each annual financial statement shall be made available to the public for three years.

ARTICLE 8. OTHER PROVISIONS

Section 8.1. Execution of Documents; Contracts. Subject to the provisions of applicable law, any note, mortgage, evidence of indebtedness, contract, conveyance, or other instrument in writing and any assignment or endorsement thereof executed or entered into between the Corporation and any other person, when signed by the Chairman of the Board, the President (if any), or any Vice President (if any) shall be valid and binding on the Corporation in the absence of actual knowledge on the part of the other person that the signing officers had no authority to execute the same. Any such instruments may be signed by any other person or persons and in such manner as from time to time shall be determined by the Board, and unless authorized by the Board, no other officer, agent, or employee shall have any power or authority to bind the Corporation by any contract or engagement or to pledge its credit or to render it liable monetarily for any purpose or in any amount.

Section 8.2. Representation of Shares of Other Corporations. The Chairperson of the Board, the President (if any) or any other officer or officers authorized by the Board, the Chairperson of the Board or the President (if any) are each authorized to vote, represent, and exercise on behalf of the Corporation all rights incident to any and all shares of any other corporation or corporations standing in the name of the Corporation. The authority herein granted may be exercised either by any such officer in person or by any other person authorized so to do by proxy or power of attorney duly executed by said officer.

Section 8.3. Construction and Definitions. Unless the context requires otherwise, the general provisions, rules of construction and definitions contained in the General Provisions of the California Nonprofit Corporation Law and in the California Nonprofit Public Benefit Corporation Law shall govern the construction of these Bylaws. Without limiting the generality of the foregoing, the singular number includes the plural, the plural number includes the singular, and the term "person" includes both a natural person and any corporation or other entity. All references to statutes, regulations and laws shall include any future statutes, regulations and laws that replace those referenced.

Section 8.4. Amendments. These Bylaws may be amended or repealed by a majority vote of Directors then in office, except that no amendment make any provisions of these Bylaws inconsistent with the charter(s) that created the Academy, the Corporation's Articles of

Incorporation, or any applicable laws. No amendment of these Bylaws may extend the term of a Director beyond that for which such Director was elected.

Section 8.5. Books and Records, Fiscal Year. The Corporation's books and records, together with all of the documents and papers pertaining to the business of the Corporation, shall be kept and maintained at the principal office of the Corporation. The fiscal year of the Corporation shall end on June 30, unless otherwise provided for by the Board, and the books and records of the Corporation shall be kept on a fiscal year basis and shall reflect all the transactions of the Corporation and be appropriate and adequate for the Corporation's business.

ARTICLE 9. CONFLICT OF INTEREST

Section 9.1. Conflict of Interest Policy. The Corporation shall have a Conflict of Interest Policy established by the Board, which policy shall be consistent with all applicable laws. The Conflict of Interest Policy shall be furnished to each Director or officer who is presently serving the Corporation, or who may hereafter become associated with the Corporation. The Conflict of Interest Policy shall be reviewed at least annually for new information and guidance from Directors and officers, and any new Directors and officers shall be advised of the Conflict of Interest Policy upon undertaking the duties of their respective offices.

ARTICLE 10. INDEMNIFICATION

Section 10.1. Definitions. For the purposes of this Article 10, "agent" means any person who is or was a Director, officer, employee or other agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another foreign or domestic corporation, partnership, joint venture, trust, or other enterprise, or was a director, officer, employee, or agent of a foreign or domestic corporation that was a predecessor corporation of the Corporation or of another enterprise at the request of such predecessor corporation; "officer" or "director" means only an agent who is or was an officer or director of the Corporation or a predecessor corporation at the Corporation's (or such predecessor's) request; "proceeding" means any threatened, pending, or completed action or proceeding, whether civil, criminal, administrative or investigative; and "expenses" includes without limitation all attorneys' fees, costs and any other expenses reasonably incurred in establishing a right to indemnification under this Article 10.

Section 10.2. Indemnification in Actions by Third Parties. The Corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party to any proceeding (other than an action by or in the right of the Corporation to procure a judgment in its favor, an action brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law, or an action brought by the Attorney General or a person granted relator status by the Attorney General for any breach of duty relating to assets held in charitable trust) by reason of the fact that such person is or was an agent of the Corporation. The power to indemnify shall include expenses, judgments, fines, settlements, and other amounts actually and reasonably incurred in connection with such proceeding if such person acted in good faith and in a manner such person reasonably believed to be in the best interests of the Corporation and, in

the case of a criminal proceeding, had no reasonable cause to believe the conduct of such person was unlawful. The termination of any proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, of itself, create a presumption that the person did not act in good faith and in a manner that the person reasonably believed to be in the best interests of the Corporation or that the person had reasonable cause to believe that the person's conduct was unlawful.

The Corporation shall, to the maximum extent permitted by law, and in the manner provided by law, indemnify any such persons who serve as Directors or officers of the Corporation. The personal liability of such Directors and officers shall be limited as and to the extent set forth in Section 3.17 and Section 5.12, respectively.

Section 10.3. Indemnification in Actions by or in the Right of the Corporation.

The Corporation shall have the power to indemnify any person who was or is a party or is threatened to be made a party, by reason of the fact that such person is or was an agent of the Corporation, to any of the following types of threatened, pending or completed actions: ones by or in the right of the Corporation; ones brought under Section 5233 of the California Nonprofit Public Benefit Corporation Law; or ones brought by the Attorney General or a person granted relator status by the Attorney General for breach of duty relating to assets held in charitable trust. The power to indemnify shall include expenses actually and reasonably incurred by such person in connection with the defense or settlement of such action if such person acted in good faith, in a manner such person believed to be in the best interests of the Corporation, and with such care, including reasonable inquiry, as an ordinarily prudent person in a like position would use under similar circumstances. No indemnification shall be made under this Section 10.3:

(a) in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable to the Corporation in the performance of such person's duty to the Corporation, unless and only to the extent that the court in which such proceeding is or was pending shall determine upon application that, in view of all the circumstances of the case, such person is fairly and reasonably entitled to indemnity for the expenses that such court shall determine;

(b) of amounts paid in settling or otherwise disposing of a threatened or pending action, with or without court approval; or

(c) of expenses incurred in defending a threatened or pending action that is settled or otherwise disposed of without court approval, unless it is settled with the approval of the Attorney General; or

(d) of amounts that would qualify as an excess benefit as that term is defined in Internal Revenue Code Section 4958.

