PALMDALE

*a place to call home*

**CITY COUNCIL MEETING**
**SUCCESSOR AGENCY**
**CITY COUNCIL CHAMBERS**
**38300 SIERRA HIGHWAY**
**SUITE B**
**PALMDALE, CA 93550**
**WEDNESDAY, OCTOBER 4, 2023**
**5:00 PM**
**www.cityofpalmdale.org**

**WELCOME**

1. **CALL MEETING TO ORDER**

***Note: All City Council memberships are reflected in their City Council titles.**

2. **ROLL CALL**
   MAYOR BETTENCOURT, MAYOR PRO TEM ALARCÓN, COUNCILMEMBERS BISHOP, LOA, OHLSEN

3. **PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE**

4. **PRESENTATIONS**

   4.1 Announcement and introduction by City Manager of Captain Josh Bardon, Los Angeles County Sheriff's Department – Palmdale Station.

   4.2 Presentation of Proclamations declaring and celebrating September 15 - October 15 as Hispanic Heritage Month.

   4.3 Presentation of a Proclamation declaring September as Childhood Cancer Awareness Month.

   4.4 Presentation of a Proclamation declaring October as Breast Cancer Awareness Month.

4.5 Presentation of a Proclamation declaring October 8 - 14, 2023 as Code Enforcement Officer Week.

4.6 Presentation on #FightFentanylAV Campaign.

5. **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.)

6. **PUBLIC COMMENT RULES:**

"(California Government Code Section 54954.3).
(a) Every agenda for regular meetings shall provide an opportunity for members of the public to directly address the legislative body on any item of interest to the public, before or during the legislative body's consideration of the item, that is within the subject matter jurisdiction of the legislative body, provided that no action shall be taken on any item not appearing on the agenda unless the action is otherwise authorized by subdivision (b) of Section 54954.2 [section omitted].

(b) (1) The legislative body of a local agency may adopt reasonable regulations to ensure that the intent of the subdivision (a) is carried out, including, but not limited to, regulations limiting the total amount of time allocated for public testimony on particular issues and for each individual speaker.

(2) Notwithstanding paragraph (1), when the legislative body of a local agency limits time for public comment, the legislative body of a local agency shall provide at least twice the allotted time to a member of the public who utilizes a translator to ensure that non-English speakers receive the same opportunity to directly address the legislative body of a local agency."

In furtherance of Section 54954.3 of the Brown Act, the public is allotted to speak a total of three (3) minutes on the entirety of the Consent Calendar, New Business and Closed Session, and, if desired, an additional two (2) minutes on items not on the agenda that are within the subject matter jurisdiction of the City Council. As specified in the Brown Act, a speaker utilizing a translator will receive twice the amount of time specified.

7. **PUBLIC COMMENTS:**

***CONSENT CALENDAR, NEW BUSINESS AND CLOSED SESSION: Now is the time for public participation on items listed on the Consent Calendar, New Business and Closed Session. Each speaker is allotted three (3) minutes total on the entirety of the above sections.***

8. **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.

8.1 Receive and file the Monthly Investment Activity Reports for August 2023.

1. Staff_Report_-_Investment_Report_AUG_2023.docx
02 Aug 2023 City & Successor Investment Report.pdf

8.2 Adopt Resolution No. CC 2023-058, a Resolution of the City Council of the City of Palmdale authorizing the City Manager's signature authority of up to $250,000 per transaction for the purchase of performers or entertainment services.

1._Staff_Report_to_Council_re_Entertainment_Signature_Authority___Funding.docx
2._Resolution_CC_2023-058_for_sig_authority_for_events.doc

8.3 Approve Agreement for Claims Administration Services between the City of Palmdale and Sedgwick Claims Management Services, Inc. for a not-to-exceed amount of $207,799 for the five year term.

SR_-_Sedgwick.docx
City of Palmdale - Sedgwick 2023-2028 CSA FINAL.pdf

8.4 Approve the City Council's Discretionary Funds Policy and Procedures.

SR Discretionary Funds.docx
City Council Discretionary Funds Program.docx

8.5 Approve Agreement with Dell Technologies, Inc. to provide data center hardware, configuration services, and hardware support for a not-to-exceed amount of $344,822 for a term of five (5) years.

Staff Report for A-8493 Dell SAN 2023.docx
A-8493.pdf

8.6 Approve First Amendment to Agreement with Datalink Networks, Inc. for Microsoft Licensing to increase the contract price by $292,804 for an amount not to exceed $677,964 for the remainder of the term, through October 4, 2025.

SR_Datalinks_Amendment (3).docx
A-8052 Amendment 1.pdf

8.7 Approve Agreement with Wilson Events, Inc., to provide entertainment booking and management services for an amount not to exceed $250,000 for a term of 2 years.

Staff_Report-Wilson_Events_Inc._2023.edited.docx
City of Palmdale - Wilson Events, Inc. (A-8504) - 08-22-2023 - Preview (1).pdf

8.8 Receive and File Annual Reports for the Palmdale Tourism Improvement District Reports for 2022-2023 and 2023-2024.
Staff_Report_PTID_Annual_Report.docx
FINAL PTID Annual Report FY22-23.pdf
Final PTID Annual Report FY23-24.pdf

8.9 Award Request for Proposal 23-001-2100 for temporary Planning staff services to Interwest Consulting Group and approve Agreement with Interwest Consulting Group to provide temporary Planning staff services in an amount not to exceed $400,000 for a term of 3 years, through 2026.
Staff_Report_RFP_23-001-2100_A-8518.docx
A-8518.pdf

8.10 Approve Amendment No. 1 to Agreement with Interwest Consulting Group to increase the contract price by $150,000 for an amount not to exceed $250,000 for Ritter Ranch Planning services.
Staff_Report_First_Amendment_to_A-7581.docx
City of Palmdale - AGENDA ITEM_ Interwest Consulting Group, Inc. (A-7581) Amendment # 1- 09-12-2023 - Preview.pdf
A-7581.pdf

8.11 Approve Agreement with Parsons Transportation Group for Environmental and Design Services for PN 860, Avenue R at Sierra Highway Railroad Crossing Improvement Project, in the amount of $706,404 for a term of 600 days.
Staff Report Reference Parsons Agreement.docx
Parsons Transportation Group - PN860 -(A-8339).pdf

8.12 Adopt Resolution No. CC 2023-054, a Resolution of the City Council of the City of Palmdale authorizing the application for grant funds from the Recreational Trails Program for the Barrel Springs Trail Improvement Project.
BARREL SPRINGS-Staff Report-RTP 2023.docx
BARREL SPRINGS-Resolution 2023-054.doc

8.13 Accept a grant provided by Antelope Valley Air Quality Management District (AVAQMD) and approve the program to fund residential Electrical Vehicle (EV) charging equipment, in the amount of $100,000.
SR - Acceptance of AVAQMD Grant.docx
Palmdale Your Ride Is EPIC Agreement Final.pdf

8.14 Notice of Completion - Accept Public Improvements for Tract 60028 located between 67th Street East and 70th Street East at Avenue R-4.
SR-09202023__19-20_.docx
EXHIBIT A 19-20.docx
EXHIBIT B (19-20).docx

NOC_19-20 ST IMPROVEMENTS.doc

8.15 Notice of Completion - Accept Public Improvements for Tract 60028-1 located at the southeast corner of Avenue R and 65th Street East.

SR-09202023 (18-33).docx
EXHIBIT A 18-33.docx
EXHIBIT B (18-33).docx
NOC_18-33 ST IMPROVEMENTS.doc

8.16 Notice of Completion - Accept Public Improvements for Tract 60028-2 located at the southwest corner of Avenue R and 70th Street East.

SR-09202023 (19-16).docx
EXHIBIT A 19-16.docx
EXHIBIT B (19-16).docx
NOC_19-16 ST IMPROVEMENTS.doc

8.17 Award IFB No. 23-001-3610 Professional Arboricultural Services and Approve agreement with Tip Top Arborists, Inc. in an amount not to exceed $2,750,000 over a five-year term.

SR_Award_IFB___Approve_Agreement_-_Tip_Top_Arborists.docx
1. IFB No. 23-001-3610 Arboricultural Services Bid Tabulation.pdf
2. Agreement No. A-8507 Tip Top Arborists Inc._DRAFT.pdf

8.18 Approve long-term Bundled Renewable Energy Resale Agreement between Energy for Palmdale's Independent Choice (EPIC) and Shell Energy North America (US), L.P.

20231004_Palmdale Staff Report_EPIC CCA_Shell RPS_TS.docx
Power Purchase Agreement A-8540.pdf

8.19 Adopt Resolution No. CC 2023-053, 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 in behalf of the Los Angeles County General Fund, Los Angeles County Consolidated Fire Protection District, and the Los Angeles County Waterworks #40 - Antelope Valley and the governing bodies of the Antelope Valley Cemetery District, Antelope Valley Mosquito and Vector Control District, Antelope Valley Resource Conservation District, City of Palmdale, and the Antelope Valley - East Kern Water Agency approving and accepting negotiated exchange of property tax revenues resulting from Annexation No. 14-447 to County Sanitation District No. 14.

092023__SR_Tax_Shared_Annex._No._14-447__CC_2023-053 Final.doc
092023__Resolution_No._CC_2023-053.docx
092023, LACSD Transmittal Letter.pdf
092023, County Joint Resolution Annex 14-447.pdf

092023, Property Tax Resolution Worksheet Annex 14-447.pdf
092023, Exhibit A_Annexation Map No. 14-447.pdf

8.20 Approve the minutes from the previous meetings.

CC/SA - August 2, 2023
CC/SA - August 16, 2023
CC/SA - September 6, 2023

City Council_SA 08 02 2023.pdf
City Council 08 16 2023.pdf
City Council_SA 09 06 2023.pdf

9. **NEW BUSINESS**

9.1 Discussion regarding designating a representative to the Fallen Heroes Committee.

10. **NON-AGENDA PUBLIC COMMENTS*: Now is the time for public participation on items not listed on the agenda. Each speaker is allotted two (2) minutes total on items not listed on the agenda.***

11. **INFORMATIONAL REPORT FROM MAYOR AND / OR COUNCILMEMBERS ON THEIR VARIOUS COMMITTEE MEMBERSHIPS AND MEETINGS ATTENDED AT PUBLIC EXPENSE**

11.1 Council Reports on Committee Memberships and Meetings Attended at Public Expense.

Bettencourt Informational Report Sept 2023.pdf
Alarcon Informational Report Sept 2023 FINAL 1.pdf
Bishop Informational Report Sept 2023.pdf
LOA Informational Report Sept 2023 FINAL.pdf
Ohlsen Informational Report September 2023.pdf

12. **CITY COUNCIL ANNOUNCEMENTS AND REQUESTS FOR NEW AGENDA ITEMS**

13. **CITY MANAGER'S REPORT**

14. **PRESENTATION BY CITY ATTORNEY**

14.1 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).

14.2 PUBLIC EMPLOYMENT
Title: City Attorney

15. **ANNOUNCEMENT BY CITY ATTORNEY**

16. **ADJOURN** meeting to October 18, 2023, in honor of Deputy Ryan "Clink" Clinkunbroomer, at 5:00 p.m. in the City Hall Council Chamber located at 38300 Sierra Highway, Suite B, Palmdale, California.

**Americans with Disabilities Act (ADA) Accommodations**
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.

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **CITY MANAGER'S OFFICE – FINANCE DIVISION**

**DISTRICT:** **ALL**

**SUBJECT:** **RECEIVE AND FILE THE MONTHLY INVESTMENT ACTIVITY REPORTS FOR AUGUST 2023**

## ISSUE

Receive and file the monthly investment activity reports for August 2023.

## RECOMMENDATION

Staff recommends that the City Council receive and file the monthly investment activity reports for the City of Palmdale and Successor Agency for August 2023.

## BACKGROUND

Pursuant to Section 16 of the City of Palmdale and Successor Agency Investment Policy, the City Treasurer shall prepare and present monthly and quarterly reports on investments to the City Manager/Executive Director and the City Council/Directors. The reports shall detail the type of investment, name of the issuer, purchase date, date of maturity, amount of deposit, and rate of interest. This information shall be provided for all City and Successor Agency pooled investments, as well as for Certificates of Participation, Revenue Bonds, Tax Allocation Bonds, Assessment Districts and Community Facilities District accounts which are managed by outside Fiscal Agents.

The monthly reports provide a synopsis of the investment activity for the City of Palmdale and Successor Agency. The reports provide information on assets, allocations, average maturities, yields, and book valuations.

The interest rates presented are the most current rates available as of the date of this report.

The market values presented for pooled City and Successor Agency investments are based on closing prices for the related investment as of the date of this report. This information was obtained from the Wall Street Journal, Bloomberg Financial Markets, Capital Market Finances, or other reliable source of market prices.

## DISCUSSION

Compliance with Investment Policy

For August, the invested portfolio amount for the City of Palmdale totaled $305,100,084, a decrease of $8,868,270 from the previous month, and an increase of $17,168,174 in comparison to last year. The monthly decrease is the result of a withdrawal from LAIF to cover operating expenses and debt service payments for the month.

The par value of Successor Agency's portfolio as of August was $7,904,745. The balance decreased by $6,522,352 from last month due to debt service payments made during the month.

All investments meet criteria appropriate to Section 8 of the Investment Policy. The portfolios are based on a combination of various investments, including CDs, Corporate Notes, U.S. Treasury Securities and Government Agency Paper, each adhering to portfolio percentage limitations.

The Finance Division is the custodian for the City and Successor Agency's investment portfolio and follows the three main principles of both entity's investment policy to 1) Investment in financial instruments that mitigate the risk of monetary losses stemming from market fluctuations; 2) Establish and maintain a portfolio that has sufficient liquidity to allow the City and Successor Agency to meet all anticipated cash requirements; and 3) Seek out investment instruments that provide a competitive market rate of return.

Liquidity

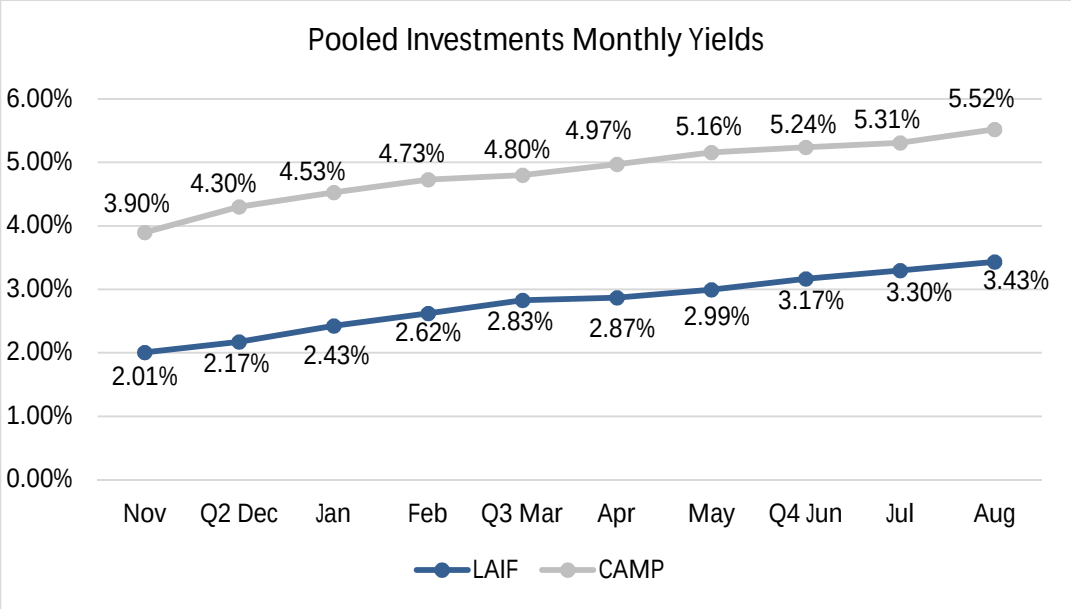
One core approach the Finance Division focuses on is providing liquidity to measure up to the City and Successor Agency's operational requirements. Thus, the Finance Department is currently investing in two pooled funds, LAIF and CAMP. These are intended for daily operational activities and used for economic uncertainties and maintenance needs. The pooled funds provide a higher liquidity ratio to ensure the City and Successor Agency meet cash flow requirements.

The total LAIF balance for the City of Palmdale at the end of August is $132,455,024, a decrease of $8,907,000 compared to the prior month. Decreases from the prior month are the result of withdrawals from LAIF to pay for ongoing operating and debt service expenses.

Successor Agency LAIF balance at the end of August was $7,027,790. A decrease of $6,000,000 compared to the prior month due to a withdrawal to cover debt service obligations.

CAMP's balance for City of Palmdale at the end of August was $261,702 compared to July balance of $260,481. The slight increase is due to interest earned during the month.

The interest rates presented are the most current rates available as of the date of this report. As of August 31, 2023, the interest rates for LAIF and CAMP investments were at 3.434 percent and 5.52 percent, respectively. By comparison, the LAIF and CAMP interest rates at the end of July were at 3.305 percent and 5.31 percent. Both rates have slightly increased within this month. This time last year, LAIF and CAMP rates were at 1.276 percent and 2.30, respectively.




The chart above shows both the Local Agency Investment Fund and California Asset Management Program's average monthly yields beginning November 2022 through August 2023.

We anticipate that rates will remain fairly consistent, increasing only in small percentages in the upcoming months, considering the history in the past year and the current state of the economy. The difference between the performance of the two funds is partly due to the varying pool characteristics. CAMP's portfolio composition is much more subject to market volatility, resulting in performance variation.

Diversity

The Finance Department aims to diversify the investment portfolios to avoid incurring unreasonable and avoidable risks regarding specific security types or individual financial institutions.

The City of Palmdale and Successor Agency's investment portfolios remain strongly diversified. The monthly reports include all investments held by both entities and current book values as of August 31, 2023.

It is anticipated that both the City of Palmdale and Successor Agency will have sufficient sums of money to meet its expenditure requirements for the next 6 months. The Finance Department will continue to monitor current economic conditions and the impact on interest rates.

Attached are summaries of the investments in the City of Palmdale and Successor Agency's books as of August 31, 2023.

## FISCAL IMPACT

There is no fiscal impact associated with the recommended actions for this report.