Section 10.4. Indemnification of Expenses. To the extent that an agent of the Corporation has been successful on the merits in defense of any proceeding referred to above or in defense of any claim, issue or matter therein, the agent shall be indemnified against expenses actually and reasonably incurred by the agent in connection therewith.

Section 10.5. Required Determinations. Except as provided in the above sections of this Article 10, any indemnification under this Article 10 shall be made by the Corporation only if authorized in the specific case, upon a determination that indemnification of the agent is

proper in the circumstances because the agent has met the applicable standard of conduct set forth in Sections 10.2 or 10.3, by:

(a) A majority vote of a quorum consisting of Directors who are not parties to such proceedings; or

(b) The court in which such proceeding is or was pending upon application made by the Corporation or the agent or the attorney or other person rendering services in connection with the defense, whether or not such application by the agent, attorney, or other person is opposed by the Corporation.

Section 10.6. Advance of Expenses. Expenses incurred in defending any proceeding may be advanced by the Corporation before final disposition of the proceeding upon receipt of an undertaking by or on behalf of the agent to repay that amount unless it shall be determined ultimately that the agent is entitled to be indemnified as authorized in this Article 10; provided, however, that such advance shall not be permitted if the Corporation is a private foundation within the meaning of Internal Revenue Code Section 509 and the agent is a disqualified person within the meaning of Internal Revenue Code Section 4946.

Section 10.7. Meetings of the Board. On written request to the Board by any Director or officer seeking indemnification under these Bylaws or the California Nonprofit Corporation Law, the Board shall promptly convene a meeting and in good faith decide whether the applicable standard(s) have been met and, subject to any required findings and other constraints, if any, upon its power to provide such indemnification, if they have been met shall promptly authorize such indemnification.

Section 10.8. Other Indemnification. No provision made by the Corporation to indemnify its or its subsidiary's directors or officers for the defense of any proceeding, whether contained in the Articles of Incorporation, these Bylaws, a resolution of the Board, an agreement or otherwise, shall be valid unless consistent with this Article 10. Nothing contained in this Article 10 shall affect any right to indemnification to which persons other than such Directors and officers may be entitled by contract or otherwise.

Section 10.9. Forms of Indemnification not Permitted. No indemnification or advance shall be made under this Article 10, except as provided in Sections 10.4 or 10.5(b), in any circumstances where it appears:

(a) that it would be inconsistent with a provision of the Articles of Incorporation, these Bylaws, or an agreement in effect at the time of the accrual of the alleged cause of action asserted in the proceeding in which the expenses were incurred or other amounts were paid that prohibits or otherwise limits indemnification; or

(b) that it would be inconsistent with any condition expressly imposed by a court in approving a settlement.

Section 10.10. Insurance. The Corporation shall have the power to purchase and maintain insurance on behalf of any agent of the Corporation against any liability asserted against or incurred by the agent in such capacity or arising out of the agent's status as such whether or not the Corporation would have the power to indemnify the agent against such liability under the provisions of this Article 10, provided, however, that a Corporation shall have

no power to purchase and maintain such insurance to indemnify any agent of the Corporation for a violation of Section 5233 of the California Nonprofit Public Benefit Corporation Law (or any successor provision thereto).

Section 10.11. Nonapplicability to Fiduciaries of Employee Benefit Plans. This Article 10 does not apply to any proceeding against any trustee, investment manager, or other fiduciary of any employee benefit plan in such person's capacity as such, even though such person may also be an agent of the Corporation as defined in Section 10.1. The Corporation shall have power to indemnify such trustee, investment manager or other fiduciary to the extent permitted by subdivision (f) of Section 207 of the California General Corporation Law.

Section 10.12. Federal and State Exculpatory Provisions. Nothing in this Article 10 shall limit or otherwise adversely affect the rights of qualifying agents of the Corporation under the Federal Volunteer Protection Act of 1997, as amended (42 USCA Section 14501 et seq.), Section 5047.5 of the California Corporations Code, Section 5239 of the Nonprofit Public Benefit Law or similar provisions of other laws or public policies limiting such liability, as now in effect or as any thereof may be amended.

Section 10.13. Separability. Each and every paragraph, sentence, term, and provision of this Article 10 is separate and distinct so that if any paragraph, sentence, term, or provision shall be held to be invalid or unenforceable for any reason, its invalidity or unenforceability shall not affect the validity or enforceability of any other paragraph, sentence, term, or provision of this Article 10. To the extent required, any paragraph, sentence, term, or provision of this Article 10 may be modified by a court of competent jurisdiction to preserve its validity and to provide the claimant with, subject to the limitations set forth in this Article 10 and any agreement between the Corporation and the claimant, the broadest possible indemnification permitted under applicable law.

ARTICLE 11. EMERGENCY PROVISIONS

Section 11.1. Applicability. The provisions of this Article 11 shall be operative only during an "emergency situation" as defined in California Government Code Section 54956.5. Under such conditions, a meeting of the Board may be held in accordance with the provisions of such Section 54956.5.

Section 11.2. Emergency Quorum. The Director or Directors in attendance at the meeting of the Board so called shall constitute a quorum. If none is in attendance at the meeting, the officers or other persons designated on a list approved by the Board before the emergency, all in the order of priority and subject to the conditions and for the period of time (not longer than reasonably necessary after the termination of the emergency) as may be provided in the resolution approving the list, shall, to the extent required to provide a quorum at any meeting of the Board be deemed Directors or members of the committee, as the case may be, for the meeting.

Section 11.3. Line of Succession. The Board, either before or during any such emergency, may provide, and from time to time modify, lines of succession in the event that during the emergency any or all officers or agents of the Corporation shall for any reason be rendered incapable of discharging their duties.

Section 11.4. Principal Office. The Board, either before or during any such

emergency, may, effective in the emergency, change the principal office or designate several alternative offices or authorize the officers so to do.

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CERTIFICATE OF SECRETARY
OF
THE PALMDALE AEROSPACE ACADEMY, INC.

A California Nonprofit Public Benefit Corporation

I hereby certify that I am the duly elected and acting Secretary of The Palmdale Aerospace Academy, Inc. and that the foregoing Bylaws, comprising 20 pages, constitute the Bylaws of said Corporation as duly adopted by the Board of Directors of the Corporation on _____, _____; and that these Bylaws have not been amended since that date.

Executed on _____ at _____, California.

Name: _____

Title: Secretary

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City Council Staff Report

DATE: July 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: CITY MANAGER DEPARTMENT
DISTRICT: ALL
SUBJECT: APPROVE THE JOINT POWERS AGREEMENT CREATING THE HIGH DESERT CORRIDOR JOINT POWERS AGENCY (HDCJPA) BETWEEN THE COUNTY OF LOS ANGELES, LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, CITY OF ADELANTO, CITY OF LANCASTER, CITY OF PALMDALE, AND CITY OF VICTORVILLE AND APPOINT ONE MEMBER AND ONE ATERNATE TO SERVE ON AGENCY'S BOARD

ISSUE

Approve the Joint Powers Agreement creating the High Desert Corridor Joint Powers Agency between the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville, and appointment of one member and one alternate to serve on the Agency's Board.

RECOMMENDATION

Staff recommends that the City Council:

1. Approve the Joint Powers Agreement creating the High Desert Corridor Joint Powers Agency between the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville, and authorize the Mayor to approve minor amendments to the Agreement upon the recommendation of the City Attorney;
2. Appoint a Councilmember to the Board of Directors of the High Desert Corridor Joint Powers Authority; and
3. Appoint a second Councilmember as an alternate delegate to the Board of Directors of the High Desert Corridor Joint Powers Agency.

BACKGROUND

The High Desert Corridor (HDC) Joint Powers Authority (JPA) was originally formed in 2006 with two members; the County of San Bernardino and the County of Los Angeles who appointed Board of Directors from the cities of Adelanto, Lancaster, Palmdale, Victorville and the Town of Apple Valley. The JPA was created to pursue funding and provide for the planning, design, construction, financing, operation, and maintenance of

Report to Mayor and City Council

Re: Approve the Joint Powers Agreement creating the High Desert Corridor Joint Powers Agency between the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville; and appoint one member and one alternate to serve on the board of the Joint Powers Authority

July 20, 2022

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a new freeway/expressway known as the HDC between the County of Los Angeles in the vicinity of the Cities of Lancaster and Palmdale and the County of San Bernardino in the vicinity of the Cities of Victorville, Apple Valley, and Adelanto.

The Authority is a project-specific JPA formed to develop transportation options between the Antelope Valley (Los Angeles County) and Victor Valley (San Bernardino County), namely, a new freeway/expressway linking SR 14 and I-15. In 2016, the HDC project received CEQA (California Environmental Quality Act) clearance and determined the Locally Preferred Alternative would be a multi-modal corridor with a highway and high-speed rail line in the median connecting the counties of Los Angeles and San Bernardino. In 2020, partly due to litigation and funding issues, the California Department of Transportation (Caltrans) eliminated the highway portion of the HDC but allowed for the possibility of it being pursued again at a later time. The San Bernardino County Transportation Commission, Los Angeles County Metropolitan Transportation Authority (LA METRO) and Caltrans District 7/8 are currently studying a four-lane continuous highway connecting the two valleys along the SR138/SR18 route. Although the highway portion is underway, the high-speed rail line is being pursued for federal and state environmental clearance. The high-speed rail line would link the state high-speed rail station in Palmdale with an anticipated station in Apple Valley. Additionally, the Apple Valley station would connect to the planned Express West high-speed rail line to Las Vegas pursued by private enterprise Brightline West. Currently, the HDC Rail project is in the Federal NEPA (National Environmental Policy Act) environmental process under the direction of the Federal Railroad Administration and a Record of Decision is anticipated to be completed in late 2022/early 2023.

The purpose of the HDC is to improve east-west mobility within the High Desert region of Southern California by addressing present and future travel demands and mobility needs. The HDC seeks to improve travel safety and reliability, while connecting residential, commercial, and industrial areas in the Antelope and Victor/Apple Valleys, including the cities of Adelanto, Lancaster, Palmdale, and Victorville. The entire high-speed rail line with stations in the City of Palmdale and the Town of Apple Valley travel through Equity-Focused Communities which are in desperate need of mobility options.

DISCUSSION

On March 1, 2022. The County of San Bernardino voted to withdraw its membership from the current HDC JPA, effective June 30, 2022. The existing HDC was dissolved July 1, 2022 but will remain open to continue to wind-down the affairs of the current Authority. The revised JPA eliminates San Bernardino County as a member and creates a new

Report to Mayor and City Council

Re: Approve the Joint Powers Agreement creating the High Desert Corridor Joint Powers Agency between the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville; and appoint one member and one alternate to serve on the board of the Joint Powers Authority

July 20, 2022

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partnership between the remaining agencies to complete the federal and state environmental process.

The agreement for this new joint powers authority eliminates San Bernardino County as a member, and includes the City of Palmdale as a member along with Los Angeles County, LA Metro, City of Lancaster, and City of Adelanto. Notwithstanding the anticipated station connecting to Apple Valley, the Town of Apple Valley has declined membership to the HDC JPA at this time. Each member agency will appoint a representative to the Agency's Board of Directors with each Director receiving one vote.

Thus far, Los Angeles County, the cities of Adelanto, Lancaster, and Victorville have approved their HDC JPA memberships. LA Metro is scheduled to place this agreement on the August 25, 2022 agenda. Once fully executed the County Counsel of Los Angeles County will serve as the Agency's legal advisor, the Auditor-Controller of Los Angeles County will serve as the Agency's auditor and the Treasurer of the County of Los Angeles will serve as the Agency's treasurer.

Staff recommends the City Council approve the High Desert Corridor Joint Powers Agreement, authorizing the formation of a Joint Powers Agency between the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville, and authorize the Mayor to sign the HDC JPA Agreement on behalf of the of the City of Palmdale.

FISCAL IMPACT

Currently, there is no fiscal impact, however, future HDC boards will determine if cities pay dues as part of the annual budget process.