## STRATEGIC PLAN

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

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

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

| | |
|---|---|
| Prepared by: | Gohar Avetisyan, Senior Financial Analyst |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

1. Monthly Reports on City of Palmdale Investments
2. Monthly Report on Successor Agency Investments

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023

**CITY OF PALMDALE INVESTMENTS**

| PURCHASE DATE | MATURITY DATE | FUND | ACCOUNT/ INSTITUTION | FDIC Number | INTEREST RATE | PAR AMOUNT | PURCHASE AMOUNT | INVESTED AMOUNT |
|---|---|---|---|---|---|---|---|---|
| **U.S. TREASURY SECURITIES** | | | | | Yield | | | |
| 05-31-19 | 04-30-24 | CITY | 9128286R6 U.S. Treasury Note | | 2.03 | 5,000,000.00 | 5,051,650.00 | 4,870,312.50 |
| 03-19-21 | 12-31-25 | CITY | 9128285T3 U.S. Treasury Note | | 2.63 | 3,000,000.00 | 3,260,634.36 | 2,856,570.00 |
| 05-11-21 | 02-28-26 | CITY | 9128286F2 U.S. Treasury Note | | 0.66 | 3,000,000.00 | 3,261,331.50 | 2,843,100.00 |
| 05-11-21 | 12-31-24 | CITY | 9128283P3 U.S. Treasury Note | | 0.40 | 3,000,000.00 | 3,200,040.56 | 2,872,020.00 |
| 06-04-21 | 12-31-23 | CITY | 912828V23 U.S. Treasury Note | | 0.20 | 4,000,000.00 | 4,210,026.50 | 3,940,320.00 |
| 07-12-21 | 12-31-23 | CITY | 9128285U0 U.S. Treasury Note | | 2.63 | 5,000,000.00 | 5,289,959.94 | 4,934,950.00 |
| 07-12-21 | 12-31-25 | CITY | 9128285T3 U.S. Treasury Note | | 2.63 | 5,000,000.00 | 5,451,958.35 | 4,760,950.00 |
| 07-12-21 | 12-31-23 | CITY | 912828V23 U.S. Treasury Note | | 2.25 | 5,000,000.00 | 5,244,161.50 | 4,925,400.00 |
| 12-17-21 | 12-15-23 | CITY | 91282CBA8 U.S. Treasury Note | | 0.56 | 10,000,000.00 | 9,913,130.25 | 9,772,300.00 |
| 12-17-21 | 12-15-24 | CITY | 91282CDN8 U.S. Treasury Note (UBS) | | 0.85 | 10,000,000.00 | 10,045,505.25 | 9,410,200.00 |
| 12-22-21 | 12-15-23 | CITY | 91282CBA8 U.S. Treasury Note | | 0.56 | 5,000,000.00 | 4,957,270.88 | 4,886,150.00 |
| 12-22-21 | 12-15-24 | CITY | 91282CDN8 U.S. Treasury Note | | 0.88 | 5,000,000.00 | 5,018,208.38 | 4,705,100.00 |
| 12-20-21 | 12-15-24 | CITY | 91282CDN8 U.S. Treasury Note (Stifel) | | 1.00 | 5,000,000.00 | 5,017,187.50 | 4,705,078.10 |
| 03-08-23 | 03-31-26 | CITY | 9128286L9 U.S. Treasury Note (UBS) | | 2.25 | 3,200,000.00 | 3,029,330.80 | 3,010,496.00 |
| | | | **TOTAL U.S. TREASURY SECURITIES** | | | $ 71,200,000.00 | $ 72,950,395.77 | $ 68,492,946.60 |
| **GOVERNMENT AGENCY PAPER** | | | | | | | | |
| 06-10-20 | 06-16-25 | CITY | 3133ELK37 Federal Farm Credit | | 0.78 | 5,000,000.00 | 5,000,000.00 | 4,604,401.25 |
| 08-07-20 | 05-06-24 | CITY | 3133EL2X1 Federal Farm Credit | | 0.42 | 2,000,000.00 | 2,000,000.00 | 1,914,808.08 |
| 08-27-20 | 11-27-24 | CITY | 3134GWNG7 Freddie Mac Domestic | | 0.50 | 2,000,000.00 | 2,000,000.00 | 1,867,580.54 |
| 04-01-21 | 04-01-25 | CITY | 3133EMUP5 Fed Farm Credit | | 0.71 | 5,000,000.00 | 5,000,000.00 | 4,629,334.75 |
| 05-11-21 | 09-04-25 | CITY | 3133EJYM5 FFCB Bond | | 0.59 | 1,000,000.00 | 1,103,275.25 | 963,220.00 |
| 05-11-21 | 09-04-25 | CITY | 3133EJYM5 FFCB Bond 0.57 | | 0.57 | 2,000,000.00 | 2,208,460.00 | 1,926,440.00 |
| 06-04-21 | 11-07-25 | CITY | 3135G06G3 Fannie Mae | | 0.55 | 3,000,000.00 | 2,993,675.25 | 2,718,300.00 |
| 06-04-21 | 08-01-24 | CITY | 3130AMHH8 FHLB NOTE | | 0.41 | 4,000,000.00 | 4,000,000.00 | 3,784,890.08 |
| 06-07-21 | 06-07-24 | CITY | 3130AMQR6 FHLB NOTE | | 0.35 | 3,000,000.00 | 3,000,000.00 | 2,857,869.93 |
| 06-30-21 | 12-30-25 | CITY | 3130AMRQ7 FHLB NOTE | | 0.88 | 3,000,000.00 | 3,000,000.00 | 2,724,400.26 |
| 07-29-21 | 04-29-26 | CITY | 3130AN5C0 FHLB NOTE | | 1.05 | 4,000,000.00 | 4,010,455.13 | 3,606,160.00 |
| 12-17-21 | 11-12-25 | CITY | 3134GXBM5 FHLMC Note | | 1.15 | 1,150,000.00 | 1,125,785.50 | 1,036,575.50 |
| 12-17-21 | 12-30-24 | CITY | 3130AQDY6 FHLB | | 1.00 | 6,750,000.00 | 6,750,000.00 | 6,327,843.39 |
| 12-17-21 | 06-23-25 | CITY | 3133ENHW3 FFCB | | 1.17 | 10,000,000.00 | 10,000,000.00 | 9,275,883.70 |
| 12-20-21 | 07-30-25 | CITY | 3136G4ZP1 FANNIE MAE | | 0.65 | 3,500,000.00 | 3,444,175.00 | 3,203,308.12 |
| 12-20-21 | 09-24-25 | CITY | 3134GWUG9 FREDDIE MAC | | 0.57 | 10,000,000.00 | 9,806,600.00 | 9,088,861.70 |
| 12-21-21 | 12-22-26 | CITY | 3133ENJC5 FFCB | | 1.29 | 5,000,000.00 | 5,000,000.00 | 4,487,676.35 |
| 01-14-22 | 01-14-25 | CITY | 3130AQEA7 FHLB | | 1.05 | 7,000,000.00 | 7,000,000.00 | 6,561,152.22 |
| 06-29-22 | 08-12-25 | CITY | 3133EL3P7 Federal Farm Credit Bank | | 3.34 | 1,810,000.00 | 1,660,349.20 | 1,650,002.84 |
| 06-29-22 | 03-28-25 | CITY | 3130A5DH9 Federal Home Loan Bank | | 3.34 | 1,950,000.00 | 1,937,715.00 | 1,873,133.09 |
| 06-24-22 | 02-26-27 | CITY | 3130AL5A8 Federal Home Loan Bank | | 3.33 | 5,000,000.00 | 4,479,000.00 | 4,355,784.25 |
| 08-17-22 | 10-27-26 | CITY | 3134GW4C7 Freddie Mac Global Unsecured | | 0.80 | 5,000,000.00 | 4,539,500.00 | 4,429,309.65 |
| 01-06-23 | 02-25-27 | CITY | 3130AQRH8 Federal Home Loan Bank | | 4.38 | 5,000,000.00 | 4,590,638.89 | 4,571,978.55 |
| 01-06-23 | 04-19-27 | CITY | 3130ARHJ3 Federal Home Loan Bank | | 4.38 | 5,000,000.00 | 4,801,354.86 | 4,742,725.40 |
| 05-18-23 | 05-18-27 | CITY | 3133EPKC8 Federal Farm Credit Bank Unsec | | 5.39 | 5,000,000.00 | 5,000,000.00 | 4,949,700.35 |
| 06-05-23 | 05-30-28 | CITY | 3133EPLE3 Federal Farm Credit Bond | | 4.67 | 2,815,000.00 | 2,822,746.50 | 2,753,942.65 |
| | | | **TOTAL GOVERNMENT AGENCY PAPER** | | | $ 108,975,000.00 | $ 107,273,730.58 | $ 100,905,282.65 |
| **CERTIFICATES OF DEPOSIT** | | | | | | | | |
| | | | **TOTAL CERTIFICATES OF DEPOSIT** | | | $ - | $ - | $ - |

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023

| | | | | | | | |
|---|---|---|---|---|---|---|---|
| **CORPORATE NOTES** | | | | | | | |
| 5/17/2023 | 3/1/2026 | CITY | 30231GAT9 EXXON MOBIL CORPORATION | 3.04 | $1,000,000 | $982,084 | 955,987.20 |
| 5/17/2023 | 3/2/2026 | CITY | 194162AQ6 COLGATE-PALMOLIVE CO GLOBAL | 4.80 | $1,000,000 | $1,035,553 | 1,003,302.97 |
| 5/17/2023 | 1/26/2026 | CITY | 742718FY0 PROCTER & GAMBLE CO/THE GLOGAL | 4.10 | $1,000,000 | $1,018,472 | 987,613.50 |
| | | | **TOTAL CORPORATE BONDS** | | $3,000,000 | $3,036,109 | $ 2,946,903.67 |
| **STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND** | | | | | | | |
| 09-01-84 | n/a | CITY ACCOUNT | 98-19-620 | 0.78 | 53,217,293.97 | 53,217,293.97 | 53,217,293.97 |
| 06/23/08 | n/a | PCA ACCOUNT | 40-19-060 | 0.78 | 56,228,187.21 | 56,228,187.21 | 56,228,187.21 |
| | n/a | ARPA ACCOUNT | 19-19-004 | 0.78 | 23,009,543.23 | 23,009,543.23 | 23,009,543.23 |
| | | | **TOTAL LAIF ACCOUNTS** | | $ 132,455,024.41 | $ 132,455,024.41 | $ 132,455,024.41 |
| **CAMP- CALIFORNIA ASSET MANAGEMENT PROGRAM** | | | | | | | |
| 6080-01 | n/a | CITY ACCOUNT | 6080-01 | 0.30 | 261,701.77 | 261,701.77 | 261,701.77 |
| | | | **TOTAL CAMP ACCOUNTS** | | $ 261,701.77 | $ 261,701.77 | $ 261,701.77 |
| **UBS FINANCIAL SERVICES** | | | | | | | |
| n/a | n/a | CITY ACCOUNT | | 0.00 | 38,224.84 | 38,224.84 | 38,224.84 |
| | | | **TOTAL UBS FINANCIAL SERVICES ACCOUNTS** | | $ 38,224.84 | $ 38,224.84 | $ 38,224.84 |
| | | | **TOTAL CITY INVESTMENTS** | | $ 315,929,951.02 | $ 316,015,186.48 | $ 305,100,083.94 |

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023

**LIBRARY INVESTMENTS**

| PURCHASE DATE | MATURITY DATE | FUND | ACCOUNT NUMBER | INTEREST RATE | | INVESTED AMOUNT |
|---|---|---|---|---|---|---|
| **STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND** | | | | | | |
| 11-20-84 | n/a | LIBRARY | 16-19-012 | 0.78 | | 12,779.53 |
| | | **TOTAL LIBRARY INVESTMENTS** | | | | $ 12,779.53 |

**FISCAL AGENT CASH**

| PURCHASE DATE | MATURITY DATE | FUND | ACCOUNT NUMBER | INTEREST RATE | | INVESTED AMOUNT |
|---|---|---|---|---|---|---|
| BOND PROCEEDS | | | | | | |
| **SIERRA GATEWAY COMMUNITY FACILITIES DISTRICT 91-1** | | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | | |
| 05-10-95 | n/a | BOND | 95421220 | 0.35 | | 110.86 |
| 05-10-95 | n/a | IMPROVEMENT | 95421222 | 0.10 | | 161,099.62 |
| City Held Cash | (Fund 736-114000) | ($255,912.67) | | | | |
| | | **TOTAL SIERRA GATEWAY COMMUNITY FACILITIES DISTRICT 91-1** | | | | $ 161,210.48 |
| BOND PROCEEDS | | | | | | |
| **RITTER RANCH COMMUNITY FACILITIES DISTRICT 93-1** | | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | | |
| 04-06-95 | n/a | RESERVE-SEN | 95420880 | n/a | | 0.00 |
| 04-06-95 | n/a | IMPV-ACQUI | 95420884 | 0.01 | | 2,688,176.55 |
| 04-06-95 | n/a | BOND | 95420887 | 0.15 | | 0.15 |
| City Held Cash | (Fund 738-114000) | ($1,000,675.82) | | | | |
| | | **TOTAL RITTER RANCH COMMUNITY FACILITIES DISTRICT 93-1** | | | | $ 2,688,176.70 |
| BOND PROCEEDS | | | | | | |
| **ANAVERDE COMMUNITY FACILITIES DISTRICT 2003-1** | | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | | |
| 08-01-19 | n/a | SP TAX - B BOND | 242969000 | 0.00 | | 1,103,505.68 |
| 08-01-19 | n/a | RESERVE | 242969003 | 0.00 | | 722,965.83 |
| 08-01-19 | n/a | SP TAX - REFUNDING BC | 242969004 | 0.01 | | 15,150.29 |
| 08-01-19 | n/a | SP TAX - REFUNDING BC | 242969005 | 0.01 | Account Closed on 12/20/22 | 0.00 |
| City Held Cash | (Fund 734-114000) | $1,773,665.72 | | | | |
| | | **TOTAL ANAVERDE COMMUNITY FACILITIES DISTRICT 2003-1** | | | | $ 1,841,621.80 |

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023

BOND PROCEEDS
**2005 $7.2M COMMUNITY FACILITIES DISTRICT 05-1 (TRADE AND COMMERCE CENTER)**
Fiscal Agent: U.S. Bank National Association (fka First Trust)

| | | | | | |
|---|---|---|---|---|---|
| 08-02-05 | n/a | SPEC TRB SER A/B | 790330000 | 0.01 | 0.00 |
| 08-02-05 | n/a | RESERVE FUND | 790330002 | 0.01 | 0.00 |

City Held Cash (Fund 735-114000) $1,330,451.36

**TOTAL 2005 $7.2M COMMUNITY FACILITIES DISTRICT 05-1 (TRADE AND COMMERCE CENTER)** $ -

BOND PROCEEDS
**2005 $7.2M COMMUNITY FACILITIES DISTRICT 05-1 (TRADE AND COMMERCE CENTER) REFUNDED 2021**
Fiscal Agent: U.S. Bank National Association (fka First Trust)

| | | | | | |
|---|---|---|---|---|---|
| | n/a | SPEC TRB SER A/B | 251009000 | 0.01 | 709,669.69 |
| | n/a | RESERVE FUND | 251009001 | 0.01 | 639,057.15 |

City Held Cash

**TOTAL 2005 $7.2M COMMUNITY FACILITIES DISTRICT 05-1 (TRADE AND COMMERCE CENTER) REFUNDED 2021** $ 1,348,726.84

BOND PROCEEDS
**2006-1 Godde Hill Estate Sewer Improvements LOIB**
Fiscal Agent: U.S. Bank National Association (fka First Trust)

| | | | | | |
|---|---|---|---|---|---|
| 11-08-06 | n/a | REDEMPTION FUND | 106844000 | 0.01 | 129,877.02 |
| 11-08-06 | n/a | ADM EXP | 106844002 | 0.01 | 1,657.74 |
| 11-08-06 | n/a | RESERVE FUND | 106844003 | 0.01 | 98,187.29 |

City Held Cash (Fund 739-114000) $145,437.61

**TOTAL 2006-1 Godde Hill Estate Sewer Improvements LOIB** $ 229,722.05

BOND PROCEEDS
**2007 $19.9M COP Power Plant Land Acquisition**
Fiscal Agent: U.S. Bank National Association (fka First Trust)

| | | | | | |
|---|---|---|---|---|---|
| 04-12-07 | n/a | LEASE PAYMENT | 112055000 | 0.01 | 0.00 |
| 04-12-07 | n/a | RESERVE FUND | 112055001 | 0.00 | 0.00 |

**TOTAL 2007 $19.9M COP Power Plant Land Acquisition** $ -

BOND PROCEEDS
**2007 $6.5M COMMUNITY FACILITIES DISTRICT 05-1 (TRADE AND COMMERCE CENTER)**
Fiscal Agent: U.S. Bank National Association (fka First Trust)

| | | | | | |
|---|---|---|---|---|---|
| 08-23-07 | n/a | BOND FUND | 117856000 | 0.01 | 0.00 |
| 08-23-07 | n/a | RESERVE FUND | 117856002 | 0.01 | 0.00 |

**TOTAL 2007 $6.5M COMMUNITY FACILITIES DISTRICT 05-1 (TRADE AND COMMERCE CENTER)** $ -

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023

**FISCAL AGENT CASH**

| PURCHASE DATE | MATURITY DATE | FUND | ACCOUNT NUMBER | INTEREST RATE | INVESTED AMOUNT |
|---|---|---|---|---|---|
| BOND PROCEEDS | | | | | |
| **2012 PFA $8.7M LEASE REVENUE BONDS** | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | |
| 12-19-12 | n/a | REVENUE FD | 201546000 | 0.00 | 679,568.01 |
| 12-19-12 | n/a | INTEREST ACCOUNT | 201546001 | n/a | 0.00 |
| 12-19-12 | n/a | PRINCIPAL ACCOUNT | 201546002 | n/a | 0.00 |
| | | **TOTAL 2012 PFA $8.7M LEASE REVENUE BONDS** | | | $ 679,568.01 |
| **2013 HA PALMDALE TRANSIT VILLAGE HOMES LLC ESCROW** | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | |
| 10-11-13 | n/a | ESCROW FUND | 206455000 | 0.00 | 2,979,512.65 |
| | | **TOTAL 2013 HA TRANSIT VILLAGE HOMES ESCROW** | | | $ 2,979,512.65 |
| **2015 HA DEBT SERVICE RESERVE** | | | | | |
| Fiscal Agent: Bank of America | | | | | |
| 11-19-15 | n/a | DEBT SVC RESERVE | 1257964992 | 0.08 | 39,693.52 |
| | | **TOTAL 2015 HA DEBT SERVICE RESERVE** | | | $ 39,693.52 |
| **PARS RESTRICTED CASH FOR PENSION STABILIZATION TRUST FUND** | | | | | |
| 05-23-18 | n/a | CITY | 104790895775 Public Agency Retirement Services | 2.60 | 7,691,720.96 |
| | | **TOTAL PARS PENSION TRUST FUND** | | | $ 7,691,720.96 |
| BOND PROCEEDS | | | | | |
| **2015 HA $4.3M MULTIFAMILY HOUSING REVENUE BONDS** | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | |
| 09-03-15 | n/a | BOND FUND | 277067000 | 0.00 | 73,434.07 |
| 09-03-15 | n/a | INTEREST ACCT | 277067001 | 0.01 | 6.95 |
| 09-03-15 | n/a | BOND RESERVE | 277067003 | 0.00 | 281,018.53 |
| 09-03-15 | n/a | REPAIR & REPLACE FUN | 277067004 | 0.00 | 1,231,220.35 |
| | | **TOTAL 2015 HA $4.3M MULTIFAMILY HOUSING REVENUE BONDS** | | | $ 1,585,679.90 |
| BOND PROCEEDS | | | | | |
| **2017 PFA $17.4M LEASE REVENUE BONDS** | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | |
| 04-05-17 | n/a | REVENUE FUND | 271128000 | 0.00 | 0.19 |
| 04-05-17 | n/a | PRINCIPAL ACCT | 271128002 | n/a | 0.00 |
| | | **TOTAL 2017 PFA $17.4M LEASE REVENUE BONDS** | | | $ 0.19 |
| | Total City Held Cash (XXX-114000) | | $1,992,966.20 | | |
| | | **GRAND TOTAL - FISCAL AGENT CASH** | | | $ 17,896,906.26 |

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023

**SUMMARY OF CASH AND INVESTMENTS**



| | | | | |
|---|---|---|---|---|
| Cash on Hand | | | $ | 11,527,226 |
| Pooled Cash Investments | | | | |
| City: | $ | 303,158,797 | | |
| Insur Fund: | | $1,941,287 | $ | 305,100,084 |
| Library Investments | | | | $12,780 |
| Subtotal | | | $ | 316,640,090 |
| City/AD/CFD/PCA/PFA/HA Fiscal Agent Cash | | | $ | 17,896,906 |
| Grand total | | | $ | 334,536,996 |

The interest rate quoted on LAIF, AIM, and Fiscal Agent/Trustee accounts is the most current rate available.
LAIF & AIM interest rates are as of August 31, 2023.

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023
CITY OF PALMDALE

**POOLED CASH - LOCAL AGENCY INVESTMENT FUND (LAIF), CALIFORNIA ASSET MANAGEMENT PROGRAM (CAMP), & UBS FINANCIAL SERVICES**
August 31, 2023

| TRANSACTION DATE | DEPOSIT | WITHDRAWAL | INTEREST RECEIVED | BALANCE |
|---|---|---|---|---|
| **CITY ACCOUNT 98-19-620** | | | | |
| Beginning Balance | | | | $ 53,217,293.97 |
| Subtotal | $ - | $ - | $ - | $ 53,217,293.97 |
| **PCA ACCOUNT 40-19-060** | | | | |
| Beginning Balance | | | | $ 61,228,187.21 |
| 08-22-23 | | $ (5,000,000.00) | | |
| Subtotal | $ - | $ (5,000,000.00) | $ - | $ 56,228,187.21 |
| **LIBRARY ACCOUNT 16-19-012** | | | | |
| Beginning Balance | | | | $ 12,779.53 |
| Subtotal | $ - | $ - | $ - | $ 12,779.53 |
| **ARPA ACCOUNT 19-19-004** | | | | |
| Beginning Balance | | | | $ 26,914,543.23 |
| 08/03/23 | | $ (3,905,000.00) | | |
| Subtotal | $ - | $ (3,905,000.00) | $ - | $ 23,009,543.23 |
| **CAMP - CALIFORNIA ASSET MANAGEMENT PROGRAM** | | | | |
| Beginning Balance | | | | $ 260,480.83 |
| 08/31/23 | | | $ 1,220.94 | |
| Subtotal | $ - | $ - | $ 1,220.94 | $ 261,701.77 |
| **UBS Financial Services** | | | | |
| Beginning Balance | | | | $ 716.02 |
| 08/31/23 | | | $ 37,508.82 | |
| Subtotal | $ - | $ - | $ 37,508.82 | $ 38,224.84 |
| Total | $ - | $ (8,905,000.00) | $ 38,729.76 | $ 132,767,730.55 |

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023
CITY OF PALMDALE

**POOLED CASH - INVESTMENTS MATURED OR CALLED**

August 31, 2023

TN = US Treasury
FP = Federal Paper
CD = Certificate of Deposi
C = Call
M = Maturity
CB = Corporate Bond

| ISSUER | PURCHASE DATE | MATURITY DATE | FACE VALUE REDEEMED | | INTEREST RECEIVED | NET FUNDS | INVESTED AMOUNT | GAIN/ (LOSS) |
|---|---|---|---|---|---|---|---|---|
| | | | | M | | $ - | | $0.00 |
| | | | | M | | $ - | | - |
| | | | | M | | $ - | | - |
| | | | | M | | $ - | | - |
| | | | | M | | $ - | | - |
| | | | | M | | $ - | | - |
| | | | $ - | | $ - | $ - | $ - | $0.00 |

Total Number of Transactions: 0

CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
AUGUST 31, 2023
CITY OF PALMDALE

**POOLED CASH - INVESTMENTS PURCHASED**
August 31, 2023

TN = US Treasury
FP = Federal Paper
CD = Certificate of Deposit
CN = Corporate Notes

| ISSUER | PURCHASE DATE | MATURITY DATE | FACE VALUE | PREMIUM / (DISCOUNT) | PURCHASE PRICE | ACCRUED INTEREST PURCHASED | NET PURCHASE | Yield |
|---|---|---|---|---|---|---|---|---|
| | | | | | | | $ - | |
| | | | | - | | | $ - | |
| | | | | - | | | $ - | |
| | | | | - | | | $ - | |
| | | | | - | | | $ - | |
| | | | | - | | | | |
| | | | $ - | $ - | $ - | $ - | $ - | |

Total Number of Transactions: 0

SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS
August 31, 2023

| PURCHASE DATE | MATURITY DATE | FUND | ACCOUNT/ INSTITUTION | INTEREST RATE | INVESTED AMOUNT | TOTAL |
|---|---|---|---|---|---|---|
| **STATE OF CALIFORNIA LOCAL AGENCY INVESTMENT FUND** | | | | | | |
| 09-01-84 | n/a | SA ACCOUNT | 65-19-035 | 0.78 | 7,024,789.94 | |
| | | | | | | $ 7,024,789.94 |

**FISCAL AGENT CASH**

| | | | | | | |
|---|---|---|---|---|---|---|
| BOND PROCEEDS | | | | | | |
| **CRA - 2002 Sub Lien Tax Allocation Bonds $5.3M ($5,329,748.25)** | | | | | | |
| Fiscal Agent: U.S. Bank National Association | | | | | | |
| 08-20-02 | n/a | RESERVE FUND | 94460700 | 2.54 | 534,075.49 | |
| 08-20-02 | n/a | INTEREST ACCT | 94460701 | 0.04 | 15,142.53 | |
| 08-20-02 | n/a | PRINCIPAL ACCT | 94460702 | 0.04 | 254.12 | |
| TOTAL CRA - 2002 Sub Lien Tax Allocation Bonds $5.3M ($5,329,748.25) | | | | | | $ 549,472.14 |
| BOND PROCEEDS | | | | | | |
| **2016 SA $31.5M Tax Allocation Refunding Bonds Series A** | | | | | | |
| Fiscal Agent: U.S. Bank National Association (fka First Trust) | | | | | | |
| 04-26-16 | n/a | DEBT SERVICE | 245113000 | 0.00 | 2.05 | |
| 04-26-16 | n/a | INTEREST ACCT | 245113001 | N/A | 0.00 | |
| TOTAL 2016 SA $31.5M Tax Allocation Refunding Bonds Series A | | | | | | $ 2.05 |
| GRAND TOTAL - FISCAL AGENT CASH | | | | | | $549,474 |

**SUMMARY OF CASH AND INVESTMENTS**

| | | |
|---|---|---|
| Cash on Hand | $ | 330,481 |
| Pooled Cash Investments | $ | 7,024,790 |
| Successor Agency Fiscal Agent Cash | $ | 549,474 |
| Grand total | $ | 7,904,745 |

* The interest rate quoted on LAIF and Fiscal Agent/Trustee accounts is the most current rate available. LAIF interest rates are as of August 31, 2023.

SUCCESSOR AGENCY TO THE COMMUNITY REDEVELOPMENT AGENCY OF THE CITY OF PALMDALE
TREASURER'S REPORT OF INVESTMENTS

8/31/2023

**POOLED CASH - LOCAL AGENCY INVESTMENT FUND (LAIF)**

July 31, 2023

| TRANSACTION DATE | DEPOSIT | WITHDRAWAL | INTEREST RECEIVED | BALANCE |
|---|---|---|---|---|
| **SA ACCOUNT 65-19-035** | | | | |
| Beginning Balance | | | | $ 13,024,789.94 |
| 08/17/23 | | $ (6,000,000.00) | | |
| Subtotal | $ - | $ (6,000,000.00) | $ - | $ 7,024,789.94 |

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **FINANCE DIVISION**

**DISTRICT:** **ALL**

**SUBJECT:** **ADOPT RESOLUTION NO. CC 2023-058, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE AUTHORIZING THE CITY MANAGER'S SIGNATURE AUTHORITY OF UP TO $250,000 PER TRANSACTION FOR THE PURCHASE OF PERFORMERS OR ENTERTAINMENT SERVICES**

## ISSUE

Adopt Resolution No. CC 2023-058, a Resolution of the City Council of the City of Palmdale authorizing the City Manager's signature authority of up to $250,000 per transaction for the purchase of performers or entertainment services.

## RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. CC 2023-058, a Resolution of the City Council of the City of Palmdale authorizing the City Manager's signature authority of up to $250,000 per transaction for the purchase of performers or entertainment services.

## BACKGROUND

The City of Palmdale began hosting summer concerts at Marie Kerr Park in 1995, and with the construction of the Palmdale Amphitheater, summer concerts were relocated in 2005. Each year, the City of Palmdale purchases the services of various performers and entertainers to perform at special events and the Palmdale Playhouse; therefore, to secure entrainment services, establishing an appropriate signature authority policy is necessary.

Resolution No. CC 2016-096 was approved by the City Council in December of 2016, authorizing the City Manager's signature authority not to exceed $100,000 per transaction. Since this time, costs for goods and services have continued to rise nationwide; as such, artists' fees and show production costs have also increased. Pursuant to Palmdale Municipal Code 3.08.240, the City Manager has the authority to review, approve, and execute contracts on behalf of the City, up to $100,000 per purchase order or contract. The current authority level is insufficient to procure performers or entertainment services; therefore, an updated Resolution is necessary to address the complexities of these purchases.

## DISCUSSION

The Palmdale Amphitheater is celebrating our 20th season in summer 2024. To commemorate this monumental occasion with an enhanced entertainment season and allow for the purchase of a broader caliber of entertainers, the amended signature authority is recommended.

With nationwide economic increases to the cost of doing business, performers retiring due to the pandemic, increased demand for entertainment as venues restore services and new venues are established, the cost of entertainment has continued to rise. The City Manager's spending authority of $100,000 does not allow the City to expeditiously secure performances that exceed this amount, respond to market conditions, and quickly changing artist availability.

Without the ability to make financial offers to performers immediately, the City risks losing available performance dates to other purchasers and hindering the City's ability to take advantage of artist performances in our region.

This resolution will increase the City Manager's signature authority for performers or entertainment services up to $250,000 per transaction. This will provide the City with the ability to purchase a broader range of entertainment for concerts held in conjunction with the Palmdale Amphitheater's 20th anniversary.

## FISCAL IMPACT

There is no fiscal impact associated with this action. Funds are budgeted and available in Contract Services, Concert Program account 101-42001-722134-1088 to secure concert entertainment in Fiscal Year 23/24.

## STRATEGIC PLAN

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

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

| | |
|---|---|
| Prepared by: | Janelle Samson, Director of Finance |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

- Resolution CC 2023-058

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2023-058

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE AUTHORIZING THE CITY MANAGER'S SIGNATURE AUTHORITY OF UP TO $250,000 PER TRANSACTION FOR THE PURCHASE OF PERFORMERS OR ENTERTAINMENT SERVICES.

**WHEREAS**, the City of Palmdale secures performers and entertainment services at various venues and events each year*;* and

**WHEREAS***,* the City Manager's spending authority limits the City's ability to expeditiously respond to market conditions and secure performances exceeding $100,000 in a timely fashion; and

**WHEREAS***,* increasing the City Manager's spending authorization will allow the City to broaden the scope of performers and entertainers and secure services in a timely manner; and

**WHEREAS**, the purchase of performers and entertainer services are considered professional services and are addressed in the City's purchasing procedures; and

**WHEREAS**, the total entertainment budget for future fiscal years will be established by the City Council annually and shall not be exceeded by the City Manager.

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

**SECTION 1**. Subject to the budget authorized by the City Council, the City Manager shall have signature authority up to $250,000 per transaction for the purchase of performers or entertainer services.

**SECTION 2**. Future fiscal year funding for performers or entertainer services will be approved by the City Council annually as part of the budget process.

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

**PASSED, APPROVED** and **ADOPTED** this 4th day of October, 2023

Approved as to form:

_____
William P. Curley, III
Interim City Attorney

_____
Laura Bettencourt, Mayor

ATTEST:

_____
Rochelle Scott, Acting City Clerk

I, Rochelle Scott, Acting City Clerk of the City 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 4th day of October, 2023 by the following roll call vote:

AYES: _____

NOES:_____

ABSTAIN:_____ABSENT:_____

Date: _____ _____
Rochelle Scott, Acting City Clerk

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **CITY ATTORNEY'S OFFICE**

**DISTRICT:** **ALL**

**SUBJECT:** **APPROVE AGREEMENT WITH SEDGWICK CLAIMS MANAGEMENT SERVICES INC. FOR CLAIMS ADMINISTRATION SERVICES FOR A NOT-TO-EXCEED AMOUNT OF $207,799 FOR A FIVE-YEAR TERM**

## ISSUE

Approve agreement with Sedgwick Claims Management Services Inc. for claims administration services for a not-to-exceed amount of $207,799 for a five-year term.

## RECOMMENDATION

Staff recommends that the City Council:

1. Approve Agreement with Sedgwick Claims Management Services, Inc.

2. Authorize the City Manager or her designee to execute Agreement with Sedgwick Claims Management Services, Inc. including non-substantive changes.

## BACKGROUND

Sedgwick Claims Management Services ("Sedgwick") has been the City's third-party claims administrator since 2018 and under agreement until August 30, 2023. The company was founded in 1969 and has grown from a regional claims administrator to a leading global provider of technology-enabled risk, benefits, and integrated business solutions with 30,000+ colleagues, located across 80 countries. Through innovative product development and strategic acquisitions, Sedgwick's offerings continue to evolve beyond claims processing to meet the current and future needs of their clients while simplifying the process and reducing complexity to make it easy and effective.

## DISCUSSION

Staff proposes that the Council approve Agreement A-8479 with Sedgwick and authorize the City Manager or her designee to execute the agreement. This will ensure there is no lapse in claims administration. Sedgwick would continue to adjust and provide oversight of the loss adjustment process and monitor case reserves.

## FISCAL IMPACT

The fiscal impact for FY 2023-2024 will be $39,140, with a not-to-exceed amount of $207,799 for the five (5) year term of the agreement. Funds for this agreement are budgeted and available in the Risk Management - Liability Insurance Claims account 15014101-712000.

## STRATEGIC PLAN

Goal I: Maintain effective public safety and protection for life, property, and the environment.

A. Be prepared to protect life, property, and the environment in the event of catastrophic disasters and emergencies.

| | |
|---|---|
| Prepared by: | Angie Barajas, Legal & Risk Coordinator |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

Agreement with Sedgwick Claims Management Services (A-8479)

AGREEMENT NO. A-8479

# AGREEMENT FOR CLAIMS ADMINISTRATION SERVICES BETWEEN THE CITY OF PALMDALE AND SEDGWICK CLAIMS MANAGEMENT SERVICES, INC.

This Contract for services ("Contract" herein) is entered into the first day of September, 2023 (the "Effective Date") by and between the City of Palmdale, a public body corporate and politic (hereinafter called "CITY", and Sedgwick Claims Management Services, Inc. (hereinafter called "CONTRACTOR").

WHEREAS, CITY desires to retain CONTRACTOR pursuant to terms and provisions of this Contract to provide Claims Administration Services on claims arising out of CITY's self-insured general liability, automobile liability, property liability insurance programs (hereinafter collectively and individually referred to as the "Program"); and

WHEREAS, CONTRACTOR desires to be retained by CITY pursuant to the terms and provisions of this Contract to provide Claims Administration Services on claims arising out of the Program; and

WHEREAS, CONTRACTOR, by entering into this Contract, will be obligated to provide Claims Administration Services to CITY on the terms and conditions set forth herein.

NOW THEREFORE, for an in consideration of the promises set forth hereinabove, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, CONTRACTOR and CITY agree as follows:

## I. DEFINITIONS

A. "Claims Administration Services" shall include the administration, adjustment, management, oversight and handling of claims arising out of CITY'S Program. Claims Administration Services shall also include, but not limited to, the following services:

1. Providing supervision of the loss adjustment process
2. Determining and implementing appropriate claims practices to conclude Claims in accordance with CONTRACTOR's established practices;
3. Adhering to high standards of professional conduct;
4. Adjusting and managing Claims to assure that CITY and claimants receive high quality service;
5. Establishing, monitoring and timely revisions of case reserves;
6. Settling Claims within the applicable coverage terms and conditions (as advised by CITY)
7. Maintaining current knowledge of applicable adjustment practices and procedures, local practices, applicable insurance coverage, court decisions,

current guidelines in the claims function, and Program changes and modifications (as advised by CITY);

8. Assisting in the preparation of Claims for suit, hearing, trial or subrogation as appropriate;
9. Acting as CITY's liaison with medical bill reviewers, first notice of loss reporting services and defense counsel;
10. Reviewing bills of service providers and attorneys
11. Preparing and submitting status and administrative reports in accordance with CONTRACTOR's established practices; and
12. Preserving subrogation rights and overseeing subrogation recovery.

B. "Claim" or "Claims" shall mean claims, arising under the Program and which are referred to CONTRACTOR for adjusting during the term of this Contract.

C. "Loss Adjustment Expense" shall mean, in addition to fees to be paid with Exhibit A of this Contract, all reasonable expenses necessary to the adjustment of a Claim in accordance with this Contract, including but not limited to, legal fees, court costs and fees for court reporters, expert witnesses, investigation, photocopies, subpoenas, photographs, bill review, utilization review and any other similar cost, fee, or expense reasonably chargeable to the investigation, negotiation, settlement or defense of a Claim, loss, subrogation right or recovery. CONTRACTOR may, but need not, elect to utilize its own staff or affiliated entities to perform these services.

D. "Systems" shall mean severally or collectively, CONTRACTOR's proprietary claims handling system.

## II. TERM OF CONTRACT

The term of this Contract shall commence on September 1, 2023, and shall continue until August 31, 2028 (the "Term"). This Contract may be terminated by either party at any time, provided that at least sixty (60) days' prior written notice of the effective date of termination is given to the other party

## III. CLAIMS ADMINISTRATION SERVICES

CITY hereby retains CONTRACTOR to provide Claims Administration Services, as set forth in this Contract, including Exhibit A attached hereto, for the Claims that arise out of CITY's Program and that are assigned by CITY to CONTRACTOR.

A. The Claims Administration Services to be rendered by CONTRACTOR shall be in conformance with the requirements and provisions of this Contract together with applicable rules, orders and interpretations issued by the applicable regulatory authorities as of the date hereof.

B. CONTRACTOR shall perform Claims Administration Services for each Claim assigned to it hereunder in accordance with this Contract and Exhibit A.

C. CONTRACTOR acknowledges that execution of this Contract does not guarantee that CONTRACTOR will be assigned any particular number of Claims by CITY.

## IV. DUTIES OF CONTRACTOR

A. CONTRACTOR will maintain sufficient staff with the necessary experience and management oversight. Adjusters assigned to Claims shall have a caseload that allows proper attention to the work.

B. To the extent required by law, CONTRACTOR will utilize only licensed adjusters and licensed private investigators, where applicable, and such adjusters and investigators shall in the rendering of their services conform to the provisions of all applicable laws, rules, orders or written interpretations issued the applicable regulatory authorities.

C. CONTRACTOR will investigate, evaluate, negotiate, settle or deny Claims within the standing authority granted to CONTRACTOR from time to time by CITY. CONTRACTOR may settle Claims in excess of its standing authority limits only with prior written approval of CITY, which the CITY shall, in writing, promptly grant or deny upon CONTRACTOR's request for authority.

D. CONTRACTOR acknowledges that all the Claims files in its possession are the property of CITY and agrees to promptly provide access to or deliver any such file to CITY, at CITY's expense, at any time upon CITY's request. In exchange for CITY's absolute right to obtain the Claims files, CITY agrees that it shall not have the right to set off any sums claimed due from CONTRACTOR against fees due CONTRACTOR under this Contract.

E. CONTRACTOR expressly agrees to hold all funds and assets of CITY that come into its control or possession during the term of this Contract subject to regulatory limitations of deposits insured by FDIC.

F. CONTRACTOR will make available, through CONTRACTOR's proprietary claims system, claim-related data with "web-enabled" access. CONTRACTOR will have "view only" access to the system. CONTRACTOR will bear its own hardware, software, connection and similar costs for accessing CONTRACTOR'S electronic claims management system.

G. During the Term of this Contract and at all times that there are open Claims being handled by CONTRACTOR, CONTRACTOR will fully cooperate with CITY.

H. During the Term of this Agreement and thereafter until all Claims assigned hereunder are closed CONTRACTOR agrees to:

1. Maintain in force a fidelity bond or equivalent insurance, such as third-party crime insurance, for the protection of CITY, at a limit not less than one million dollars ($1,000,000), to cover the risk of loss due to the wrongful conversion of any funds and risk of loss due to the wrongful conversion of any funds and assets of CITY by CONTRACTOR or its employees or independent contractors during the term of this Contract;
2. Maintain in force a professional/errors and omissions policy, at a limit not less than one million dollars ($2,000,000) per wrongful act; If policy is provided on a claims-made basis, CONTRACTOR will continue to renew the insurance for a period of three (3) years after this Contract expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Contract and will cover CONTRACTOR, or its officers, employees, or agents during the time this Contract was in effect.
3. Maintain in force a commercial general liability policy which provides limits not less than one million dollars ($1,000,000) per occurrence, two million dollars ($2,000.000) aggregate and two million dollars ($2,000,000) products/completed operations aggregate;
4. Maintain in force a workers' compensation policy as required by the State of California and employers liability policy, which provides coverage to employees of CONTRACTOR at limits not less than one million dollars ($1,000,000); and
5. Maintain in force a commercial automobile liability policy with a combined single limit including owned, non-owned and hired coverage of not less than one million dollars ($1,000,000).
6. Policies providing for bodily injury and property damage coverage shall contain the following: An endorsement extending coverage to the City as an additional insured, as respects liability arising out of the performance of any work under the Contract. Commercial General Liability & Auto Liability insurance shall be primary insurance, as respects the interest of the CITY, any other insurance maintained by the CITY shall be considered excess coverage and not contributing insurance with the insurance required hereto..

I. CONTRACTOR will notify CITY's insurer of all claims which may affect the insurer's coverage in excess of CITY's self-insured retention layer in accordance with the instructions of CITY's insurer as provided to CONTRACTOR pursuant to Section V(A) of this Contract.

V. DUTIES OF CITY

A. CITY shall promptly provide CONTRACTOR with such information as CONTRACTOR may require, including but not limited to any copy of documents

describing its Program, and all amendments thereto, including but not limited to documents submitted to any governmental tribunals for approval of the Program, as well as incident reports and information related thereto in CITY's possession and otherwise cooperate with CONTRACTOR in carrying out CONTRACTOR's tasks hereunder.

B. Upon receipt of loss notices, CITY shall promptly assign the loss to CONTRACTOR for adjusting.

C. CITY shall promptly make funds available for Claim and Loss Adjustment Expense payments with respect to Claims referred to CONTRACTOR and respond to CONTRACTOR's requests to issue checks in payment of Claims and such checks shall be distributed in accordance with CITY's Claims processing procedures. CONTRACTOR, as CONTRACTOR may elect, shall have the right to suspend or discontinue its services hereunder in the event CITY does not timely provide such checks. Alternatively, CITY may direct that CONTRACTOR open and maintain an account to pay Claims and Loss Adjustment Expense with Funds provided by CITY as required for that purpose. All bank charges associated with these accounts shall be borne by CITY. CITY shall defend, indemnify and hold harmless CONRACTOR from and against all claims, costs, and expenses (including, but not limited to, attorneys' fees and court costs) related to or arising out of CITY's failure to timely fund the account. CONTRACTOR may (but shall not be required to) withdraw from the account funds to pay undisputed bills from CONTRACTOR to CITY and to pay the undisputed portions of undisputed bills from CONTRACTOR to CITY.

D. CITY shall provide CONTRACTOR with training material, along with initial and subsequent training on CITY's forms and other documents affecting CITY's obligations which are provided to CONTRACTOR and any written interpretation thereof issued by CITY or any applicable regulatory body. During the Term of this Contract and at all times that there are open Claims being handled by CONTRACTOR, CITY shall fully cooperate with CONTRACTOR.

E. CITY covenants and agrees that CITY, its employees, agents or independent contractors, will not misuse information contained within the Claims files. CITY further covenants and agrees to maintain the confidentiality of the information contained within the Claims files, as required by applicable State and Federal law and regulations.