Report to Mayor and City Council

Re: Approve the Joint Powers Agreement creating the High Desert Corridor Joint Powers Agency between the County of Los Angeles, Los Angeles County Metropolitan Transportation Authority, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville; and appoint one member and one alternate to serve on the board of the Joint Powers Authority

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STRATEGIC PLAN

Goal III: Invest in Infrastructure to Improve Community Livability

D. Launch an efficient regional multi-modal transportation hub connecting high-speed rail, air, auto and public transit.

Prepared by:

Certified as to availability of Funds: Janelle Samson, Director of Finance

Approved by: Ronda Perez, Interim City Manager

Approved as to form: Scott E. Porter, Acting City Attorney

ATTACHMENTS

1. High Desert Corridor Joint Powers Agency Joint Powers Agreement

JOINT POWERS AGREEMENT

CREATING

THE HIGH DESERT CORRIDOR JOINT POWERS AGENCY

BY AND AMONG

**THE COUNTY OF LOS ANGELES, LOS ANGELES COUNTY
METROPOLITAN TRANSPORTATION AUTHORITY, THE
CITY OF ADELANTO, THE CITY OF LANCASTER, THE
CITY OF PALMDALE AND THE CITY OF VICTORVILLE**

HIGH DESERT CORRIDOR JOINT POWERS AGENCY

JOINT POWERS AGREEMENT

This JOINT POWERS AGREEMENT, made in accordance with Chapter 5 of Division 7 of Title 1 of the Government Code of the State of California (commencing with Section 6500), as amended and supplemented from time to time (the "Act"), for convenience dated as of June 15, 2022, by and among the COUNTY OF LOS ANGELES, LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, CITY OF ADELNATO, CITY OF LANCASTER, CITY OF PALMDALE, AND CITY OF VICTORVILLE, each of which is a body corporate and politic and a political subdivision of the State of California (the "State") (referred to collectively as "Members").

RECITALS

WHEREAS, pursuant to the Act, the agency created under this Agreement (as defined herein) shall possess such common powers of the Members, and may exercise such powers, as specified in this Agreement and to exercise the additional powers granted to it pursuant to the Act;

WHEREAS, by this Agreement, each Member desires to create and establish the High Desert Corridor Joint Powers Agency for the purposes set forth herein and to exercise the powers provided herein;

WHEREAS, the High Desert Corridor Joint Powers Authority, ("Predecessor JPA"), was created between Los Angeles County and San Bernardino County in November 2006, and shall be dissolved effective July 1, 2022;

WHEREAS, it is the intent of the Members that, to the fullest extent possible, the High Desert Corridor Joint Powers Agency shall be the successor in interest in all ways to the Predecessor JPA, and any other mechanisms or sources with which the Predecessor JPA was funded and any other obligations or benefits derived therefrom, including, without limitation, the proposed April 14, 2022, Funding Agreement between Predecessor JPA and the Los Angeles County Metropolitan Transportation Authority for the High Desert Intercity Rail Corridor Environmental Work, Surface, Transportation Board Filing, and Predecessor JPA Administration costs.

NOW, THEREFORE, the Members, for and in consideration of the mutual agreements and covenants contained herein, do agree as follows:

ARTICLE I

DEFINITIONS

Section 1.01. Definitions. Unless the context otherwise requires, the words and terms defined in this Article I shall, for the purpose hereof, have the meanings herein specified.

"Act" means the Joint Exercise of Powers Act, Articles 1 through 4 (commencing with Section 6500) of Chapter 5, Division 7, Title 1 of the California Government Code.

"Agency" shall mean the High Desert Corridor Joint Powers Agency, the separate agency created by this Agreement.

"Agreement" means this Joint Powers Agreement as the same now exists and as it may from time to time be amended.

"Board" means the Board of Directors of the Agency created by this Agreement.

"Brown Act" means the Ralph M. Brown Act (Chapter 9 of Part 1 of Division 2 of Title 5 of the Government Code of the State of California (Sections 54950 to 54961), and any successor legislation hereinafter enacted.

"Director(s)" means the person(s) appointed to the Board pursuant to Section 2.03.

"Fiscal Year" means the calendar period from July 1st to and including the following June 30th, unless and until changed by a resolution of the Agency.

"Member" means each of the County of Los Angeles, Los Angeles County Metropolitan Transportation Agency, City of Adelanto, City of Lancaster, City of Palmdale, and City of Victorville.

"Members" means all of the Member agencies collectively.

"Predecessor JPA" means the High Desert Corridor Joint Powers Authority.

"PTAC" means the Policy and Technical Advisory Committee.

"State" means the State of California.

ARTICLE II

GENERAL PROVISIONS REGARDING PURPOSE, CREATION AND OPERATION OF THE AGENCY

Section 2.01. Purpose. In accordance with Section 6503 of the Act, the purpose of this Agreement is to provide for the exercise of powers common to each Member, including but not limited to, the creation of the Agency to provide for the financing, planning, design, construction, operation and maintenance of public and/or private transportation and utility corridor(s) (Corridor) from Los Angeles County in the vicinity of the Cities of Palmdale and/or Lancaster to San Bernardino County in the vicinity of the Cities of Victorville, and Adelanto. The activities contemplated by this Agreement include all manner and modes of surface transportation and all manner and modes of utilities including pipelines and conduits, and those substances that may be feasibly conveyed by such.

The Agency is intended to be the successor in interest, to the fullest extent possible, to the High Desert Corridor Joint Powers Authority, which shall be dissolved as of July 1, 2022.

Section 2.02. Term. This Agreement shall become effective when it has been approved by each of the Members. This Agreement shall continue in full force and effect until terminated by mutual consent of the Members.

Section 2.03. Board of Directors. The Agency shall be governed by a Board of Directors (Board), with each Director receiving one vote. The Board shall be comprised of six Directors designated as follows:

- A. The County of Los Angeles shall be represented by its Fifth District Supervisor.
- B. Los Angeles County Metropolitan Transportation Authority ("Metro") shall be represented by the sitting Metro Board Director representing the Northern Los Angeles County Cities Sector seat.
- C. The City of Adelanto shall be represented by an individual selected by the Adelanto City Council
- D. The City of Lancaster shall be represented by an individual selected by the Lancaster City Council.
- E. The City of Palmdale shall be represented by an individual selected by the Palmdale City Council.
- F. The City of Victorville shall be represented by an individual selected by the Victorville City Council.

Section 2.04. Alternates. Except as provided below, each Member shall appoint an alternate (Alternate) for its Director. The Alternate for Los Angeles County's Fifth District Supervisor shall be nominated by the Fifth District Supervisor and approved by the County of Los Angeles Board of Supervisors. The Alternate for Metro shall be nominated by the sitting Metro Board Director representing the Northern Los Angeles County Cities Sector seat and approved by the Metro Board of Directors.