F. CITY shall pay CONTRACTOR for Claims Administration Services in accordance with Section VII of this Contract.

## VI. SYSTEMS AND DATA PROCESSING

A. Although CONTRACTOR authorizes CITY to use or have access to its Systems in performance of Claims Administration Services enumerated in this Contract, this does not license CONTRACTOR's system to CITY nor shall CITY have, or assert, any property interest whatsoever in the Systems during and/or in the course of

CONTRACTOR's performance under this Contract, whether or not such improvements or additions were made at the suggestions, request or direction of CITY. Notwithstanding the foregoing, CONTRACTOR expressly agrees that Claim-related data generated and/or maintained in connection with this Contract or any Exhibit hereto shall be and remain the sole property of CITY and CONTRACTOR shall have no right, title, or interest in such data other than such rights necessary to perform Claim Administration Services. CONTRACTOR shall use anonymized, aggregated data for auditing, compliance, internal assessments, process improvement and related analytics.

B. This Contract grants to CITY no right to possess or reproduce all or any part of the Systems used, owned, or controlled by CITY performing all or any part of Claims Administration Services and CITY covenants that it shall not do so.

C. CONTRACTOR warrants any System furnished against malfunctions, errors or loss of data which are due solely to errors on its part. If CITY notifies CONTRATOR in writing and furnishes adequate documentation of any such malfunction, error, and loss data then:

1. In the event of a malfunction, error, or loss of data, upon notice by CITY within twenty (20) days of the malfunction, CONTRACTOR will without any additional fee re-create the reports designated by CITY, using data as of the recreation date; and

2. The maximum and only liability of CONTRACTOR for such malfunction, error or loss of data shall be its obligation to reprocess reports or regenerate data as described above.

D. THE WARRANTIES STATE IN THIS SECTION ARE IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTY OF MERCHANTABILITY OR FITNESS OFR A PARTICULAR PURPOSE, ANY SOFTWARE, HARDWARE, EQUIPMENT OR DATA SUPPLIED TO CITY BY CONTRACTOR. IN NO EVENT SHALL CONTRACTOR BE LIABLE FOR ANY LOSS OR DAMAGE TO REVENUES, PROFITS OR GOODWILL OR OTHER SPECIAL, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY KIND RESULTING FROM ITS PERFORMANCE OR FAILURE TO PERFORM UNDER THIS SECTION OR RESULTING FROM THE FURNISHING, PERFORMANCE, USE OR LOSS OF USE OF ANY SOFTWARE PROVIDED TO CITY HEREUNDER, INCLUDING WITHOUT LIMITATION ANY INTERRUPTION OF BUSINESS, EVEN IF CONTRACTOR HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGE. THIS SECTION OF THE CONTRACT SHALL SURVIVE THE TERMINATION OF THE CONTRACT.

## VII. COMPENSATION

A. CONTRACTOR shall be entitled to receive, and CITY shall be obligated to pay such fees, allowances, costs, reimbursements, or other compensation as are specified in Exhibit A.

B. CITY shall pay CONTRACTOR the fees under Exhibit A of this Contract no later than thirty (30) days after CITY's receipt of CONTRACTOR's invoice as rendered from time to time. Timely payment is an express condition of CONTRACTOR's obligations hereunder. CITY shall identify the CONTRACTOR's invoice to which the payment applies and in the absence of said identifier, CITY approves CONTRACTOR's application of the payment to the oldest outstanding fees, costs, or invoice. If CITY disagrees with any item on any bill, CITY shall set forth the particulars of such disagreement in writing within thirty (30) days of receipt of the bill and pay the undisputed portion of the bill. Unless CITY sets forth its disagreement with a bill as aforesaid, a bill shall be conclusively presumed valid and correct. Notwithstanding the prior sentence, in the event an audit by either party discovers that CITY has underpaid or was under billed, invoices shall be adjusted to reflect agreed upon fees. Any bills not paid within fifteen (15) days after notice that it is past due shall bear interest at the lessor of the one and one-half percent (1 ½%) per month or he interest rate allowed by law. If CONTRACTOR engages an attorney to collect past due amounts, the reasonable cost of such attorney together with interest as aforesaid and court costs shall be added to the amount and shall be recoverable as part thereof.

VIII. AUDIT

A. CONTRACTOR will maintain books, records, report, and other documents, in electronic or other format reasonably acceptable to CITY relating solely and exclusively to its Claims Administration Services performed under this Contract. All such records and documents pertaining to Claims and the Claims Administration Services rendered by CONTRACTOR shall be the property of CITY and be open for inspection, audit and copying, at CITY's expense, by CITY and its agents or their representatives at a time and place and in a manner mutually to both parties during regular business hours with reasonable prior written notice to CONTRACTOR. CONTRACTOR will cooperate fully with all such agents or other representatives of CITY during audits or examinations conducted by CITY or its agents. CITY agrees to the disclosure to CONTRACTOR of all information and reports resulting from access to records pursuant to the subsection above. If an auditing agency is utilized by CITY to perform an audit pursuant to this Contract, the auditing agency will afford the CONTRACTOR an opportunity for an audit exit conference and an opportunity to comment on the pertinent portions of the draft audit report. The final audit report will include the written comments, if any, of the audited parties. The preceding notwithstanding, it shall be a condition precedent that prior to any third party inspection, audit or copying that such third party shall have entered into a nondisclosure agreement with Contractor upon terms and conditions reasonably acceptable to Contractor.

B. For six (6) months following termination of this Contract, CITY shall have the right to conduct the audit described in Section VIII (A) at CITY's expense plus CONTRACTOR's then current service charge for audit support services.

C. Audits pursuant to this Section VIII shall be conducted in a manner that does not interfere with CONTRACTOR's daily operations.

## IX. CONFIDENTIALITY

A. Both parties hereto acknowledge and agree that CITY's information, data, and documentation, including but not limited to, non-public and personal information subject to the provisions of the Gramm-Leach-Billey Act, 15 U.S.C. Subchapter 1, Sections 6801-6809 et. Seq., personal health information under the Health Insurance Portability and Accountability Act, 42 U.S.C. 1301, et seq., and further including, but without limitation, all information, data and documentation related to manuals, lists, policyholder information, operating and other systems, business practices and procedures, any information regarding insureds insurance policies, claimants and Claims, any business, governmental or regulatory matters of CITY, and other information furnished to or obtained by CONTRACTOR, pursuant to or in connection with this Contract or in connection with the Claims Administration Services to be rendered, may be confidential ("Confidential Information"). CONTRACTOR will not divulge, disclose, or use the Confidential Information except for purposes of this Contract, or as may be expressly agreed in writing by the parties, or as may otherwise be required or directed by applicable law or judicial process. This Section IX shall survive the termination of this Contract, regardless of the reason for termination.

B. During the Term of this Contract, and after its termination for any reason, CITY shall have the right to request in writing and receive from CONTRACTOR a copy of CITY's Claim files and Claim-related records in CONTRACTOR's possession. CONTRACTOR agrees that CONTRACTOR may seek an injunction by a court of competent jurisdiction enjoining CONTRACTOR from violating any terms of this Contract or the confidentiality and non-use provisions of this Section IX. Injunctive relief shall be in addition to any other remedies that CITY may have under the law. Notwithstanding the foregoing, CONTRACTOR may retain, during the Term of this Contract and after its termination, a copy of Claims files and the data therein including any Confidential Information contained in any computers, hard drives, servers or other data storage systems of CONTRACTOR, for accounting, insurance, archival audit, and similar purposes. CONTRACTOR will secure said record copy against improper use or disclosure.

C. CONTRACTOR shall be solely responsible for informing its employees, officers, and directors of the provisions of this Section and for any acts of its employees, officers or directors that violate the provision of this Section.

D. Notwithstanding the foregoing, CITY agrees that information used for adjusting Claims is not subject to statutory or regulatory restrictions against disclosure for that purpose.

## X. INDEMNIFICATION

A. CONTRACTOR agrees to indemnify CITY and its directors, officers and-, employees from and against any and all causes of action, claims, damage, loss, costs and expenses (including, without limitation, fines, damages, liabilities, liens, losses, costs and expenses, including reasonable attorney's fees and litigation expenses) incurred by CITY, its directors, officers, employees, arising directly from any material breach of this Contract, or to the extent attributable to any negligent act, negligent omission, or willful misconduct, in each case by CONTRACTOR, its officers, directors, attorneys, employees or agents but only to the extent such causes of action, claims, damage, loss, costs and expenses (including, without limitation, fines, damages, liabilities, liens, losses, costs and expenses, including reasonable attorney's fees and litigation expenses) are not due to the City's own acts or omissions.

B. CITY agrees to indemnify, defend and hold harmless CONTRACTOR and its directors, officers, employees, and agents, from and against any and all causes of action, claims, damage, loss, costs and expenses (including, without limitation, fines, damages, liabilities, liens, losses, costs and expenses, including reasonable attorney's fees and litigation expenses) incurred by CONTRACTOR, its directors, officers, attorneys, employees and agents, to the extent such cause of action, claim, damage, loss, cost or expense is not attributable to CONTRACTOR's material breach of this contract, or the negligent or otherwise wrongful act or omission of CONTRACTOR.

Notwithstanding anything to the contrary contained in the above paragraph, it is understood and agreed that if City, directly or through a subcontractor or vendor of City's choosing ("City Subcontractor"), retains administration of a claim or performs any services for a claim Contractor administers, or if City otherwise directs the administration of a claim, City will indemnify, defend, and hold Contractor, its officers, directors and employees harmless from the losses, damages, costs, judgments and expenses (including attorneys' fees and costs) as a result of any litigation or proceeding, fines, penalties, revocation of license, or any other state regulatory investigation or action arising against Contractor related to the acts or omissions of City or the City Subcontractor.

If City's access to claim data includes the ability to add and modify data, Contractor shall not be required to verify, or otherwise be responsible for, the accuracy of data added or modified by City. City shall indemnify, defend and hold Contractor, its officers, directors, and employees harmless for any loss, cost (including attorney's fees), claim or judgment which is attributable to City's input or modification of data

C. The above defense, indemnification and hold harmless undertakings shall survive the termination of this Contract.

D. CITY acknowledges that CONTRACTOR has been engaged to provide professional services and that it is not the intent of the parties that CONTRACTOR assume any insurance risk. CONTRACTOR shall not act as an insurer for CITY, and this Contract shall not be construed as an insurance policy or a contract or agreement of indemnity; it being understood that CONTRACTOR is in no event financially responsible for payment or satisfaction of claims, lawsuits, or any form of cause of action against

CITY. The parties agree that the foregoing defense, indemnification, and hold harmless undertakings represent a reasonable allocation of commercial risk between the parties.

E. Except as regards CITY's obligation to pay fees in accordance with Section VII of this Contract, the parties agree that in no event shall the liability of either party under this Contract exceed the fees paid or due to CONTRACTOR for the six (6) months immediately prior to the event from which the claim or matter arises.

XI. BREACH AND TERMINATION

A. If a material breach by either party of this Contract occurs, the non-breaching party shall indemnify the breach by delivery of written notice thereof to the breaching party.

B. Upon delivery of written notification of breach, the breaching party shall have a period of five (5) calendar days within which time the breaching party shall cure the breach. Should the breaching party fail to fully cure the breach within the designated time frame, the non-breaching party may terminate this Contract: (i) immediately by CONTRACTOR if breach due to failure to pay fees due CONTRACTOR under Exhibit A, or (ii) in thirty (30) days by delivery of written notice of termination to breaching party. Any notice of breach or termination shall be delivered pursuant to Section XIII(C) hereto.

C. This Contract may be terminated by a party without the necessity of any notice or right to cure, upon the occurrence of any of the following events:

1. The expiration of the Term set forth in Section II or any renewal thereof; or

2. The commencement of bankruptcy, insolvency, or conservatorship proceedings by the other party, or, if such proceedings are brought against the other party, the other party's failure to have such proceedings dismissed within forty-five (45) days.

D. CONTRACTOR may terminate this Contract and discontinue Claims Administration Services immediately upon notice to CITY, if CITY fails to maintain sufficient balances in the account to properly and adequately fund daily maintenance and indemnity needs, as well as settlement of Claims and any Loss Adjustment Expense. At no time shall CONTRACTOR be liable or obligated to make any payments, out of CONTRACTOR'S own funds, of any type or character on behalf of CITY, including benefits CITY is legally required to provide to its employees.

XII. EQUITABLE ADJUSTMENT

A. CITY shall have the right to direct CONTRACTOR to perform additional services or to perform services in a specific or different way. Notwithstanding the foregoing, the pricing for the account was developed with the understanding that CONTRACTOR shall determine the appropriate service

providers for Loss Adjustment Expense, including without limitation the provider of managed care services.

B. This Contract contemplates that the standards applicable to this Contract are those in effect on the date of this Contract, whether such standards are set forth in statutes, regulations, rules, orders, case law or otherwise.

C. In the event of a directive from CITY as set forth in Section XII(A) or a change in a standard as set forth in Section XII(B), CONTRACTOR shall be entitled to an equitable adjustment in its compensation if such directive or change increases CONTRACTOR's cost of providing the services CONTRACTOR renders under this Contract or reduces its profitability.

XIII. GENERAL

A. CONTRACTOR shall not be liable or deemed in default for any delay or failure in performance under this Contract or any Exhibit of this Contract, or any interruption of Claims Administration Services resulting directly or indirectly, from acts of God, civil or military authority, or any similar cause beyond the reasonable control of CONTRACTOR for as long as such condition exists. CONTRACTOR will give notice to CITY as soon as practicable, of any delay or failure in performance or of any interruption of Claims Administration Services that has or may occur as soon as CONTRACTOR becomes aware of such events.

B. If any dispute or claim arises hereunder that the parties are not able to resolve amicably, the parties agree and stipulate that such litigation shall be resolved in the court of competent jurisdiction in the State of California, and the parties irrevocably submit to the exclusive venue and jurisdiction of either such court for the purpose of any such action or proceeding. In the event of a dispute between the parties resulting in litigation, the prevailing party may, in addition to any other relief obtained, recover its court costs and reasonable attorney's fees.

C. All notices which are required to be given or submitted pursuant to this Contract shall be in writing and shall be transmitted or delivered by certified mail, return-receipt requested or by a commercial overnight delivery service to the parties at the addresses set forth below, or to such other addresses as a party may, by notice, specify:

Notices to CONTRACTOR shall be delivered to:

Sedgwick Claims Management Services Inc.
8125 Sedgwick Way
Memphis, TN 38125
Attention: General Counsel - Americas

Notices to CITY shall be delivered to:

City of Palmdale
City Attorney's Office
38300 Sierra Highway, Suite A
Palmdale, CA 93550
Attention: Angie Barajas, Legal & Risk Coordinator

D. This Contract and any Exhibit made a part hereof constitute the entire Contract between the parties and supersedes and merges any and all prior discussions, representations, negotiations, correspondence, writing, and other agreements and together states the entire understanding and agreement between CITY and CONTRACTOR with respect to Claims Administration Services to be provided hereunder. Except as unilateral changes made by the CITY pursuant to Section XII, for which CONTRACTOR shall be entitled to an equitable adjustment in its compensation, this Contract may be amended or modified only in writing if agreed to and signed by CITY and CONTRACTOR and shall be deemed to have been entered into and executed in the State of California and shall be construed, performed and enforced in all respects in accordance with the laws of the State of California.

E. No party hereto shall be deemed to have waived any rights or remedies accruing to it hereunder unless such waiver is I writing and signed by such party. No delay or omission by either party hereto in exercising any right shall operate as a waiver of said right on any future occasion. All rights and remedies hereunder shall be cumulative and may be exercised singularly or concurrently.

F. The descriptive headings of this Contract are intended for reference only and shall not affect the construction or interpretation of this Contract.

G. Wherever the singular of any term is used herein it shall be deemed to include the plural wherever the plural thereof may be applicable.

H. No party may assign its rights or obligations under this Contract; provided, however, that CONTRACTOR may subcontract part of the Claims Administration Services, required hereunder and may at its discretion delegate to a subsidiary or affiliate such of its duties as it deems appropriate, provided that such subcontracting or delegation shall not relieve CONTRACTOR of any of its obligations hereunder.

I. It is expressly understood and agreed that the relationship of CONTRACTOR to CITY shall be that of an independent contractor at all times, and nothing herein shall constitute either the CONTRACTOR or CITY as the partner, agent, or legal representative of the other, for any purpose whatsoever, except to the extent that CONTRACTOR is the agent of CITY for the purpose of adjusting Claims. CONTRACTOR shall have no right or authority to bind or obligate CITY with respect to any matter that is

not specifically provided for in this Contract without the prior approval of CITY. All employees or agents of CONTRACTOR performing duties hereunder for CONTRACTOR shall be solely and exclusively under the direction and control of CONTRACTOR and shall not be deemed employees of CITY.

J. Nothing in this Contract is intended to require CONTRACTOR to engage in the practice of law and Claims Administration Services provided shall not be considered legal advice.

K. CITY shall not utilize CONTRACTOR's trade names, logos, trademarks, service marks or other identification in any press release, advertisement, marketing materials, promotional literature, article, presentation or other type of communication without the prior written consent of CONTRACTOR, which consent may be withheld or denied in CONTRACTOR's sole discretion.

L. CITY shall not hire any employee of CONTRACTOR or induce any employee of CONTRACTOR to terminate his or her employment (or encourage, and aid or abet any third party to do the same) at any time during which this Contract or any extension or renewal thereof is in effect and for a period of twelve (12) months thereafter. CITY agrees and acknowledges that CONTRACTOR has invested time and resources in training its personnel and familiarizing them with CITY's account and that CONTRACTOR will suffer harm, the extent of which is difficult to quantify, should CITY directly or indirectly cause CONTRACTOR's employee to terminate their employment with CONTRACTOR.

Therefore, in the event that CITY violates this provision, CITY shall be liable to CONTRACTOR for liquidated damages in a sum equal to the employee's salary for two (2) years based on the employee's salary over the two (2) months prior to the termination of that employee's employment with CONTRACTOR.

IN WITNESS WHEROF, the parties hereto have read and signed this Contract and it is effective as of the Effective Date of this Contract first above written.

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|---|---|
| CITY OF PALMDALE | SEDGWICK CLAIMS MANAGEMENT SERVICES, INC. |
| _____ | J. Edward Peel |
| Ronda Perez<br>City Manager | J. Edward Peel<br>Vice President |
| Dated: _____ | Dated: September 6, 2023 |

APPROVED AS TO FORM:

_____
William P. Curley, III
Interim City Attorney

ATTEST:

_____
Roxanne Faber
Acting City Clerk

# EXHIBIT A

City will pay a flat annual fee for claims administration on a Life of Contract basis for the services provided during the term of this Contract as follows:

| **Contract Period** | **Flat Annul Rate** |
|---|---|
| 9/1//2023 – 8/31/2024 | $39,140.00 |
| 9/1/2024 – 8/31/2025 | $40,314.00 |
| 9/1/2025 – 8/31/2026 | $41,523.00 |
| 9/1/2026 – 8/31/2027 | $42,769.00 |
| 9/1/2027 – 8/31/2028 | $44,053.00 |

Life of Contract applies to claims reported during the contract term and covers handling until conclusion without additional charge so long as the CITY continues to renew subsequent contracts. If any subsequent contract is cancelled or not renewed, the CITY may require CONTRACTOR to return all open claims, unless CONTRACTOR and the CITY agree that CONTRACTOR will continue the administration of open claims for an additional negotiated fee per open claim feature or time and expense.

The flat annual rate includes access for one (1) ViaOne user at no charge. CONTRACTOR will make available, through Sedgwick's proprietary claims system, claim-related data with "web-enabled" access. CITY will have "view only" access to the system for the term. CITY will bear responsibility for its own hardware, software, connection and similar costs for accessing the electronic claims management system.

Miscellaneous Expenses:

Additional access to ViaOne is available for a fee of $870.00 per user per year, if needed.

Outside Activity/Field Investigations are not included in the flat annual rate.

MMSEA/SCHIP Medicare report fee: One-time $9 charge per claim for claims involving bodily injuries (workers' compensation, liability, no fault).

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **CITY MANAGER DEPARTMENT**

**DISTRICT:** **ALL**

**SUBJECT:** **APPROVAL OF THE CITY COUNCIL'S DISCRETIONARY FUNDS POLICY AND PROCEDURES**

## ISSUE

Approval of the City Council's Discretionary Funds Policy and Procedures.

## RECOMMENDATION

Staff recommends approval of the City Council's Discretionary Funds Policy and Procedures.

## BACKGROUND

Commencing with Fiscal Year 2023-2024, each Council District was appropriated $15,000 annually to serve different community benefit purposes. Some examples of Discretionary Funding classifications include and are not limited to local needs within the Council District, community programs, events, and initiatives. Specific categories may be developed through Council practice over the years and are subject to change.

## DISCUSSION

The Discretionary Funds Policy and Procedures provides a mechanism for members of the City Council to foster transparency and accountability in using the Funding.

By law, all public funds must be used for a public purpose. Any entity requesting discretionary funding must demonstrate the benefit that funded programs or services will have on the community.

Requesting parties shall submit a funding request via email to discretionaryfund@cityofpalmdale.org. Funding requests will be forwarded to the appropriate Councilmember for review. A member of the City Manager's Department will notify the requestor whether the request has been approved or denied.

A report of eligible requests will be provided to all members of the City Council, and copies will be publicly available at City Hall and published on the City's website.

Each awardee will submit a report with receipts and proof of expenditures of the funds and appropriate backup documentation as outlined in the policy. The report will be submitted within 30 days of project completion or by June 30 of the fiscal year in which the funds were awarded, whichever is sooner.

## FISCAL IMPACT

The FY 23-24 budget includes funding for the City Council Discretionary Funds at $15,000 per Council District for a combined total of $75,000. Funds are budgeted under General Fund Accounts: 10111001-741160-0001, 10111001-741160-0002, 10111001-741160-0003, 10111001-741160-0004, and 10111001-741160-0005.

## STRATEGIC PLAN

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

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

Objective B: Provide inclusive access to a variety of supportive services that build a resilient and healthy community.

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|---|---|
| Prepared by: | Terrie Zayas, City Council Chief of Staff |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

1. Discretionary Funds Policy & Procedures

CITY OF PALMDALE

# CITY COUNCIL DISCRETIONARY FUNDS POLICY & PROCEDURES

Effective: October 4, 2023

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CITY COUNCIL DISCRETIONARY FUNDS POLICY & PROCEDURES
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## Introduction

As stewards of public funds, the City recognizes that the community deserves to know that discretionary funds are going to recipients with the capacity and integrity to provide quality community services. Members of the City Council are authorized to designate Discretionary Funds to meet local needs and fill gaps in City services.

The City Council has established a set of processes for transparency and accountability in the use of Discretionary Funding, including:

- A report of eligible requests will be provided to all members of the City Council, and copies will be publicly available at City Hall and published on the City's website and
- To ensure that the recipient and Councilmembers comply with the guidelines.

This guide describes the discretionary funding policies and procedures of the Palmdale City Council. It is for all interested persons, including community members seeking City Council discretionary funds, City Staff, the public, and all persons, firms, and entities.

## Finding of Public Purpose and Consideration to the City of Palmdale

The City recognizes, appreciates, and hereby finds and declares the value of local community members who provide community services and programs that benefit the community and enrich the well-being of its residents. These programs present valuable benefits and consideration while fulfilling public purposes that the City Council and each member deem substantial and material value to the City of Palmdale.

## What is Discretionary Funding?

Discretionary funding is an appropriated amount of money in the City's annual budget allocated to a Member of the City Council.

Each Council District receives an annual amount of $15,000 to serve different community benefit purposes. Some examples of discretionary funding categories include but are not limited to local needs within the Council District, community programs, events, and initiatives. Specific categories may be developed through Council practice over the years and are subject to change.

## Demonstrating Public Benefit

By law, all public funds, no matter how awarded, must be used for a public purpose. In general, a public purpose is defined as an activity or service that is open and accessible to all public members regardless of race, creed, gender, sexual orientation, religious affiliation, etc., without restriction. It is imperative for the entity requesting funding through

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this program to demonstrate the benefit that funded programs or services will have on the Palmdale Community.

Where it is appropriate for the City to allocate public funds are as follows:

- When an entity provides a service that complements or enhances a service that the City also provides;
- When there is an identifiable secondary or indirect benefit to the City; and,
- When the entity provides a service to augment/complement City services.

## Eligibility Standards

Eligibility:

To be eligible for funding, the requestor:

- Must be located within the City of Palmdale or provide community, environmental, or social services to the Palmdale community;
- Must directly provide the community service(s) for which the City funds are sought;
- Must have no outstanding debt due to the City;
- Must not be financially dependent upon receiving City support to meet the budget and operational requirements;
- Can be a recognized entity under the rules of the California Franchise Tax Board, Secretary of State, and the Federal Internal Revenue Service, if applicable
- Have a current Palmdale Business License, if applicable.

Ineligibility:

City discretionary funds may not be used for any of the following activities unless expressly requested by a Council Member:

- Individuals;
- For profit-organizations;
- Political Action Committees (PAC), political candidates, or political campaigns;
- Using funds to challenge City activities, plans, or actions; or
- The payment of outstanding debts
- The purchase of alcoholic beverages;
- Travel, meals, lodging, or entertainment expenses;
- Permanent improvements to any non-City owned structure or property so that it becomes an integral part of the real property, and its removal would do harm to the building or land, including those improvements that are bolted, nailed, screwed, or wired into the wall, ceiling, or floor; or,

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- General operating expenses or expenses to support the ongoing operation of the applicant, including, but not limited to, salaries, utilities, and rent expenses.

## Request and Approval Process

1. The requesting parties shall submit a funding request via email to discretionaryfund@cityofpalmdale.org.
2. A member of the City Manager's Department will notify the awardee in an email response whether the request is approved or denied.
3. A member of the City Manager's Department will reach out to the awardee for the following information:
    a. An invoice that includes the following information:
        i. Legal name and address of the awardee
        ii. Invoice Date
        iii. Description of service
        iv. The Total Amount
    b. A completed W-9 form https://www.irs.gov/pub/irs-pdf/fw9.pdf
    c. A current Palmdale Business License, if applicable.
4. Once all the required information is received, a payment request will be submitted to the Finance Department, and a check will be issued on the next scheduled check run per the City's payment process.

## Disbursement and Use of Funds

1. Funds approved for appropriations must be used per the approved request or returned to the City.
2. A copy of this policy will be included with the funding check payable to the awardee.

## Post Funding Requirements

Each awarded entity shall submit a reasonably detailed report, with receipts and proof of expenditures of the funds and proper backup documentation to substantiate those funds were expended appropriately. The report shall be submitted within 30 days of the end of the project or by June 30 of the fiscal year in which funds were awarded. Mandatory documentation is as follows:

- Invoices/receipts documenting the expenditure of funds; and
- A summary that explains all expenditures, including how they specifically benefited Palmdale residents, may include pictures or other documents illustrating the use of the funds.

If funds are not expended in accordance with the City's Request and Approval Process, the awardee will be required to refund the award. The City reserves the right to request additional backup information to substantiate how funds received from the City were

expended. Failure to spend the funds within the approved fiscal year, to provide proper documentation, and/or to utilize the funds for the intended purpose may jeopardize future funding opportunities.

The Finance Department will maintain the pertinent records for the City Council Discretionary Funds, which are public records.

Copies of the written report specified in the section above must be submitted to the City Manager's Department, 38300 Sierra Highway, Suite A, Palmdale, CA 93550, outlining how the funds were used within 30 days of the expenditure. This report may be any reasonable form that sets forth all required proof of records. If you have any questions regarding the Council's Discretionary Funds, please contact the City Manager's Department at 661-267-5115.

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# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **FINANCE DEPARTMENT**
**INFORMATION TECHNOLOGY DIVISION**

**DISTRICT:** **ALL**

**SUBJECT:** **APPROVE AGREEMENT WITH DELL TECHNOLOGIES, INC. TO PROVIDE DATA CENTER HARDWARE, CONFIGURATION SERVICES, AND HARDWARE SUPPORT IN THE NOT TO EXCEED AMOUNT OF $344,822 FOR A TERM OF FIVE (5) YEARS.**

## ISSUE

Approve Agreement with Dell Technologies, Inc. to provide data center hardware, configuration services, and hardware support in the not to exceed amount of $344,822 for a term of five (5) years.

## RECOMMENDATION

Staff recommends that the City Council:

1. Approve Agreement No. A-8493 with Dell Technologies, Inc. in the not to exceed amount of $344,822 for a term of five (5) years.

2. Authorize the City Manager or her designee to execute the five-year Agreement A-8493 with Dell Technologies, Inc., with the option to extend the agreement for two (2) additional one-year terms, including making minimal or non-substantive changes.

## BACKGROUND

The IT Division utilizes a central storage area network system (SAN), which is a computer network that provides access to consolidated, block-level data storage. The SAN provides direct-attached storage to approximately 90% of all current IT systems, supporting applications, file shares, and other critical services. The current centralized storage system was purchased seven years ago for approximately $450,000. The average lifespan for equipment of this type is typically 5 to 7 years. The manufacturer (NetApp) is discontinuing support on all systems in this product line by the end of 2023.

## DISCUSSION

The central storage system is critical to every day City operations. A failure could result in the loss of department file shares and many internally hosted applications, including records management and maintenance asset/work order management. Furthermore, implementing the replacement system would not only replace the SAN but would also allow the IT Division to consolidate at least nine other physical servers within the same platform due to technological improvements. These physical servers are already due for replacement, which will save the City approximately $200,000 in additional hardware replacement costs in the next fiscal year.

Hardware, configuration services, and support for this agreement are being procured through Dell NASPO Computer Equipment PA – California contract code C000000181156.

## FISCAL IMPACT

$344,822; Funds for this project are budgeted and available in account 15316001-774400 in Fiscal Year 2023-24.

| SCOPE OF WORK | COST |
|---|---|
| Hardware | $280,648 |
| Tax | $22,391 |
| Deployment and Professional Services | $10,436 |
| Contingency (10%) | $31,347 |
| **Total Cost:** | **$344,822** |

## STRATEGIC PLAN

Goal III: Invest in infrastructure to improve community livability.

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

| | |
|---|---|
| Prepared by: | Matthew Kunze, IT Analyst |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William Patrick Curley III, Interim City Attorney |

MINNESOTA

NASPO ValuePoint™

NASPO ValuePoint Master Agreement No.: 23004

This Contract is between the State of Minnesota, acting through its Commissioner of Administration ("Lead State") and Dell Inc., whose designated business address is One Dell Way, Round Rock, TX 78682 ("Contractor"). State and Contractor may be referred to jointly as "Parties."

**Recitals**

1. The State of Minnesota, Department of Administration, Office of State Procurement, on behalf of the State of Minnesota and NASPO ValuePoint Cooperative Procurement Program ("NASPO ValuePoint") issued a solicitation to establish Minnesota NASPO ValuePoint Master Agreement(s) ("Contract") with qualified manufacturers for Computer Equipment (Desktops, Laptops, Tablets, Servers, and Storage, including related Peripherals & Services);

2. Contractor provided a response to the Solicitation indicating its interest in and ability to provide the goods or services requested in the Solicitation; and

3. Subsequent to an evaluation in accordance with the terms of the Solicitation and negotiation, the Parties desire to enter into a contract; and

4. All authorized governmental entities in any state or participating US Territory are welcome to use the resulting Master Agreement through NASPO ValuePoint with the approval of the State Chief Procurement Official. Upon final award of the overarching Master Agreement, Contractors are able to sign Participating Addendums (PA) at the option of Participating States. Participating States reserve the right to add state specific terms and conditions and modify the scope of the contract in their Participating Addendum as allowed by the Master Agreement.

Accordingly, the Parties agree as follows:

**Contract**

1. **Term of Contract**

   a. Effective date. July 1, 2023, or the date the Lead State obtains all required signatures under Minn. Stat. § 16C.05, subd. 2, whichever is later.

   b. Expiration date. June 30, 2025. This Master Agreement may be extended for up to an additional 36 months, in increments as determined by the Lead State, through a duly executed amendment.

   c. If, in the judgment of the Lead State, a follow-on, competitive procurement will be unavoidably delayed beyond the planned date of execution of the follow-on master agreement, this Master Agreement may be extended for a reasonable period of time, not to exceed six months. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

2. **Representations and Warranties**

a. Under Minn. Stat. §§ 15.061 and 16C.03, subd. 3, and other applicable law the Lead State is empowered to engage such assistance as deemed necessary.

b. Contractor warrants that it is duly qualified and shall perform its obligations under this Master Agreement in accordance with the commercially reasonable standards of care, skill, and diligence in Contractor's industry, trade, or profession, and in accordance with the specifications set forth in this Master Agreement, to the satisfaction of the Lead State.

c. Contractor warrants that it possesses the legal authority to enter into this Master Agreement and that it has taken all actions required by its procedures, by-laws, and applicable laws to exercise that authority, and to lawfully authorize its undersigned signatory to execute this Master Agreement, or any part thereof, and to bind Contractor to its terms.

3. **Awarded Band(s)**

The solicitation included three product Bands: Band 1, Personal Computing Devices – Windows Operating Systems: Desktops, Laptops, Tablets; and Band 2, Personal Computing Devices – Non-Windows Operating Systems: Desktops, Laptops, Tablets; and Band 3, Servers and Storage. The Contractor is awarded the following Band(s):

Band 1, Personal Computer Devices – Windows Operating Systems
Band 2, Personal Computer Devices - Non-Windows Operating Systems
Band 3, Servers and Storage

4. **Configuration Dollar Limits**

The following configuration limits apply to the Master Agreement. Participating Entities may define their configuration limits in their Participating Addendum. The Participating Entity's Chief Procurement Official may increase or decrease the configuration limits, as defined in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the Product and Service Schedule.

The dollar limits identified below are based on a SINGLE computer/system configuration. This is NOT a restriction on the purchase of multiple configurations (e.g., an entity could purchase 10 laptops at $15,000 each, for a total purchase price of $150,000).

| ITEM | CONFIGURATION |
|---|---|
| Band One | $15,000 |
| Band Two | $15,000 |
| Band Three | $1,000,000 |
| Peripherals | $10,000 |
| Services | Addressed in the Participating Addendum |

5. **Restrictions**

The following restrictions apply to the Master Agreement. A Participating Entity may set further restrictions of products in their Participating Addendum. The Participating Entity will determine with the Contractor how to approve these modifications to the Entity's Product and Service Schedule.

a. Software

1. Software is restricted to operating systems and commercial off-the-shelf (COTS) software and is subject to equipment configuration limits.

2. Any software purchased must be related to the procurement of equipment.

3. Software must be pre-loaded or provided as an electronic link with the initial purchase of equipment, except for the exceptions allowed under Paragraph 5.a.4.

4. Software such as middleware which is not always installed on the equipment, but is related to storage and server equipment (Band 3) purchased, is allowed and may be procured after the initial purchase of equipment.

b. General Services

1. Services must be related to the procurement of equipment.

2. Service limits will be addressed by each State.

3. Wireless phone and internet service is not allowed.

4. Managed Print Services are not allowed.

c. Cloud Services

1. Cloud Services are restricted to Services that function as operating systems and software needed to support or configure hardware purchased under the scope of the contract and is subject to equipment configuration limits.

2. Any Cloud Service purchased must be related to the procurement of equipment.

d. Third-Party Products

1. Third-Party Products can be offered only in the Bands they have been awarded. All third-party products must meet the definition(s) of the Band(s) in which they are being offered.

2. Products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment cannot be offered unless approved by the Lead State.

e. Additional Product/Services

1. Hardware and software required to solely support wide area network (WAN) operation and management are not allowed.

2. Lease/Rentals of equipment may be allowed and will be addressed by each State.

3. Cellular Phone Equipment is not allowed.

4. EPEAT Bronze requirement may be waived, on a State case-by-case basis, if approved by the State's Chief Procurement Officer. EPEAT Bronze requirement does not currently apply to storage.

6. **Authorized Representative**

a. Master Agreement Administrator. The Master Agreement Administrator designated by NASPO ValuePoint and the State of Minnesota, Department of Administration is Elizabeth Randa, Acquisition Management Specialist.

Elizabeth Randa, Acquisition Management Specialist
Department of Administration
Office of State Procurement
112 Administration Building
50 Sherburne Avenue
St. Paul, MN 55155
E-mail: elizabeth.randa@state.mn.us
Phone: 651.201.3122

b. Contractor's Authorized Representative. The Contractor's Authorized Representative is Ashley Salinas, SLED Contract Program Manager.

Ashley Salinas, SLED Contract Program Manager
Dell Inc.
One Dell Way
Round Rock, TX 78682
A.Salinas@dell.com
Phone: 512.542.1237

If the Contractor's Authorized Representative changes at any time during this Contract, the Contractor must immediately notify the Lead State.

7. **Notices**

If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. An email shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed to the Master Agreement Administrator.

8. **Exhibits**

The following Exhibits are attached and incorporated into this Contract. In the event of a conflict between the terms of this Contract and its Exhibits, or between Exhibits, the order of precedence is first the Contract, and then in the following order:

Exhibit A: NASPO ValuePoint Terms and Conditions
Exhibit B: Minnesota Terms and Conditions
Exhibit C: Requirement
Exhibit D: Price Schedule
Exhibit E: Contractor Terms and Conditions

9. **Survival of Terms:**

The following clauses survive the expiration or cancellation of this Master Agreement: Indemnification; State Audits; Government Data Practices and Intellectual Property; Publicity and Endorsement; Governing Law, Jurisdiction, and Venue; and Data Disclosure. Any other Contract term that states it shall survive, shall survive.

10. **Entire Agreement**
This Contract and any written addenda thereto constitute the entire agreement of the parties to the Master Agreement.

**1. Contractor**
***The Contractor certifies that the appropriate person(s) have executed the Contract on behalf of the Contractor as required by applicable articles, bylaws, resolutions, or ordinances.***

Print name: Katherine Castillo
Signature: DocuSigned by: Katherine Castillo 8DEF23302D0B4B8...
Title: ParaLegal Advisor Date: 7/14/2023

**2. State Agency**
***With delegated authority***

Print name: Elizabeth M. Randa
Signature: DocuSigned by: Elizabeth M. Randa 742DE739C8ED492...
Title: Acquisition Management Specialist Date: 7/14/2023

**3. Commissioner of Administration**
***As delegated to The Office of State Procurement***

Print name: Andy Doran
Signature: DocuSigned by: Andy Doran 68D02A26D7604BA...
Title: IT Acquisitions Supervisor Date: 7/14/2023

**Exhibit A: NASPO ValuePoint Master Agreement Terms and Conditions**

1. **Conflict of Terms/Order of Precedence.**

a. Any order placed under this Master Agreement shall consist of the following documents:

1. A Participating Entity's Participating Addendum ("PA");

2. Minnesota NASPO ValuePoint Master Agreement, as negotiated, including all exhibits;

3. A Purchase Order issued against a PA (terms and conditions set forth in a Purchase Order will not be deemed to modify, diminish, or otherwise derogate the terms and conditions set forth in a Participating Addendum or Minnesota NASPO ValuePoint Master Agreement).

b. These documents shall be read to be consistent and complementary. Any conflict among these documents shall be resolved by giving priority to these documents in the order listed above. Contractor terms and conditions that apply to this Master Agreement are only those that are expressly accepted by the Lead State and must be in writing and attached to this Master Agreement as an Exhibit or Attachment.

c. Contractor terms and conditions may be incorporated if expressly accepted by the Lead State and attached to the Master Agreement as an Exhibit or Attachment, or by written reference (including reference to information contained in a URL or referenced policy). A written reference, including by URL or policy, is incorporated into the Master Agreement only if the Master Agreement expressly identifies that reference. URL's must be explicitly referenced to be incorporated into the Master Agreement. URL's contained within the URL's that are explicitly referenced are not incorporated into the Master Agreement. Any Contractor term or condition incorporated by URL or written reference applies to this Master Agreement only to the extent such term or condition is not prohibited by applicable law. Any change to information contained in a URL or referenced policy will not affect any financial obligation, place any additional material obligation on an ordering entity, or materially diminish an ordering entity's ability to use the product or service.

d. A written Master Agreement (which may include the contents of the RFP and selected portions of Contractor's response incorporated therein by reference) will constitute the entire agreement of the parties to the Master Agreement. No other terms and conditions shall apply, including terms and conditions listed in the Contractor's response to the RFP, or terms listed or referenced on the Contractor's website not otherwise incorporated into the Master Agreement, in the Contractor quotation/sales order, or in similar documents subsequently provided by the Contractor.

e. Additional Agreement with NASPO. Upon request by NASPO ValuePoint, awarded Contractor shall enter into a direct contractual relationship with NASPO ValuePoint related to Contractor's obligations to NASPO ValuePoint under the terms of the Master Agreement, the terms of which shall be the same or similar (and not less favorable) than the terms set forth in the Master Agreement.