Section 2.05. Term of Board of Directors. Each Director and Alternate shall serve at the pleasure of his or her appointing authority.

Section 2.06. Meetings. All meetings of the Board shall be called, noticed, held, and conducted subject to the provisions of the Brown Act. The Board shall meet a minimum of one time per year. The meeting shall take place at a location determined by the Board, but the location must be within the jurisdictional boundaries of either the County of Los Angeles or the County of San Bernardino.

Section 2.07. Minutes. The Secretary shall cause to be kept minutes of the meetings of the Board and shall, as soon as possible after each meeting, cause a copy of the minutes to be forwarded to each Director of the Board, committee members of the PTAC, and the Clerk of the Board of Supervisors, or governing body of each Member.

Section 2.08. Quorum. A majority of the Board shall constitute a quorum for the transaction of business, except that less than a quorum may adjourn from time to time. The affirmative votes

of at least a majority of the Directors present at any meeting at which a quorum is present shall be required to take any action by the Board.

Section 2.09. Bylaws. The Board may adopt Bylaws for the conduct of business and as are necessary for the purposes hereof. The Board may adopt additional resolutions, rules, regulations, and policies for the conduct of its business and as are necessary for the purposes hereof in a manner consistent with this Agreement and the Bylaws.

Section 2.10. Annual Budget. The Board shall adopt an annual budget for each fiscal year. The Bylaws may further provide for the presentation and content of the budget.

Section 2.11. Annual Operational and Fiscal Report. The Board shall cause an annual operational report and annual fiscal report to be prepared and provided to each Member.

Section 2.12. Enlargement of the Board of Directors. The Board may increase the number of Directors on the Board from six Directors by approval by all Directors following ratification by the governing body of each Member.

ARTICLE III

OFFICERS AND EMPLOYEES

Section 3.01. Chair and Vice-Chair. The Board of Directors shall elect from among its Members, a Chair and First and Second Vice-Chairs. The Chair shall sign all contracts on behalf of the Agency, except as otherwise set forth in this Agreement, and shall perform such other duties as may be imposed by the Board in the Bylaws. The First Vice-Chair shall sign contracts and perform all of the Chair's duties in the absence of the Chair, unless the Bylaws of the Agency provide otherwise. The duties of the Second Vice-Chair may be set forth in the Bylaws. Elections for such officers shall be held each year at a regular or special meeting of the Board with terms running concurrent with the Agency's Fiscal Year. The term of office shall be the Fiscal Year or until a successor is elected.

Section 3.02. Secretary. The Board shall appoint a Secretary to the Board. The Secretary shall serve at the pleasure of the Board. The Secretary shall countersign all contracts signed by the Chair or Vice-Chair on behalf of the Agency, unless the Bylaws of the Agency provide otherwise. The Secretary shall cause a notice of this Agreement to be filed with the California Secretary of State pursuant to Section 6503.5 of the Act and Section 53051 of the California Government Code. The Secretary shall be responsible to the Board for the call, noticing and conduct of the meetings pursuant to the Ralph M. Brown Act (Section 54950 et seq. of the California Government Code). The Board may further provide for the duties and responsibilities of the Secretary in the Bylaws.

Section 3.03. Treasurer. Pursuant to Section 6505.5 of the Act, the Treasurer of the County of Los Angeles shall serve as the Treasurer of the Agency, unless and until otherwise determined by the Agency. The Treasurer shall be the depository, shall have custody of all of the accounts,

funds and money of the Agency from whatever source, shall have the duties and obligations set forth in Sections 6505 and 6505.5 of the Act, and shall assure that there shall be strict accountability of all funds and reporting of all receipts and disbursements of the Agency. The bond of the Treasurer under this Agreement shall be his official bond as the Treasurer of the County of Los Angeles and no additional bond will be required. The monies of the Agency shall be accounted for separately and invested in the same manner and upon the same conditions as local agencies pursuant to Section 53601 of the Government Code, including but not limited to investment in the County treasury pool of Los Angeles County.

Section 3.04. Contract With Certified Public Accountant. The Auditor-Controller of Los Angeles County shall serve as the Auditor of the Agency, unless and until otherwise determined by the Agency. As required by Section 6505 of the Act, the Auditor shall make arrangements or contract with a certified public accountant or firm of certified public accountants for the annual audit of accounts and records of the Agency. In each case, the minimum requirements of the audit shall be those prescribed by the State Controller for special districts under Section 26909 of the Government Code of the State of California and shall conform to generally accepted auditing standards. When such an audit of accounts and records is made by a certified public accountant, a report thereof shall be filed with each Member and each officer of the Agency. Such a report shall be filed within six months of the end of the fiscal year under examination. Any costs of the audit, including contracts with, or employment of, certified public accountants in making an audit pursuant to this section, shall be borne by the Agency and shall be a charge against any unencumbered funds of the Agency available for that purpose.

Section 3.05. Officers in Charge of Records, Funds and Accounts. Pursuant to Sections 6505.1 of the Act, the Treasurer shall have charge of, handle, and have access to all accounts, funds and money of the Agency and all records of the Agency relating thereto. The Secretary shall have charge of, handle, and have access to all other records of the Agency.

Section 3.06. Legal Advisor. The County Counsel of Los Angeles County ("County Counsel") shall serve as legal advisor and counsel to the Agency. County Counsel may consult with counsel for the other Members as necessary, or as directed.

Section 3.07. Other Employees. The Board shall have the power by adoption of Bylaws to appoint and employ such other employees, consultants, and independent contractors as may be necessary for the purpose of this Agreement.

Section 3.08. Officers and Employees of the Agency. As required by Section 6513 of the Act, all of the privileges and immunities from liability, exemption from laws, ordinances and rules, all pension, relief, disability, workers' compensation, and other benefits that apply to the activities of officers, agents, or employees of a public agency when performing their respective functions shall apply to the officers, agents, or employees of the Agency to the same degree and extent while engaged in the performance of any of the functions and other duties of such offices, agents, or employees under this Agreement with no additional compensation. None of the officers, agents, or employees directly employed by the Board shall be deemed, by reason of their employment by the Board, to be employed by any of the Members or, by reason of their employment by the Board, to be subject to any of the requirements of the Members.