2. **Definitions.**

a. **Acceptance** is defined by the applicable commercial code, except Acceptance shall not occur before the completion of delivery in accordance with the Order, installation if required, and a reasonable time for inspection of the Product.

b. **Accessory** means a product that enhances the user experience but does not extend the functionality of the computer (e.g. mouse pad or monitor stand). For the purposes of this Contract, accessories are considered peripherals.

c. **_____ as a Service (_aaS)** refers to any good provided in a subscription-based model that is defined in the industry as "_____ as a Service". Examples are "Software as a Service", "Infrastructure as a Service", and "Storage as a Service", and shall follow the NIST definitions of those services. ____ as a Service are permitted only when they meet the restrictions found in Paragraph 5.c, above.

d. **Band** means a category of products. There are three product bands which may be awarded through this Contract. Each product band includes related peripherals and services.

e. **Components** are the parts that make up a computer configuration.

f. **Contractor** means the person or entity delivering Products or performing services under the terms and conditions set forth in this Master Agreement.

g. **Configuration** means the combination of hardware and software components that make up the total functioning system.

h. **Customer** (see Purchasing Entity).

i. **Desktop** means a personal computer intended for regular use at a single location. A desktop computer typically comes in several units connected together during installation: (1) the processor, 2) display monitor, and 3) input devices usually a keyboard and a mouse. Desktops, including desktop virtualization endpoints such as zero and thin clients, are included in Bands 1 and 2 of this Contract.

j. **Embedded Software** means one or more software applications which permanently reside on a computing device.

k. **Energy Star®** is a voluntary energy efficiency program sponsored by the U.S. Environmental Protection Agency. The Energy Star program makes it easy to identify energy efficient computers by labeling products that deliver the same or better performance as comparable models while using less energy and saving money. For additional information on the Energy Star program, including product specifications and a list of qualifying products, visit the Energy Star website at http://www.energystar.gov.

l. **EPEAT** is a type-1 ecolabel for identifying and purchasing sustainable IT products. EPEAT-registered products must meet sustainability criteria detailed in voluntary consensus-based standards that are free and publicly available on the Green Electronics Council's website at www.greenelectronicscouncil.org. Products are classified as Bronze, Silver, or Gold based on meeting criteria that address the life cycle of the products. Product life cycle includes material extraction, hazardous substance reduction, end-of-life management, packaging, and corporate sustainability. Only products listed as Active in the online EPEAT Registry are considered to meet the EPEAT criteria.

m. **FOB Destination** means that shipping charges are included in the price of the item and the shipped item becomes the legal property and responsibility of the receiver when it reaches its destination unless there is acceptance testing required.

n. **FOB Inside Delivery** means that shipping charges are included in the price of the item, and that the shipped item becomes the legal property and responsibility of the receiver when it reaches the inside delivery point, which is beyond the front door or loading dock. FOB Inside Delivery is a special shipping arrangement that may include additional fees payable by the Purchasing Entity. FOB Inside Delivery must be annotated on the Purchasing Entity ordering document.

o. **Intellectual Property** means any and all patents, copyrights, service marks, trademarks, trade secrets, trade names, patentable inventions, or other similar proprietary rights, in tangible or intangible form, and all rights, title, and interest therein.

p. **Laptop** means a personal computer for mobile use. A laptop includes a display, keyboard, point device such as a touchpad, and speakers in a single unit. A laptop can be used away from an outlet using a rechargeable battery. Laptops include notebooks, ultrabooks, netbooks, Zero and thin client devices, and computers with mobile operating systems. Laptops are included in Bands 1 and 2 of this Contract.

q. **Lead State** means the State centrally administering any resulting Master Agreement(s).

r. **Mandatory Requirement** is a requirement that the failure to meet results in the rejection of the responder's proposal unless all responders are unable to meet the mandatory requirement. The terms "must" and "shall" identify a mandatory requirement. Any objection to a mandatory requirement should be identified by responders in the Question and Answer period.

s. **Manufacturer** means a company that, as one of its primary business functions, designs, assembles, owns the trademark/patent for, and markets branded computer equipment.

t. **Master Agreement** means the underlying agreement executed by and between the Lead State, acting on behalf of NASPO ValuePoint, and the Contractor.

u. **Middleware** means the software "glue" that helps programs and databases (which may be on different computers) work together. The most basic function of middleware is to enable communication between different pieces of software.

v. **NASPO ValuePoint** is a division of the National Association of State Procurement Officials ("NASPO"), a 501(c)(3) limited liability company. NASPO ValuePoint facilitates administration of the NASPO cooperative group contracting consortium of state chief procurement officials for the benefit of state departments, institutions, agencies, and political subdivisions and other eligible entities (i.e., colleges, school districts, counties, cities, some nonprofit organizations, etc.) for all states, the District of Columbia, and territories of the United States. NASPO ValuePoint is identified in the Master Agreement as the recipient of reports and may perform contract administration functions relating to collecting and receiving reports as well as other contract administration functions as assigned by the Lead State.

w. **Option** means an item of equipment or a feature that may be chosen as an addition to or replacement for standard equipment and features.

x. **Order or Purchase Order** means any purchase order, sales order, contract or other method used by a Purchasing Entity to order the Products.

y. **Participating Addendum** means a bilateral agreement executed by a Contractor and a Participating Entity incorporating this Master Agreement and any other additional Participating Entity specific language or other requirements, e.g. ordering procedures specific to the Participating Entity, other terms and conditions.

z. **Participating Entity** means a state (as well as the District of Columbia and U.S territories), city, county, district, other political subdivision of a State, or a nonprofit organization under the laws of some states properly authorized to enter into a Participating Addendum, that has executed a Participating Addendum.

aa. **Participating State** means a state that has executed a Participating Addendum.

bb. **Partner** means a company, authorized by the Contractor and approved by the Participating Entity, to provide marketing, support, or other authorized contract services on behalf of the Contractor in accordance with the terms and conditions of the Contractor's Master Agreement. A Partner may include, but is not limited to, an agent, subcontractor, fulfillment partner, channel partner, business partner, servicing subcontractor, etc.

cc. **Peripherals** means any hardware product that can be attached to, added within, or networked with personal computers, servers, or storage. Peripherals extend the functionality of a computer without modifying the core components of the system.

dd. **Per Transaction Multiple Unit Discount** means a contractual volume discount based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Participating Entity or multiple entities conducting a cooperative purchase.

ee. **Premium Savings Package(s) (PSP)** are deeply discounted standard configurations available to Purchasing Entities using the Master Agreement. NASPO ValuePoint reserves the right to expand and modify the PSP throughout the life of the contract. For more information see: https://www.naspovaluepoint.org/portfolio/57/.

ff. **Product** means any equipment, software (including embedded software), documentation, service, or other deliverable supplied or created by the Contractor pursuant to this Master Agreement. The term Products, supplies and services, and products and services are used interchangeably in these terms and conditions.

gg. **Purchasing Entity** means a state (including the District of Columbia and U.S. territories), city, county, district, other political subdivision of a state, other public entities domestic or foreign, and nonprofit organizations under the laws of some states if authorized by a Participating Addendum, that issues a Purchase Order under the terms of the Master Agreement, or any Participating Addendum thereto, and becomes financially committed to the purchase.

hh. **Ruggedized** means equipment specifically designed to operate reliably in harsh usage environments and conditions, such as strong vibrations, extreme temperatures, and wet or dusty conditions. Ruggedized equipment may be proposed under the band that most closely fits the equipment being proposed.

ii. **Server** means computer hardware dedicated to run one or more services or applications (as a host) to serve the needs of the users of other computers on a network. Servers may be either physical or virtual. Servers, including server appliances, are included in Band 3 of this Contract. Server appliances have their hardware and software preconfigured by the manufacturer, and include embedded networking components such as those found in blade chassis systems.

jj. **Services** are broadly classified as installation or de-installation, maintenance, support, training, migration, and optimization of products offered or supplied under the Master Agreement. These classifications of services may include, but are not limited to: warranty services, maintenance, installation, de-installation, factory integration (software or hardware components), asset management, recycling or disposal, training and certification, pre-implementation design, disaster recovery planning and support, service desk or helpdesk, imaging, and any other directly related technical support service required for the effective operation of a product offered or supplied. Contractors may offer limited professional services related ONLY to the equipment and configuration of the equipment purchased through the resulting contracts.

EACH PARTICIPATING ENTITY WILL DETERMINE RESTRICTIONS AND NEGOTIATE TERMS FOR SERVICES THROUGH THEIR PARTICIPATING ADDENDUM.

kk. **Software** means, for the purposes of this Contract, commercial operating off the shelf machine-readable object code instructions including microcode, firmware, and operating system software that meet the restrictions specified

in Paragraph 5.a. "Software" applies to all parts of software and documentation, including new releases, updates, and modifications of software.

ll. **Storage** means hardware or a virtual appliance with the ability to store large amounts of data. Storage, including SAN switching necessary for the proper functioning of storage equipment, is included in Band 3 of this Contract

mm. **Storage Area Network (SAN)** is a high-speed special-purpose network (or subnetwork) that interconnects different kinds of data storage devices with associated data servers on behalf of a larger network of users.

nn. **Tablet** means a mobile computer that provides a touchscreen that acts as the primary means of control. Tablets, including notebooks, ultrabooks, and netbooks with touchscreen capabilities, are included in Bands 1 and 2 of this Contract.

oo. **Takeback Program** means the Contractor's process for accepting the return of equipment or other products at the end of the product's life.

pp. **Thin Client** is a lightweight computer that has been optimized for establishing a remote connection with a server-based computing environment.

qq. **Third Party Product** is a good sold by the Contractor that is manufactured by another company. Third Party Products are intended to enhance or supplement a Contractor's own product line, and are not intended to represent more than a third of any Contractor's total sales under this Master Agreement.

rr. **Upgrade** means the replacement of existing software, hardware, or hardware component with a newer version.

ss. **Warranty** means the Manufacturer's general warranty tied to the product at the time of purchase.

tt. **Wide Area Network (WAN)** is a data network that serves users across a broad geographic area and often uses transmission devices provided by common carriers.

3. **Term of the Master Agreement.**

a. The initial term of this Master Agreement is for 2 years. This Master Agreement may be extended beyond the original contract period for 36 additional months at the Lead State's discretion and by mutual agreement and upon review of requirements of Participating Entities, current market conditions, and Contractor performance.

b. The Master Agreement may be extended for a reasonable period of time if in the judgment of the Lead State a follow-on, competitive procurement will be unavoidably delayed (despite good faith efforts) beyond the planned date of execution of the follow-on master agreement. This subsection shall not be deemed to limit the authority of a Lead State under its state law otherwise to negotiate contract extensions.

4. **Amendments.**

The terms of this Master Agreement shall not be waived, altered, modified, supplemented or amended in any manner whatsoever without a written amendment to the Master Agreement executed by the Contractor and Lead State as required by law. Master Agreement amendments will be negotiated by the Lead State with the Contractor whenever necessary to address changes in the terms and conditions, costs, timetable, or increased or decreased scope of work.

5. **Participants and Scope.**

a. Canadian Participation. Subject to the approval of Contractor, any Canadian provincial government or provincially funded entity in Alberta, British Columbia, Manitoba, New Brunswick, Newfoundland and Labrador,

Nova Scotia, Ontario, Prince Edward Island, Quebec, or Saskatchewan, and territorial government or territorial government funded entity in the Northwest Territories, Nunavut, or Yukon, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement. Canadian Participation. Subject to the approval of the Contractor, any Canadian provincial government or provincially funded entity in Ontario, Quebec, Nova Scotia, New Brunswick, Manitoba, British Columbia, Prince Edward Island, Saskatchewan, Alberta, Northwest Territories, Nunavut, Yukon, and Newfoundland and Labrador, including municipalities, universities, community colleges, school boards, health authorities, housing authorities, agencies, boards, commissions, and crown corporations, may be eligible to use Contractor's Master Agreement.

b. Contractor may not deliver Products under this Master Agreement until a Participating Addendum acceptable to the Participating Entity and Contractor is executed. The NASPO ValuePoint Master Agreement Terms and Conditions are applicable to any Order by a Participating Entity (and other Purchasing Entities covered by their Participating Addendum), except to the extent altered, modified, supplemented or amended by a Participating Addendum. By way of illustration and not limitation, this authority may apply to unique delivery and invoicing requirements, confidentiality requirements, defaults on Orders, governing law and venue relating to Orders by a Participating Entity, indemnification, and insurance requirements. Statutory or constitutional requirements relating to availability of funds may require specific language in some Participating Addenda in order to comply with applicable law. The expectation is that these alterations, modifications, supplements, or amendments will be addressed in the Participating Addendum or, with the consent of the Purchasing Entity and Contractor, may be included in the ordering document (e.g. purchase order or contract) used by the Purchasing Entity to place the Order.

c. Use of specific NASPO ValuePoint Master Agreements by state agencies, political subdivisions and other Participating Entities (including cooperatives) authorized by individual state's statutes to use state contracts are subject to the approval of the respective State Chief Procurement Official. Issues of interpretation and eligibility for participation are solely within the authority of the respective State Chief Procurement Official.

d. Obligations under this Master Agreement are limited to those Participating Entities who have signed a Participating Addendum and Purchasing Entities within the scope of those Participating Addenda. States or other entities permitted to participate may use an informal competitive process to determine which Master Agreements to participate in through execution of a Participating Addendum. Financial obligations of Participating Entities who are states are limited to the orders placed by the departments or other state agencies and institutions having available funds. Participating Entities who are states incur no financial obligations on behalf of other Purchasing Entities. Contractor shall email a fully executed PDF copy of each Participating Addendum to PA@naspovaluepoint.org to support documentation of participation and posting in appropriate data bases.

e. NASPO and NASPO ValuePoint are not parties to the Master Agreement.

f. Participating Addenda shall not be construed to amend the following provisions in this Master Agreement between the Lead State and Contractor that prescribe NASPO ValuePoint requirements: Term of the Master Agreement; Amendments; Participants and Scope; Administrative Fee; NASPO ValuePoint Summary and Detailed Usage Reports; NASPO ValuePoint Cooperative Program Marketing and Performance Review; Right to Publish; Price and Rate Guarantee Period; and Individual Customers. Any such language shall be void and of no effect.

g. Participating Entities who are not states may under some circumstances sign their own Participating Addendum, subject to the consent to participation by the Chief Procurement Official of the state where the Participating Entity is located. Coordinate requests for such participation through NASPO ValuePoint. Any permission to participate through execution of a Participating Addendum is not a determination that procurement authority exists in the Participating Entity; they must ensure that they have the requisite procurement authority to execute a Participating Addendum.

h. Resale. "Resale" means any payment in exchange for transfer of tangible goods, software, or assignment of the right to services. Subject to any specific conditions included in the Master Agreement, or as explicitly permitted in a Participating Addendum, Purchasing Entities may not resell Products (the definition of which includes services that are deliverables). Absent any such condition or explicit permission, this limitation does not prohibit: payments by employees of a Purchasing Entity for Products; sales of Products to the general public as surplus property; and fees associated with inventory transactions with other governmental or nonprofit entities and consistent with a Purchasing Entity's laws and regulations. Any sale or transfer permitted by this subsection must be consistent with license rights granted for use of intellectual property.

6. **Individual Customers.**

Except to the extent modified by a Participating Addendum, each Purchasing Entity shall follow the terms and conditions of the Master Agreement and applicable Participating Addendum and will have the same rights and responsibilities for their purchases as the Lead State has in the Master Agreement, including but not limited to, any indemnity or right to recover any costs as such right is defined in the Master Agreement and applicable Participating Addendum for their purchases. Each Purchasing Entity will be responsible for its own charges, fees, and liabilities. The Contractor will apply the charges and invoice each Purchasing Entity individually.

7. **Independent Contractor.**

The Contractor is an independent contractor. Contractor shall have no authorization, express or implied, to bind the Lead State, Participating States, other Participating Entities, or Purchasing Entities to any agreements, settlements, liability or understanding whatsoever, and agrees not to hold itself out as an agent except as expressly set forth herein or as expressly agreed in any Participating Addendum.

8. **Contracting Personnel.**

Contractor must provide adequate contracting personnel to assist states with the completing and processing Participating Addenda. It is preferred that each Contractor be able to provide each Participating Entity with a primary contact person for that Participating Entity.

9. **Changes in Contractor Representation.**

The Contractor must notify the Lead State of changes in the Contractor's key administrative personnel managing the Master Agreement in writing within 10 calendar days of the change. The Lead State reserves the right to approve changes in key personnel, as identified in the Contractor's proposal. Such approval shall not be unreasonably withheld. The Contractor agrees to propose replacement key personnel having substantially equal or better education, training, and experience as was possessed by the key person proposed and evaluated in the Contractor's proposal.

10. **Contractor Verification.**

The Contractor is responsible for delivering products or performing services under the terms and conditions set forth in the Master Agreement. The Contractor must ensure partners utilized in the performance of this contract adhere to all the terms and conditions. The term Partner will be utilized in naming the relationship a Contractor has with another company to market and sell under the contract. Participating Entities will have final determination/approval if a Partner may be approved for that state in the role identified by the Contractor.

11. **Contractor Performance Meeting.**

An annual performance meeting may be held each year with the NASPO ValuePoint Sourcing Team. Historically performance meetings have been held in Minnesota, but the Lead State may hold the meetings in person or virtually at the Lead State's discretion.

All contractors that are invited to participate must send their Primary Account Representative, unless an exception is granted in writing by the Lead State. It is possible that not all contractors will be invited to participate in a performance meeting.

12. **Laws and Regulations.**
Any and all Products offered and furnished shall comply fully with all applicable Federal, State, and local laws and regulations, including Minn. Stat. § 181.59 prohibiting discrimination and business registration requirements of the Office of the Minnesota Secretary of State. To the extent any purchase is subject to Federal Acquisition Regulations, as may be required by the terms of a federal grant, a Participating Entity and Contractor may include in their Participating Addendum terms that reflect such a requirement.

13. **Price and Rate Guarantee Period.**
All minimum discounts and rates must be guaranteed for the initial term of the Master Agreement. Following the initial Master Agreement period, any request for minimum discount or rate adjustment must be for a guarantee period as offered by the Contractor, and must be made at least 30 days prior to the effective date. Requests for minimum discount or rate adjustment must include sufficient documentation supporting the request. Any adjustment or amendment to the Master Agreement shall not be effective unless approved by the Lead State. No retroactive adjustments to minimum discounts or rates will be allowed.

14. **Premium Savings Package Program.**
The Lead State reserves the right to create a Premium Savings Package Program (PSP) as outlined in the Definitions, Paragraph 2.ee of Exhibit A. Participation by Contractor is voluntary. The details and commitments of the PSP will be detailed as a part of any request for Contractor to participate.

15. **Services.**
Participating Entities must explicitly allow services in their Participating Addenda for the approved services to be allowed under that Participating Addendum. The Participating Addendum by each Participating Entity will address service agreement terms and related travel.

16. **Ordering.**

a. Master Agreement and purchase order numbers shall be clearly shown on all acknowledgments, packing slips, invoices, and on all correspondence.

b. Purchasing Entities may define entity or project-specific requirements and informally compete the requirement among companies having a Master Agreement on an "as needed" basis. This procedure may also be used when requirements are aggregated or other firm commitments may be made to achieve reductions in pricing. This procedure may be modified in Participating Addenda and adapted to the Purchasing Entity's rules and policies. The Purchasing Entity may in its sole discretion determine which Master Agreement Contractors should be solicited for a quote. The Purchasing Entity may select the quote that it considers most advantageous, cost and other factors considered.

c. Each Purchasing Entity will identify and utilize its own appropriate purchasing procedure and documentation. Contractor is expected to become familiar with the Purchasing Entities' rules, policies, and procedures regarding the ordering of supplies or services contemplated by this Master Agreement.

d. Contractor shall not begin work without a valid Purchase Order or other appropriate commitment document under the law of the Purchasing Entity.

e. Orders may be placed consistent with the terms of this Master Agreement during the term of the Master Agreement.

f. All Orders pursuant to this Master Agreement, at a minimum, shall include:

1. The service description or supplies being delivered;

2. The place and requested time of delivery;

3. A billing address;

4. The name, phone number, and address of the Purchasing Entity representative;

5. The price per hour or other pricing elements consistent with this Master Agreement and the contractor's proposal;

6. A ceiling amount of the order for services being ordered;

7. The Master Agreement identifier; and

8. Statement of Work, when applicable.

g. All communications concerning administration of Orders placed shall be furnished solely to the authorized purchasing agent within the Purchasing Entity's purchasing office, or to such other individual identified in writing in the Order.

h. Orders must be placed pursuant to this Master Agreement prior to the termination date thereof, but may have a delivery date or performance period up to 120 days past the then-current termination date of this Master Agreement. Contractor is reminded that financial obligations of Purchasing Entities payable after the current applicable fiscal year are contingent upon agency funds for that purpose being appropriated, budgeted, and otherwise made available.

i. Notwithstanding the expiration, cancellation or termination of this Master Agreement, Contractor agrees to perform in accordance with the terms of any Orders then outstanding at the time of such expiration or termination. Contractor shall not honor any Orders placed after the expiration, cancellation or termination of this Master Agreement, or otherwise inconsistent with its terms. Orders from any separate indefinite quantity, task orders, or other form of indefinite delivery order arrangement priced against this Master Agreement may not be placed after the expiration or termination of this Master Agreement, notwithstanding the term of any such indefinite delivery order agreement.

17. **Trade-In.**

Any trade-in programs offered during the life of the Master Agreement must be approved by the Lead State. Participating Entities must explicitly allow trade-in programs in their Participating Addenda for the approved programs to be allowed under that Participating Addendum. Trade-in value shall not decrease the discounts offered through the Master Agreement.

18. **Shipping and Delivery.**

a. The prices are the delivered price to any Purchasing Entity for standard 3-5 day shipping. If an order is requested with expedited shipping, the Contractor must provide a firm "not to exceed" price for the expedited shipping on the quote. All deliveries shall be FOB Destination, freight pre-paid, with all transportation and handling charges paid by the Contractor. Responsibility and liability for loss or damage shall remain the Contractor's until final inspection and acceptance when responsibility shall pass to the Purchasing Entity except as to latent defects, fraud and Contractor's warranty obligations. Any order for less than the specified amount is to be shipped with the freight prepaid and added as a separate item on the invoice. Any portion of an Order to be shipped without transportation charges that is back ordered shall be shipped without charge.

b. Specific delivery instructions, including FOB Inside Delivery, will be noted on the order form or Purchase Order. Any damage to the building interior, scratched walls, damage to the freight elevator, etc., will be the responsibility of the Contractor. If damage does occur, it is the responsibility of the Contractor to promptly notify the Purchasing Entity placing the Order.

c. All products must be delivered in the manufacturer's standard package. Costs shall include all packing and crating charges. Cases shall be of durable construction, good condition, properly labeled and suitable in every respect for storage and handling of contents. Each shipment shall be marked with the Purchasing Entity's Purchase Order number and other information sufficient for the Purchasing Entity to properly identify the shipment as outlined in the Participating Addendum of the Purchasing Entity.

19. **Inspection and Acceptance.**

a. Where the Master Agreement, a Participating Addendum, or an Order does not otherwise specify a process for inspection and Acceptance, this section governs. This section is not intended to limit rights and remedies under the applicable commercial code.

b. Acceptance. Purchasing Entity shall determine whether all Products and Services delivered meet the Contractor's published specifications. No payment shall be made for any Products or Services until the Purchasing Entity has accepted the Products or Services. The Purchasing Entity will make every effort to notify the Contractor within thirty (30) calendar days following delivery of non-acceptance of a Product or completion of Service. In the event that the Contractor has not been notified within 30 calendar days from delivery of Product or completion of Service, the Product and Services will be deemed accepted on the 31st day after delivery of Product or completion of Services. Failure to reject upon receipt, however, does not relieve the Contractor of liability for latent or hidden material defects. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked. The warranty period shall begin upon Acceptance. If the parties agree to acceptance testing, the terms of subsection (c), below, apply.

c. Acceptance Testing. The Purchasing Entity and the Contractor shall determine if Acceptance Testing is applicable and required for the purchase. "Acceptance Testing" means the process for ascertaining that the Product meets the standard of performance prior to Acceptance by the Purchasing Entity.

1. The Acceptance Testing period shall be thirty (30) calendar days starting from the day after the Product is delivered or, if installed, the day after the Product is installed and Contractor certifies that the Product is ready for Acceptance Testing. If the Product does not meet the standard of performance during the initial period of Acceptance Testing, Purchasing Entity may, at its discretion, continue Acceptance Testing on a day-to-day basis until the standard of performance is met. Upon rejection, the Contractor will have fifteen (15) calendar days to cure the standard of performance issue(s). If after the cure period, the Product still has not met the standard of performance, the Purchasing Entity may, at its option: (a) declare Contractor to be in breach and terminate the Order; (b) demand replacement Product from Contractor at no additional cost to Purchasing Entity; or, (c) continue the cure period for an additional time period agreed upon by the Purchasing Entity and the Contractor.

2. No Product shall be deemed Accepted and no charges shall be paid until the standard of performance is met. Products that do not meet specifications may be rejected. Failure to reject upon receipt, however, does not relieve the Contractor of liability for material (nonconformity that substantially impairs value) latent or hidden defects subsequently revealed when goods are put to use. Acceptance of such goods may be revoked in accordance with the provisions of the applicable commercial code, and the Contractor is liable for any resulting expense incurred by the Purchasing Entity related to the preparation and shipping of Product rejected and returned, or for which Acceptance is revoked. The warranty period shall begin upon Acceptance.

d. If any services do not conform to contract requirements, the Purchasing Entity may require the Contractor to perform the services again in conformity with contract requirements, at no increase in Order amount. When defects cannot be corrected by re-performance, the Purchasing Entity may require the Contractor to take necessary action to ensure that future performance conforms to contract requirements; and reduce the contract price to reflect the reduced value of services performed.

20. **Title of Product.**

a. Definitions. For purposes of this section, the following terms are defined as follows:

1. "Deliverables" means any reports, analyses, scripts, code, or other work results that Contractor delivers to Purchasing Entity within the framework of fulfilling Contractor's obligations to Purchasing Entity.

2. "Equipment" means Contractor-branded hardware products.

3. "Proprietary Rights" means all patents, copyrights, trademarks, trade secrets, and other intellectual property rights of a party.

b. Upon Acceptance by the Purchasing Entity, Contractor shall convey to Purchasing Entity title to the Equipment free and clear of all liens, encumbrances, or other security interests. Purchasing Entity's rights to use the software delivered by Contractor are governed by the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula (the "EULA") shall apply. Contractor's EULA must be made available to Purchasing Entities for review prior to negotiating a Participating Addendum or the issuance of an Order and shall meet or exceed the terms set forth in this Master Agreement. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment.

c. Contractor grants Purchasing Entity a non-exclusive, non-transferable, irrevocable license to use (without the right to sublicense) the Deliverables provided by Contractor for Purchasing Entity's internal business and governmental purposes, only and solely in accordance with the applicable service specification and subject to this Master Agreement. The grant of this license is subject to Purchasing Entity's compliance with the terms of this Master Agreement and Purchasing Entity's payment of applicable amounts due. Such license shall be perpetual unless granted pursuant to the purchase of a subscription, in which case the license shall be for the term of the subscription. Purchasing Entity may authorize its service providers to use the Deliverables, but solely on Purchasing Entity's behalf, solely for Purchasing Entity's internal business or governmental purposes, and Purchasing Entity shall be responsible for service provider's compliance with these restrictions. This section shall not affect a Purchasing Entity's right to transfer ownership of a product, and transfer, if permitted by Contractor or its licensors, licenses associated with such product, to another individual or entity as part of the Purchasing Entity's surplus program or sale of used products to employees or former employees.

d. Contractor reserves for itself all Proprietary Rights that it has not expressly granted to Purchasing Entity herein. The license granted in this clause 20(c) does not apply to: (i) Equipment; (ii) Contractor-branded generally available software; or (ii) items licensed or otherwise provided under a separate agreement. Contractor is not limited in developing, using, or marketing services or products that are similar to the Deliverables or Professional Services provided hereunder, any service, specification, or, subject to Contractor's confidentiality obligations to Purchasing Entity, in using the Deliverables or performing similar Professional Services for any other projects. Notwithstanding the previous, Contractor's use of Deliverables created specifically for and paid for by a Purchasing Entity is subject to Purchasing Entity approval.

e. Any and all licensing, maintenance, cloud services, or order specific agreements referenced within the terms and conditions of this Master Agreement are agreed to only to the extent that the terms do not conflict with the terms of the Participating Addendum or the terms of the Master Agreement as incorporated into the Participating Addendum, and to the extent the terms are not in conflict with the Participating Entity's applicable laws. In the event of a conflict in the terms and conditions, the conflict shall be resolved as detailed in the Order of Precedence defined herein. Notwithstanding the foregoing, licensing, maintenance, cloud services agreements, or order specific agreements may be further negotiated by the Contractor or, if applicable, the Licensor, and the potential Purchasing Entity, provided the contractual documents are duly executed in writing.

f. If (i) Contractor is or becomes aware of any infringement claim made against a third-party branded product offered by Contractor through this Master Agreement, (ii) the third-party branded product is determined to infringe upon the intellectual property rights of another third party, and (iii) such infringement is not remedied by the third party so that the product is no longer infringing, Contractor shall immediately cease offering the product under this Master Agreement and notify the Lead State, NASPO, Participating Entities, and purchasers of the product.

21. **Warranty.**
The Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

22. **System Failure or Damage.**
In the event of system failure or damage caused by the Contractor or its Product, the Contractor shall use reasonable efforts to restore or assist in restoring the system to operational capacity. The Contractor shall be responsible under this provision to the extent a 'system' is defined at the time of the Order; otherwise the rights of the Purchasing Entity shall be governed by the Warranty.

23. **Payment.**
Payment after Acceptance is normally made within 30 days following the date the entire order is delivered or the date a correct invoice is received, whichever is later. After 45 days the Contractor may assess overdue account charges up to a maximum rate of one percent per month on the outstanding balance, unless a different late payment amount is specified in a Participating Addendum, Order, or otherwise prescribed by applicable law.

Payments will be remitted by mail or electronically. Payments may be made via a State or political subdivision "Purchasing Card" with no additional charge.

Prices are exclusive of taxes, duties, and fees, unless otherwise quoted. If a withholding tax is required by law, the tax will be added and identified on the applicable invoice. All applicable taxes, duties, and fees must be identified on the quote.

24. **Leasing or Alternative Financing Methods.**
Lease purchase and term leases are allowable only for Purchasing Entities whose rules and regulations permit leasing of software. Individual Purchasing Entities may enter into a lease agreement for the products covered in this Master Agreement, if they have the legal authority to enter into these types of agreements without going through a competitive process and if the applicable PAs permit leasing. No lease agreements will be reviewed or evaluated as part of the RFP evaluation process.

25. **Contract Provisions for Orders Utilizing Federal Funds.**
Pursuant to Appendix II to 2 Code of Federal Regulations (CFR) Part 200, Contract Provisions for Non-Federal Entity Contracts Under Federal Awards, Orders funded with federal funds may have additional contractual requirements or certifications that must be satisfied at the time the Order is placed or upon delivery. These federal requirements may be

proposed by Participating Entities in Participating Addenda and Purchasing Entities for incorporation in Orders placed under this Master Agreement.

26. **Self Audit.**
The Contractor must conduct at a minimum a quarterly self-audit, unless approved by the Lead State. The audit will sample a minimum of one tenth of one percent (.001) of orders with a maximum of 100 audits per quarter conducted. For example: Up to 1,000 sales = 1 audit; 10,000 sales = 10 audits; Up to 100,000 sales = 100 audits. This will be a random sample of orders and invoices and must include documentation of pricing. Summary findings must be reported to Lead State with actions to correct documented findings.

27. **Assignment/Subcontracts.**

a. Contractor shall not assign, sell or otherwise transfer all or any part of this Master Agreement without prior written consent from the Lead State, such consent not to be unreasonably withheld.

b. The Lead State, or Participating Entity, shall not assign, delegate or otherwise transfer all or any part of this Master Agreement without prior written consent from Contractor, except for assignment or delegation to a Participating Entity State agency or eligible Purchasing Entity. The Lead State reserves the right to assign any rights or duties, including written assignment of contract administration duties to NASPO ValuePoint and other third parties.

28. **Insurance.**

a. Contractor shall, during the term of this Master Agreement, maintain in full force and effect, the insurance described in this section. Contractor shall acquire such insurance from an insurance carrier or carriers legally authorized to conduct business in the Lead State and in each Participating Entity's state and having a rating of A-, Class VII or better, in the most recently published edition of A.M. Best's Insurance Reports. Failure to buy and maintain the required insurance may result in this Master Agreement's termination or, at a Participating Entity's option, result in termination of its Participating Addendum.

b. Coverage shall be written on an occurrence basis. The minimum acceptable limits shall be as indicated below:

1. Commercial General Liability covering premises operations, independent contractors, products and completed operations, blanket contractual liability, personal injury (including death), advertising liability, and property damage, with a limit of not less than $1 million per occurrence/$2 million general aggregate;

2. Contractor must comply with any applicable State Workers Compensation or Employers Liability Insurance requirements.

c. Contractor shall pay premiums on all insurance policies. Contractor will use reasonable efforts to give thirty (30) days prior written notice to State prior to cancellation or non-renewal of any of the policies providing such coverage; provided, however that Contractor shall not be obligated to provide such notice if, concurrently with such cancellation or non-renewal, Contractor obtains coverage from different insurer(s) meeting the requirements described herein.

d. Prior to commencement of performance, Contractor shall provide to the Participating Entity a certificate of insurance showing the Contractor's general liability insurance policy or other documentary evidence acceptable to the Lead State that (1) names the Participating Entity as an additional insured, (2) provides that written notice of cancellation shall be delivered in accordance with the policy provisions, and (3) provides that the Contractor's liability insurance policy shall be primary, with any liability insurance of any Participating Entity as secondary and noncontributory. Unless otherwise agreed in any Participating Addendum, other state Participating Entities' rights

and Contractor's obligations are the same as those specified in the first sentence of this subsection except the endorsement is provided to the applicable state.

e. During the term of this Master Agreement, Contractor shall upon request provide to the Lead State and Participating Entities evidence of coverage that meets the requirements of this Section and the applicable Participating Addendum. Failure to provide evidence of coverage, within thirty (30) calendar days of receipt of request may, at the sole option of the Lead State, or any Participating Entity, result in this Master Agreement's termination or the termination of any Participating Addendum.

f. Coverage and limits shall not limit Contractor's liability and obligations under this Master Agreement, any Participating Addendum, or any Purchase Order.

29. **Administrative Fees.**

a. The Contractor shall pay to NASPO ValuePoint, or its assignee, a NASPO ValuePoint Administrative Fee of one-quarter of one percent (0.25% or 0.0025) no later than sixty (60) days following the end of each calendar quarter. The NASPO ValuePoint Administrative Fee shall be submitted quarterly and is based on all sales of products and services under the Master Agreement (less any charges for taxes or shipping). The NASPO ValuePoint Administrative Fee is not negotiable.

b. The NASPO ValuePoint Administrative Fee in this section shall be based on the gross amount of all sales (less any charges for taxes or shipping) at the adjusted prices (if any) in Participating Addenda.

c. Additionally, some states may require an additional fee be paid directly to the state only on purchases made by Purchasing Entities within that state. For all such requests, the fee level, payment method and schedule for such reports and payments will be incorporated into the Participating Addendum that is made a part of the Master Agreement. The Purchasing Entity may allow the Contractor to adjust the Master Agreement pricing to account for these additional fees for purchases made by Purchasing Entities within the jurisdiction of the Participating Entity. All such agreements shall not affect the NASPO ValuePoint Administrative Fee percentage or the prices paid by the Purchasing Entities outside the jurisdiction of the state requesting the additional fee.

30. **NASPO ValuePoint Reports**

a. Sales Data Reporting. In accordance with this section, Contractor shall report to NASPO ValuePoint all Orders under this Master Agreement for which Contractor has invoiced the ordering entity or individual, including Orders invoiced to Participating Entity or Purchasing Entity employees for personal use if such use is permitted by this Master Agreement and the applicable Participating Addendum ("Sales Data"). Timely and complete reporting of Sales Data is a material requirement of this Master Agreement. Reporting requirements, including those related to the format, contents, frequency, or delivery of reports, may be updated by NASPO ValuePoint with reasonable notice to Contractor and without amendment to this Master Agreement. NASPO ValuePoint shall have exclusive ownership of any media on which reports are submitted and shall have a perpetual, irrevocable, non-exclusive, royalty free, and transferable right to display, modify, copy, and otherwise use reports, data, and information provided under this section.

b. Summary Sales Data. "Summary Sales Data" is Sales Data reported as cumulative totals by state. Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Summary Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. If Contractor has no reportable Sales Data for the quarter, Contractor shall submit a zero-sales report.

c. Detailed Sales Data. "Detailed Sales Data" is Sales Data that includes for each Order all information required by the Solicitation or by NASPO ValuePoint, including customer information, Order information, and line-item details.

Contractor shall, using the reporting tool or template provided by NASPO ValuePoint, report Detailed Sales Data to NASPO ValuePoint for each calendar quarter no later than thirty (30) days following the end of the quarter. Detailed Sales Data shall be reported in the format provided in the Solicitation or provided by NASPO ValuePoint. The total sales volume of reported Detailed Sales Data shall be consistent with the total sales volume of reported Summary Sales Data.

d. Sales Data Crosswalks. Reserved.

e. Executive Summary. Contractor shall, upon request by NASPO ValuePoint, provide NASPO ValuePoint with an executive summary that includes but is not limited to a list of states with an active Participating Addendum, states with which Contractor is in negotiations, and any Participating Addendum roll-out or implementation activities and issues. NASPO ValuePoint and Contractor will determine the format and content of the executive summary.

31. **NASPO ValuePoint Cooperative Program Marketing, Training, and Performance Review.**

a. Contractor agrees to work cooperatively with NASPO ValuePoint personnel. Contractor agrees to present plans to NASPO ValuePoint for the education of Contractor's contract administrator(s) and sales/marketing workforce regarding the Master Agreement contract, including the competitive nature of NASPO ValuePoint procurements, the Master agreement and participating addendum process, and the manner in which qualifying entities can participate in the Master Agreement.

b. Contractor agrees, as Participating Addendums become executed, if requested by ValuePoint personnel to provide plans to launch the program within the Participating Entity. Plans will include time frames to launch the agreement and confirmation that the Contractor's website has been updated to properly reflect the contract offer as available in the Participating Entity.

c. Contractor agrees, absent anything to the contrary outlined in a Participating Addendum, to consider customer proposed terms and conditions, as deemed important to the customer, for possible inclusion into the customer agreement. Contractor will ensure that their sales force is aware of this contracting option.

d. Contractor agrees to participate in an annual contract performance review at a location selected by the Lead State and NASPO ValuePoint, which may include a discussion of marketing action plans, target strategies, marketing materials, as well as Contractor reporting and timeliness of payment of administration fees.

e. Contractor acknowledges that the NASPO ValuePoint logos may not be used by Contractor in sales and marketing until a logo use agreement is executed with NASPO ValuePoint.

f. The Lead State expects to evaluate the utilization of the Master Agreement at the annual performance review. Lead State may, in its discretion, cancel the Master Agreement pursuant to Paragraph 42 of Exhibit A, or not exercise an option to renew, when Contractor utilization does not warrant further administration of the Master Agreement. The Lead State may exercise its right to not renew the Master Agreement if contractor fails to record or report revenue for three consecutive quarters, upon 60-calendar day written notice to the Contractor. Cancellation based on nonuse or under-utilization will not occur sooner than two years after award of the Master Agreement. This subsection does not limit the discretionary right of either the Lead State or Contractor to cancel the Master Agreement pursuant to Paragraph 42 of Exhibit A or to terminate for default pursuant to Paragraph 44 of Exhibit A.

g. Contractor agrees to notify the Lead State and NASPO ValuePoint of any contractual most-favored-customer provisions in any Cooperative Purchasing Agreements that may affect the promotion of this Master Agreements or whose terms provide for adjustments to future rates or pricing based on rates, pricing in, or Orders from this master agreement. Upon request of the Lead State or NASPO ValuePoint, Contractor shall provide a copy of any such provisions. For the purposes of this paragraph, Cooperative Purchasing Agreement shall mean a cooperative

purchasing program facilitating public procurement solicitations and agreements using a lead agency model. This does not include contracts with any federal agency or any federal contract.

32. **Right to Publish.**

Throughout the duration of this Master Agreement, Contractor must secure from the Lead State prior approval for the public release of information that pertains to the potential work or activities covered by the Master Agreement. This limitation does not preclude publication about the award of the Master Agreement or marketing activities consistent with any proposed and accepted marketing plan. The Contractor shall not make any representations of NASPO ValuePoint's opinion or position as to the quality or effectiveness of the services that are the subject of this Master Agreement without prior written consent. Failure to adhere to this requirement may result in termination of the Master Agreement for cause.

33. **Records Administration and Audit.**

a. The Contractor shall maintain books, records, documents, and other evidence pertaining to this Master Agreement and Orders placed by Purchasing Entities under it to the extent and in such detail as shall adequately reflect performance and administration of payments and fees. Contractor shall permit the Lead State, a Participating Entity, a Purchasing Entity, the federal government (including its grant awarding entities and the U.S. Comptroller General), and any other duly authorized agent of a governmental agency, to audit, inspect, examine, copy and transcribe Contractor's books, documents, papers and records directly pertinent to this Master Agreement or orders placed by a Purchasing Entity under it for the purpose of making audits, examinations, excerpts, and transcriptions. This right shall survive for a period of six (6) years following termination of this Agreement or final payment for any order placed by a Purchasing Entity against this Agreement, whichever is later, or such longer period as is required by the Purchasing Entity's state statutes, to assure compliance with the terms hereof or to evaluate performance hereunder.

b. Without limiting any other remedy available to any governmental entity, the Contractor shall reimburse the applicable Lead State, Participating Entity, or Purchasing Entity for any overpayments inconsistent with the terms of the Master Agreement or Orders or underpayment of fees found as a result of the examination of the Contractor's records.

c. The rights and obligations herein exist in addition to any quality assurance obligation in the Master Agreement requiring the Contractor to self-audit contract obligations and that permits the Lead State to review compliance with those obligations.

34. **Indemnification**

a. General Indemnity. Contractor shall indemnify, defend (to the extent permitted by a state's Attorney General), and hold harmless an Indemnified Party from any claims or causes of action, including attorney's fees, to the extent arising from Contractor's intentional, willful, or negligent acts or omissions; actions that give rise to strict liability; and actions arising from breach of contract or warranty.

"Indemnified Party" means NASPO, NASPO ValuePoint, the Lead State, Participating Entities, and Purchasing Entities, along with their officers and employees.