ARTICLE IV

POWERS

Section 4.01. Creation of a Separate Legal Entity. As required in the Act, the Agency shall be a public entity separate from each of the Members in accordance with the meaning of California Government Code section 6503.5. Accordingly, there is hereby created a separate legal entity, which shall exercise its powers in accordance with the provision of this Agreement and applicable law.

Section 4.02. General Powers. The Agency shall exercise, in the manner herein provided, the powers that are common to each of the Members, or as otherwise permitted under the Act, and as is necessary to the accomplishment of the purpose, as provided in Section 2.01, Purpose, of this Agreement.

Section 4.03. Specific Powers. The Agency is hereby authorized, in its own name, to do all acts necessary for the exercise of the foregoing general powers, including but not limited to, any or all of the following:

- (a) to make and enter into contracts;
- (b) to employ agents or employees;
- (c) to sue and be sued in its own name;
- (d) to acquire, by negotiated purchase or condemnation, construct, manage, maintain or operate any property, building, works, or improvements;
- (e) to acquire, by negotiated purchase or condemnation, hold or dispose of property;
- (f) to incur debts, liabilities or obligations, provided that no such debt, liability, or obligation shall constitute a debt, liability or obligation of the Members;
- (g) to apply for, accept, receive and disburse grants, loans and other aids from any agency of the United States of America or of the State;
- (h) to invest any money in the treasury pool as indicated in Section 3.03 of this Agreement; and
- (i) to carry out and enforce all the provisions of this Agreement.

Section 4.04. Restrictions on Powers. Pursuant to Section 6509 of the Act, the above powers shall be subject to the restrictions upon the manner of exercising the power of one of the Members, which is designated as County of Los Angeles.

Section 4.05. Obligations of Agency. The debts, liabilities and obligations of the Agency shall not be the debts, liabilities and obligations of the Members.

Section 4.06. Successor in Interest to Predecessor JPA. It is the intent of the Members that, to the fullest extent possible, the High Desert Corridor Joint Powers Agency shall be the successor in interest in all ways to the Predecessor JPA, and any other mechanisms or sources with which the Predecessor JPA was funded and any other obligations or benefits derived therefrom, including, without limitation, the proposed April 14, 2022, Funding Agreement between Predecessor JPA and the Los Angeles County Metropolitan Transportation Authority for the High Desert Intercity Rail Corridor Environmental Work, Surface, Transportation Board Filing, and Predecessor JPA Administration costs.

ARTICLE V

POLICY AND TECHNICAL ADVISORY COMMITTEE

Section 5.01. Creation of Committee. There shall exist in the Agency a committee named the Policy and Technical Advisory Committee (PTAC). There shall be twelve voting members of the PTAC who shall be appointed as follows: two each by the Members.

Section 5.02. Other Agencies. The PTAC may include other non-voting agencies that the Board may deem appropriate, including but not limited to Caltrans, San Bernardino Associated Governments, etc.

Section 5.03. Duties. The PTAC shall provide advice on policy and technical issues to the Board and have such other and further duties as may be set forth in the Bylaws.

ARTICLE VI

CONTRIBUTIONS, ASSETS AND DISTRIBUTION UPON TERMINATION

Section 6.01. Contributions. The Members may make contributions from their treasuries for the purpose set forth in Section 2.01, Purpose, make payments of public funds to defray the cost of such purpose, make advances of public funds for such purpose, and/or use their personnel, equipment, or property in lieu of contributions or advances. The provisions of Section 6512.1 of the Act are hereby incorporated into this Agreement by reference.

Section 6.02. Distribution of Assets upon Termination. Upon termination of this Agreement and after resolution of all debts, liabilities and obligations, all money and other property, both real and personal, of the Agency shall, pursuant to Sections 6511 and 6512 of the Act, be divided among the Members proportional to the contributions made by the respective Members.

ARTICLE VII

LIABILITY, INDEMNIFICATION AND INSURANCE

Section 7.01. Agency Liability and Indemnification. The debts, liabilities, and obligations of the Agency shall not be the debts, liabilities, and obligations of the Members. The Board of

Directors of the Agency, and the officers, employees, and staff of the Agency shall use ordinary care and reasonable diligence in the exercise of their powers and in the performance of their duties pursuant to this Agreement. They shall not be liable for any mistakes of judgment, or any other action made, taken, or omitted by them in good faith, including without limitation, investment of Agency funds, or failure to invest. No member of the Board of Directors, and no officer or employee of the Agency, shall be responsible for any action taken or omitted by any other director, officer or employee. No director, officer or employee shall be required to give a bond or other security to guarantee the faithful performance of his or her duties pursuant to this Agreement, except as otherwise provided in Section 3.03. The Agency shall indemnify, defend, and hold harmless the individual Board of Director members, and the Agency's officers and employees from any and all claims, actions, losses, damages, and/or liability arising from any actions or omissions taken lawfully and in good faith pursuant to this Agreement. The Agency shall indemnify, defend, and hold harmless each of the Members and their authorized officers, employees, agents, and volunteers from any and all claims, actions, losses, damages, and/or liability arising from the Agency's acts, errors, or omissions and for any costs or expenses incurred by any Member on account of any claim therefor, except where such indemnification is prohibited by law.

Section 7.02. Member Indemnification. Pursuant to the provisions of California Government Code Section 895 et seq., and except as required in Section 7.01, Agency Liability and Indemnification, herein, each Member agrees to defend, indemnify, and hold harmless each other Member from any liability, claim, or judgment for injury or damages caused by any negligent or wrongful act or omission of any agent, officer, and/or employee of the indemnifying Member that occurs or arises out of the performance of this Agreement.

Section 7.03. Insurance. The Board shall provide for insurance covering liability exposure in an amount as the Board determines necessary to cover risks of activities of the Agency.

Section 7.04. Third Party Beneficiaries. This Agreement and the obligations hereto are not intended to benefit any party other than its Members, except as expressly provided otherwise herein. Only the signatories to this Agreement shall have any rights or causes of action against any party to this Agreement as a result of that party's performance or non-performance under this Agreement, except as expressly stated in this Agreement.

ARTICLE VIII

MISCELLANEOUS PROVISIONS

Section 8.01. Notices. Notices hereunder shall be in writing and shall be sufficient if addressed to the offices listed below and shall be deemed given upon deposit into the U.S. mail, first class, postage prepaid:

Los Angeles County

Fifth District Supervisor
869 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, CA 90012

With a copy to:

Los Angeles County Counsel
500 West Temple Street, Suite 648
Los Angeles, CA 90012

NOTE: each Member needs to provide contact info for notice

- The County of Los Angeles shall be represented by its Fifth District Supervisor.
- Los Angeles County Metropolitan Transportation Authority ("Metro") shall be represented by the sitting Metro Board Director representing the Northern Los Angeles County Cities Sector seat.
- The City of Adelanto shall be represented by an individual selected by the Adelanto City Council.
- The City of Lancaster shall be represented by an individual selected by the Lancaster City Council.
- The City of Palmdale shall be represented by an individual selected by the Palmdale City Council.
- The City of Victorville shall be represented by an individual selected by the Victorville City Council.

The Members may change the above addresses for notice purposes by written notification as provided above to each of the other Members. Said change of address may be filed with the Bylaws. Meeting notices and general correspondence may be served electronically.

Section 8.02. Law Governing. This Agreement is made in the State of California under the constitution and laws of the State and is to be so construed.

Section 8.03. Amendments. This Agreement may be amended at any time, or from time to time, by unanimous consent of all Members hereto.

Section 8.04. Severability. Should any part, term, or provision of this Agreement be decided by any court of competent jurisdiction to be illegal or in conflict with any law of the State, or otherwise be rendered unenforceable or ineffectual, the validity of the remaining portions or provisions shall not be affected thereby.

Section 8.05. Successors. This Agreement shall be binding upon and shall inure to the benefit of the successors of the Members, respectively. No Member may assign any right or obligation hereunder without the unanimous consent of all Members.

Section 8.06. Section Headings. All Article and Section headings in this Agreement are for convenience of reference only and are not to be construed as modifying or governing the language in the Section referred to or to define or limit the scope of any provision of this Agreement.

Section 8.07. Multiple Counterparts. This Agreement may be executed in multiple counterparts, any one of which shall be deemed an original, but all such counterparts shall together constitute but one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed and attested by their duly authorized officers, and their official seal to be hereto affixed, as of the day and year written.

CITY OF PALMDALE:

Steven D. Hofbauer Date
Mayor

COUNTY OF LOS ANGELES

By: _____
Chair, Board of Supervisors

APPROVED AS TO FORM:

DAWYN R. HARRISON
Acting County Counsel

By: _____



City Council Staff Report

DATE: JULY 20, 2022
TO: HONORABLE MAYOR AND CITY COUNCIL
FROM: OFFICE OF THE CITY MANAGER
DISTRICT: ALL
SUBJECT: AWARD MEASURE AV GRANT PROGRAM FUNDING;
CONSIDERATION OF AWARDING A TOTAL OF \$1,306,810, TO
GRANTEES IN EXHIBIT A AND AUTHORIZE INTERIM CITY
MANAGER TO ENTER INTO AGREEMENTS RANGING FROM
\$2,000 TO \$250,000.

ISSUE

Award Measure AV Grant Program funding; consideration of awarding a total of \$1,306,810, to grantees in Exhibit A and authorize the Interim City Manager to enter into agreements ranging from \$2,000 to \$250,000.

RECOMMENDATION

Staff recommends that the City Council:

1. Award Measure AV Grant Program funding, totaling \$1,306,810, to grantees in Exhibit A and authorize the Interim City Manager to enter into agreements ranging from \$2,000 to \$250,000.

BACKGROUND

In November 2020, voters in the City of Palmdale passed a local $\frac{3}{4}$ cent general sales tax generating revenue to, among other things:

- Maintain 911 emergency response times;
- Keep public parks open, safe and clean;
- Repair streets and potholes;
- Retain and recruit local businesses through economic development initiatives to ensure the City's long-term financial stability;
- Support community policing, activities for at-risk youth and mental health efforts to help keep our community safe for everyone;
- Address homelessness;
- Support services for local military veterans and seniors;
- Upgrade emergency communications and improve emergency preparedness;
- Partner with faith communities, non-profits, and local youth sports programs; and,
- Protect water resources.

On December 15th, 2021, the City Council adopted adjustments to the Measure AV Fiscal Year 2022 budget to include revised revenue projections and approving a new appropriation for the Measure AV Grant Program, totaling \$1,500,000. The remaining Measure AV funds are appropriated for budgeted projects, programs, and/or services. The Measure AV Committee also received and filed a recommendation on new grant program funding on January 26, 2022.

The City of Palmdale launched the first Measure AV Grant Program in January 2022 after approving funds, totaling \$1,500,000. The funding opportunities are intended for small business, nonprofits, and other eligible agencies, that help address critical issues and meet Measure AV funding criteria set by voters. Eligible programs and services for this round include local military veterans, at-risk youth, mental health, food and shelter services, community-based policing, and crime prevention.

DISCUSSION

On January 10, 2022, online applications were made available to community organizations for the Measure AV Grant Program. A virtual workshop was held on January 13, to inform potential applicants on the submission process and to participate in a Q&A session; 80 organizations were in attendance. Eighty-four (84) applications were received, totaling \$5,560,000.

All applications were assessed by an initial eligibility review committee that determined if all program and documentation requirements were met. Applicants who met program and documentation requirements continued to the second review committee. Each committee member evaluated applications individually and then met to determine a group consensus score, based on of the following criteria:

EVALUATION CRITERIA	POINTS
Organization Location	5
Services & Recipients	20
Organizational Accomplishments	10
Community Partnerships	10
Palmdale Community Benefit	30
Measurements & Outcomes	25
Total Possible Points	100

Upon final review of all eligible applications, twenty-nine (29) projects are recommended for funding, totaling \$1,306,810 (see Exhibit A - Recommended Awardee List). The remaining funds will be available for either successful appeals or will be used towards future grant programs.

The applications recommended for funding in Exhibit A were presented to the Measure AV Oversight Committee on April 27. Staff reviewed the recommended awardee list and the Committee received and filed this item.

FISCAL IMPACT

\$1,500,000; grant program funds are budgeted as part of the overall fiscal year 21/22 Measure AV budget in account 15711001-737325.

STRATEGIC PLAN

Goal II: Ensure long-term fiscal health of the City and maintain funding for services.

A. Manage resources, costs, and liability to ensure the City's long-term fiscal health.

Goal IV: Maintain a desirable community where everyone wants to live, work and play.

A. Support opportunities to celebrate rich traditions and diverse cultures in the community.

D. Develop and maintain diverse programs and events that inspire growth, pride, and lifelong learning.

Prepared by:	Eric Dombrowski, Deputy Director of Parks & Recreation
Presented by:	Jordyn Kelley, Management Analyst
Certified as to availability of Funds:	Janelle Samson, Director of Finance
Approved by:	Ronda Perez, Interim City Manager
Approved as to form:	Scott Porter, Interim City Attorney

ATTACHMENTS

Exhibit A – Recommended Awardee List

EXHIBIT A - RECOMMENDED AWARDEE LIST

Legal Organization Name	Entity Type	Project Name	Category	Total Project Amount	Requested Grant Fund Amount	Recommended Award
American Youth Soccer Organization	Non-Profit Organization	2022 Spring Season Soccer Programs	At-Risk Youth	\$ 32,000	\$ 20,000	\$ 20,000
Antelope Valley Blue Star Mothers (AVBSM)	Non-Profit Organization	AVBSM Desert Lawn Beautification	Local Military/Veteran	\$ 2,000	\$ 2,000	\$ 2,000
Antelope Valley CERT	Non-Profit Organization	Palmdale Resiliency, Education and Preparedness (PREP)	Food & Shelter	\$ 21,000	\$ 21,000	\$ 21,000
Antelope Valley Partners for Health	Non-Profit Organization	Regional Violence Prevention Coalition, Community Action Plan Expansion (RVPC-CAPE)	Community-Based Policing	\$ 136,950	\$ 14,950	\$ 14,950
Coalition for Humane Immigrant Rights (CHIRLA)	Non-Profit Organization	CHIRLA's Palmdale Community Service Project	Community-Based Policing	\$ 273,143	\$ 180,000	\$ 90,000
Dynamic Therapy Solutions & Dyslexia Center LLC	Business Organization	The COVID Regression Solution to At Risk Youth	At-Risk Youth	\$ 67,300	\$ 49,300	\$ 49,300
Friends of the Children (FOTC) - Los Angeles	Non-Profit Organization	Youth Well-Being through a 2Gen Professional Mentoring	At-Risk Youth	\$ 123,467	\$ 25,000	\$ 25,000
Homes for Families	Non-Profit Organization	Palmdale Veteran Enriched Neighborhood	Local Military/Veteran	\$ 2,406,700	\$ 100,000	\$ 100,000
Jewish Vocational Services (JVS) SoCal	Non-Profit Organization	JVS Veterans First Skills Training	Local Military/Veteran	\$ 931,887	\$ 20,700	\$ 20,700
Little LeagueInc. dba American Indian Little League	Non-Profit Organization	Baseball Field Improvements & Scholarship	At-Risk Youth	\$ 10,000	\$ 10,000	\$ 10,000
Marzette's House	Non-Profit Organization	Healthy Heart and Minds - Healthy Snack Program	Food & Shelter	\$ 2,000	\$ 2,000	\$ 2,000
Mental Health America of Los Angeles	Non-Profit Organization	TAY Academy - Mental Health Program	At-Risk Youth/ Mental Health	\$ 482,600	\$ 25,000	\$ 25,000
Mental Health America of Los Angeles	Non-Profit Organization	Military Resource Center	Local Military/Veteran	\$ 1,133,209	\$ 25,000	\$ 25,000
Mighty Little Giants, Inc.	Non-Profit Organization	NICU Essential Self Care Kits	Mental Health	\$ 10,000	\$ 10,000	\$ 10,000
Saint Mary Elementary School	Education Organization	High-Dosage Tutoring Program	At-Risk Youth	\$ 20,000	\$ 20,000	\$ 20,000
SALVA	Non-Profit Organization	SALVA building healthy communities and reducing disparities with the City Of Palmdale	Mental Health/Food & Shelter	\$ 355,000	\$ 355,000	\$ 177,500
South Bay Center for Counseling	Non-Profit Organization	Child Abuse Prevention	Community-Based Policing	\$ 25,000	\$ 24,758	\$ 24,758
Spring of Evolution dba Wolf Connection	Non-Profit Organization	Youth Empowerment Mentoring Component	At-Risk Youth	\$ 2,336,899	\$ 248,803	\$ 124,402
STARBASE Edwards, Inc.	Non-Profit Organization	STARBASE Edwards 2.0 - After School Program	At-Risk Youth	\$ 414,500	\$ 40,000	\$ 40,000
The Community Action League	Non-Profit Organization	Rent Relief Education & Outreach	Food & Shelter	\$ 15,000	\$ 15,000	\$ 15,000
The Community Action League	Non-Profit Organization	Jumpstart to Success - Employment, Training and Mentorship Program	At-Risk Youth	\$ 25,000	\$ 25,000	\$ 25,000
The Way Center of Truth, Inc.	Faith-Based Organization	Youth Empowerment 2022 - Suicide Prevention: From Depression to Inspiration	Mental Health	\$ 19,800	\$ 19,800	\$ 19,800
U S Marine Corp Toys for Tots	Non-Profit Organization	Antelope Valley Toys for Tots	At-Risk Youth	\$ 47,000	\$ 26,000	\$ 26,000
United American Indian Involvement, Inc.	Non-Profit Organization	UAII City of Palmdale Native American Youth Outreach Expansion	Mental Health	\$ 50,000	\$ 50,000	\$ 50,000
Ventura Foundation	Non-Profit Organization	Developing our next generation of leaders - Leadership Training	At-Risk Youth	\$ 50,000	\$ 50,000	\$ 50,000
Vets 4 Veterans, Inc	Non-Profit Organization	Operation Restart Immediate Need	Local Military/Veteran	\$ 61,000	\$ 35,000	\$ 35,000
Vets 4 Veterans, Inc	Non-Profit Organization	Vets 4 Veterans Transition House	Local Military/Veteran	\$ 508,000	\$ 250,000	\$ 250,000
Victory Outreach Palmdale	Non-Profit Organization	Basketball Tournament	At-Risk Youth	\$ 9,400	\$ 9,400	\$ 9,400
West Antelope Valley Education, Inc.	Education Organization	Activities for All - Science, Arts and Athletics	At-Risk Youth	\$ 44,000	\$ 25,000	\$ 25,000
				\$ 9,612,855	\$ 1,698,711	\$ 1,306,810