The indemnification obligations of this section do not apply in the event the claim or cause of action is the result of the Indemnified Party's sole negligence. This clause will not be construed to bar any legal remedies the Contractor may have for the Indemnified Party's failure to fulfill its obligation under this Contract.

b. Intellectual Property Indemnification.

1. In the event of any such claim by any third party against the Indemnified Party that Products, Software, Services or Deliverables prepared, produced, or branded by Contractor and delivered pursuant to this Master Agreement infringe or misappropriate that third party's U.S. patent, copyright, trade secret, or other intellectual property rights ("Indemnified Claims"), the Indemnified Party shall promptly notify the Contractor. The Contractor, at its own expense, shall indemnify, defend to the extent permitted by the Indemnified Party's laws, and hold harmless the Indemnified Party against any loss, cost, expense, or liability (including legal fees) arising out of such a claim, whether or not such claim is successful against the Indemnified Party.

2. If Contractor receives prompt notice of such a claim that in the Contractor's opinion is likely to result in an adverse ruling, the Contractor shall at its option (1) obtain a right for the Indemnified Party to continue using such Products, Deliverables, or Software or allow Contractor to continue performing the Services; (2) modify such Products, Software, Services, or Deliverables to make them non-infringing without materially affecting their utility or functionality; (3) replace such Products, Software, Services, or Deliverables with a non-infringing equivalent; or (4) refund any pre-paid fees for the allegedly infringing Services that have not been performed or provide a reasonable depreciated or pro rata refund for the allegedly infringing Product, Deliverables, or Software.

3. Notwithstanding the foregoing, Contractor shall have no obligation under this Section for any claim resulting or arising from (1) modifications of the Products, Software, Services, or Deliverables that were not performed by, on behalf of, or at the direction of Contractor; (2) the combination, operation, or use of the Products, Software, Services, or Deliverables in connection with a third-party product, software or service (the combination of which causes the claimed infringement); or (3) Contractor's compliance with Indemnified Party's written specifications or directions, including the incorporation of any software or other materials or processes provided by or requested by Indemnified Party. Contractor's duty to indemnify and defend under this Section is contingent upon: (a) Contractor receiving prompt written notice of the third-party claim or action for which Contractor must indemnify Indemnified Party, (b) Contractor having the right to solely control the defense and resolution of such claim or action, unless the Indemnified Party's law requires approval for a third party to defend the Indemnified Party and such approval is not received, and (c) Indemnified Party's cooperation with Contractor in defending and resolving such claim or action. This Section states Indemnified Party's exclusive remedies for any third-party intellectual property claim or action and nothing in this Master Agreement or elsewhere will obligate Contractor to provide any greater indemnity to Indemnified Party.

35. **Limitations of Liability**

a. The Parties agree that neither Contractor nor the indemnified party shall be liable to each other, regardless of the form of action, for consequential, incidental, indirect, or special damages except any claim related to bodily injury or death; an unauthorized release or breach of not public data as set forth more fully in Minn. Ch. 13; or a claim or demand based on patent, copyright, or other intellectual property infringement.

b. Contractor's liability is limited to 2 times the amount paid by Purchasing Entity to Contractor during the 12 months preceding the date of the dispute concerning any products and services, or $5,000,000, whichever is greater. This limit on liability does not apply to claims for bodily injury or death or for intellectual property infringement.

c. Contractor's obligations under this section shall not extend to any combination of the Product with any other product, system or method, unless the Product, system or method is:

1. provided by the Contractor or the Contractor's subsidiaries or affiliates;

2. specified by the Contractor to work with the Product; or

3. reasonably required, in order to use the Product in its intended manner, and the infringement could not have been avoided by substituting another reasonably available product, system or method capable of performing the same function; or

4. It would be reasonably expected to use the Product in combination with such product, system or method.

36. **License of Pre-Existing Intellectual Property.**
Intentionally deleted.

37. **Assignment of Antitrust Rights.**
Contractor irrevocably assigns to a Participating Entity who is a state any claim for relief or cause of action which the Contractor now has or which may accrue to the Contractor in the future by reason of any violation of state or federal antitrust laws (15 U.S.C. § 1-15 or a Participating Entity's state antitrust provisions), as now in effect and as may be amended from time to time, in connection with any goods or services provided in that state for the purpose of carrying out the Contractor's obligations under this Master Agreement or Participating Addendum, including, at the Participating Entity's option, the right to control any such litigation on such claim for relief or cause of action.

38. **Debarment.**
The Contractor certifies that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction (contract) by any governmental department or agency. This certification represents a recurring certification made at the time any Order is placed under this Master Agreement. If the Contractor cannot certify this statement, attach a written explanation for review by the Lead State.

39. **Governing Law and Venue.**

a. The construction and effect of the Master Agreement after award shall be governed by the law of the state serving as Lead State. The construction and effect of any Participating Addendum or Order against the Master Agreement shall be governed by and construed in accordance with the laws of the Participating Entity's or Purchasing Entity's State.

b. Venue for any claim, dispute or action concerning the terms of the Master Agreement shall be in the state serving as Lead State. Venue for any claim, dispute, or action concerning any Order placed against the Master Agreement or the effect of a Participating Addendum shall be in the Purchasing Entity's State.

c. If a claim is brought in a federal forum, then it must be brought and adjudicated solely and exclusively within the United States District Court for (in decreasing order of priority): the Lead State for claims relating to contract performance or administration if the Lead State is a party; a Participating State if a named party; the state where the Participating Entity or Purchasing Entity is located if either is a named party.

40. **Confidentiality, Non-Disclosure, and Injunctive Relief.**

a. Confidentiality. Contractor acknowledges that it and its employees or agents may, in the course of providing a Product under this Master Agreement, be exposed to or acquire information that is confidential to Purchasing Entity or Purchasing Entity's clients.

1. Any and all information of any form that is marked as confidential by one party (the "originating party") and is or would by its nature be deemed confidential obtained by the other party or its employees or agents (the "receiving party") in the performance of this Master Agreement, including, but not necessarily limited to (1) any Purchasing Entity's records, (2) personnel records, and (3) information concerning individuals, is confidential information of the originating party ("Confidential Information").

2. Any reports or other documents or items (including software) that result from the use of the Confidential Information by the receiving party shall be treated in the same manner as the Confidential Information.

3. Confidential Information does not include information that (1) is or becomes (other than by disclosure by the receiving party) publicly known; (2) is furnished by the originating party to others without restrictions similar to those imposed by this Master Agreement; (3) is rightfully in the receiving party's possession without the obligation of nondisclosure prior to the time of its disclosure under this Master Agreement; (4) is obtained from a source other than the originating party without the obligation of confidentiality, (5) is disclosed with the written consent of the originating party or; (6) is independently developed by employees, agents or subcontractors of the receiving party who can be shown to have had no access to the Confidential Information.

b. Non-Disclosure. The receiving party shall hold Confidential Information in confidence, using at least the industry standard of confidentiality, and shall not copy, reproduce, sell, assign, license, market, transfer or otherwise dispose of, give, or disclose Confidential Information to third parties or use Confidential Information for any purposes whatsoever other than what is necessary to the performance of Orders placed under this Master Agreement.

1. Each party shall advise each of its employees and agents of their obligations to keep Confidential Information confidential. Contractor shall use commercially reasonable efforts to assist Purchasing Entity in identifying and preventing any unauthorized use or disclosure of any Confidential Information.

2. Without limiting the generality of the foregoing, the receiving party shall advise the originating party, and the applicable Participating Entity, and the Lead State if the originating party is a Purchasing Entity, and the Lead State if the originating party is a Participating Entity, immediately if the receiving party learns or has reason to believe that any person who has had access to Confidential Information has violated or intends to violate the terms of this Master Agreement, and the receiving party shall at its expense cooperate with advise the originating party in seeking injunctive or other equitable relief in the name of either party against any such person.

3. Except as directed by the originating party, the receiving party will not at any time during or after the term of this Master Agreement disclose, directly or indirectly, any Confidential Information to any person, except in accordance with this Master Agreement, and that upon termination of this Master Agreement or at the originating party's request, the receiving party shall turn over to the originating party all documents, papers, and other matter in the receiving party's possession that embody Confidential Information.

4. Notwithstanding the foregoing, Contractor may keep one copy of such Confidential Information necessary for quality assurance, audits and evidence of the performance of this Master Agreement, and Purchasing Entity may retain Confidential Information to the extent and for the duration required by applicable law.

c. Injunctive Relief. Each party acknowledges that the other party's breach of this section, including disclosure of any Confidential Information, will cause irreparable injury to originating party that is inadequately compensable in damages. Accordingly, the originating party may seek and obtain injunctive relief against the breach or threatened breach of the foregoing undertakings, in addition to any other legal remedies that may be available. Contractor acknowledges and agrees that the covenants contained herein are necessary for the protection of the legitimate business interests of Purchasing Entity and are reasonable in scope and content.

d. Purchasing Entity Law. These provisions shall be applicable only to extent they are not in conflict with the applicable public disclosure laws of any Purchasing Entity.

e. The rights granted Purchasing Entities and Contractor obligations under this section shall also extend to the cooperative's Confidential Information, defined to include Participating Addenda, as well as Orders or transaction data relating to Orders under this Master Agreement that identify the entity/customer, Order dates, line item

descriptions and volumes, and prices/rates. This provision does not apply to disclosure to the Lead State, a Participating State, or any governmental entity exercising an audit, inspection, or examination pursuant to Paragraph 33 of Exhibit A. To the extent permitted by law, Contractor shall notify the Lead State of the identity of any entity seeking access to the Confidential Information described in this subsection.

41. **Public Information.**
This Master Agreement and all related documents are subject to disclosure pursuant to the Lead State's public information laws.

42. **Cancellation.**
Unless otherwise set forth in this Master Agreement, this Master Agreement may be canceled by either party upon 60 days written notice prior to the effective date of the cancellation. Further, any Participating Entity may cancel its participation upon 30 days written notice, unless otherwise stated in the Participating Addendum. Cancellation may be in whole or in part. Any cancellation under this provision shall not affect the rights and obligations attending orders outstanding at the time of cancellation, including any right of a Purchasing Entity to indemnification by the Contractor, rights of payment for Products delivered and accepted, rights attending any warranty or default in performance in association with any Order, and requirements for records administration and audit. Cancellation of the Master Agreement due to Contractor default may be immediate as set forth in Paragraph 44 of Exhibit A.

43. **Force Majeure.**
Neither party to this Master Agreement shall be held responsible for delay or default caused by fire, riot, unusually severe weather, other acts of God, or war which are beyond that party's reasonable control. The Lead State may terminate this Master Agreement after determining such delay or default will reasonably prevent successful performance of the Master Agreement.

44. **Defaults and Remedies.**

a. The occurrence of any of the following events shall be an event of default under this Master Agreement:

1. Nonperformance of contractual requirements; or

2. A material breach of this Master Agreement; or

3. Any certification, representation or warranty by Contractor in response to the RFP or in this Master Agreement that proves to be untrue or materially misleading; or

4. Institution of proceedings under any bankruptcy, insolvency, court-ordered reorganization or similar law, by or against Contractor, or the appointment of a receiver or similar officer for Contractor or any of its property, which is not vacated or fully stayed within thirty (30) calendar days after the institution or occurrence thereof; or

5. Any default specified in another section of this Master Agreement.

b. Upon the occurrence of an event of default, except for material breach, the Lead State shall issue a written notice of default, identifying the nature of the default, and providing a period of 30 calendar days in which Contractor shall have an opportunity to cure the default. The Lead State shall not be required to provide advance written notice or a cure period and may immediately terminate this Master Agreement in whole or in part if the Lead State, in its sole discretion, determines that it is reasonably necessary to preserve public safety or prevent immediate public crisis. Time allowed for cure shall not diminish or eliminate Contractor's liability for damages, including liquidated damages to the extent provided for under this Master Agreement. The Lead State may immediately terminate this Master Agreement upon material breach of the Master Agreement by Contractor.

c. If Contractor is afforded an opportunity to cure and fails to cure the default within the period specified in the written notice of default, Contractor shall be in breach of its obligations under this Master Agreement and the Lead State shall have the right to exercise any or all of the following remedies:

1. Exercise any remedy provided by law; and
2. Terminate this Master Agreement and any related contracts or portions thereof; and
3. Impose liquidated damages as provided in this Master Agreement; and
4. Suspend Contractor from being able to respond to future bid solicitations; and
5. Suspend Contractor's performance; and
6. Withhold payment until the default is remedied.

d. Unless otherwise specified in the Participating Addendum, in the event of a default under a Participating Addendum, a Participating Entity shall provide a written notice of default as described in this section and shall have all of the rights and remedies under this paragraph regarding its participation in the Master Agreement, in addition to those set forth in its Participating Addendum. Unless otherwise specified in a Purchase Order, a Purchasing Entity shall provide written notice of default as described in this section and have all of the rights and remedies under this paragraph and any applicable Participating Addendum with respect to an Order placed by the Purchasing Entity. Nothing in these Master Agreement Terms and Conditions shall be construed to limit the rights and remedies available to a Purchasing Entity under the applicable commercial code.

45. **Waiver of Breach.**
Failure of the Lead State, Participating Entity, or Purchasing Entity to declare a default or enforce any rights and remedies shall not operate as a waiver under this Master Agreement or Participating Addendum. Any waiver by the Lead State, Participating Entity, or Purchasing Entity must be in writing. Waiver by the Lead State or Participating Entity of any default, right or remedy under this Master Agreement or Participating Addendum, or by Purchasing Entity with respect to any Purchase Order, or breach of any terms or requirements of this Master Agreement, a Participating Addendum, or Purchase Order shall not be construed or operate as a waiver of any subsequent default or breach of such term or requirement, or of any other term or requirement under this Master Agreement, Participating Addendum, or Purchase Order.

46. **Notices.**
If one party is required to give notice to the other under the Master Agreement, such notice shall be in writing and shall be effective upon receipt. Delivery may be by certified United States mail or by hand, in which case a signed receipt shall be obtained. A facsimile or electronic transmission shall constitute sufficient notice, provided the receipt of the transmission is confirmed by the receiving party. Either party must notify the other of a change in address for notification purposes. All notices to the Lead State shall be addressed as follows:

Elizabeth Randa, Acquisition Management Specialist
112 Administration Bldg.
50 Sherburne Avenue
St. Paul, MN 55155
elizabeth.randa@state.mn.us

47. **No Waiver of Sovereign Immunity.**
In no event shall this Master Agreement, any Participating Addendum or any contract or any Purchase Order issued thereunder, or any act of the Lead State, a Participating Entity, or a Purchasing Entity be a waiver of any form of defense

or immunity, whether sovereign immunity, governmental immunity, immunity based on the Eleventh Amendment to the Constitution of the United States or otherwise, from any claim or from the jurisdiction of any court.

This section applies to a claim brought against the Participating Entities who are states only to the extent Congress has appropriately abrogated the state's sovereign immunity and is not consent by the state to be sued in federal court. This section is also not a waiver by the state of any form of immunity, including but not limited to sovereign immunity and immunity based on the Eleventh Amendment to the Constitution of the United States.

**Exhibit B: Minnesota Terms and Conditions**

1. **Change Requests.**

The Lead State reserves the right to request, during the term of the Master Agreement, changes to the products offered within the Band(s). Products introduced during the term of the Master Agreement shall go through a formal review process. The process for updating the products offered within a Band is outlined in Paragraph 2 of Exhibit B. The Contractor shall evaluate and recommend products for which agencies have an expressed need. The Lead State shall require the Contractor to provide a summary of its research of those products being recommended for inclusion in the Master Agreement as well as defining how adding the product will enhance the Master Agreement. The Lead State may request that products, other than those recommended, are added to the Master Agreement.

In the event that the Lead State desires to add new products and services that are not included in the original Master Agreement, the Lead State requires that independent manufacturers and resellers cooperate with the already established Contractor in order to meet the Lead State's requirements. Evidence of the need to add products or services should be demonstrated to the Lead State. The Master Agreement shall be modified via supplement or amendment. The Lead State will negotiate the inclusion of the products and services with the Contractor. No products or services will be added to the Master Agreement without the Lead State's prior approval.

2. **Product and Service Schedule (PSS).**

a. Creating the Product and Service Schedule (PSS). Contractor will use the attached sample PSS to create and maintain a complete listing of all products and services offered under the Master Agreement. The PSS must conform to the contracted minimum discounts. Contractor may create and maintain a separate PSS for a Participating Entity based on the requirements and restrictions of the Participating Entity.

Contractors are encouraged to provide remote learning bundles for K-12 Education. These bundles can be included in the response to the PSS.

b. Maintaining the PSS.

1. In General. Throughout the term of the Master Agreement, on a quarterly basis, Contractor may update the PSS to make model changes, add new products or services, or remove obsolete or discontinued products or services. Any updates to the PSS must conform to the Master Agreement requirements, including the scope of the Master Agreement and contracted minimum discounts.

2. Process. Contractor must provide notification to the Lead State of any changes to their PSS using the attached Action Request Form (ARF).

a) The Lead State does not need to approve Contractor's request to make model changes, add their own manufactured products, or remove discontinued or obsolete products or services, and Contractor does not need the Lead State's approval prior to posting an updated PSS.

b) The Lead State must approve Contractor's request to add new third party manufacturers to Contractor's PSS. If the proposed third-party manufacturer holds a NASPO Master Agreement for Computer Equipment, Contractor must obtain written authorization from that manufacturer. Contractor must have the Lead State's approval prior to posting the updated PSS.

c) Contractor must maintain a historic record of all past PSSs on their dedicated NASPO ValuePoint website.

d) Pursuant to the audit provisions of the Master Agreement, upon the request of NASPO ValuePoint, the Lead State, or a Participating Entity, Contractor must provide an historic version of any Baseline Price List.

3. **Purchase Orders.**
There will be no minimum order requirements or charges to process an individual purchase order. The Participating Addendum number and the PO number must appear on all documents (e.g., invoices, packing slips, etc.). The Ordering Entity's purchase order constitutes a binding contract.

4. **Risk of Loss or Damage.**
The Purchasing Entity is relieved of all risks of loss or damage to the goods or equipment during periods of transportation, and installation by the Contractor and in the possession of the Contractor or their authorized agent.

5. **Payment Card Industry Data Security Standard and Cardholder Information Security.**
Contractor assures all of its Network Components, Applications, Servers, and Subcontractors (if any) comply with the Payment Card Industry Data Security Standard ("PCIDSS"). "Network Components" shall include, but are not limited to, Contractor's firewalls, switches, routers, wireless access points, network appliances, and other security appliances; "Applications" shall include, but are not limited to, all purchased and custom external (web) applications. "Servers" shall include, but are not limited to, all of Contractor's web, database, authentication, DNS, mail, proxy, and NTP servers. "Cardholder Data" shall mean any personally identifiable data associated with a cardholder, including, by way of example and without limitation, a cardholder's account number, expiration date, name, address, social security number, or telephone number.

Subcontractors (if any) must be responsible for the security of all Cardholder Data in its possession; and will only use Cardholder Data for assisting cardholders in completing a transaction, providing fraud control services, or for other uses specifically required by law. Contractor must have a business continuity program which conforms to PCIDSS to protect Cardholder Data in the event of a major disruption in its operations or in the event of any other disaster or system failure which may occur to operations; will continue to safeguard Cardholder Data in the event this Agreement terminates or expires; and ensure that a representative or agent of the payment card industry and a representative or agent of the Purchasing Entity shall be provided with full cooperation and access to conduct a thorough security review of Contractor's operations, systems, records, procedures, rules, and practices in the event of a security intrusion in order to validate compliance with PCIDSS.

6. **Foreign Outsourcing of Work.**
Upon request, the Contractor is required to provide information regarding the location of where services, data storage, and location of data processing under the Master Agreement will be performed.

7. **State Audits (Minn. Stat. § 16C.05, subd. 5).**
The books, records, documents, and accounting procedures and practices of the Contractor or other party, that are relevant to the Master Agreement or transaction are subject to examination by the contracting agency and either the Lead State's Legislative Auditor or State Auditor as appropriate for a minimum of six years after the end of the Master Agreement or transaction. The Lead State reserves the right to authorize delegate(s) to audit this Master Agreement and transactions.

8. **Certification of Nondiscrimination (in accordance with Minn. Stat. § 16C.053).**
If the value of this Contract, including all extensions, is $50,000 or more, Contractor certifies it does not engage in and has no present plans to engage in discrimination against Israel, or against persons or entities doing business in Israel, when making decisions related to the operation of the contractor's business. For purposes of this section, "discrimination" includes but is not limited to engaging in refusals to deal, terminating business activities, or other actions that are intended to limit commercial relations with Israel, or persons or entities doing business in Israel, when such actions are taken in a manner that in any way discriminates on the basis of nationality or national origin and is not based on a valid business reason.

9. **Human Rights/Affirmative Action.**
The Lead State requires affirmative action compliance by its Contractors in accordance with Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600.

a. Covered Contracts and Contractors. If the Contract exceeds $100,000 and the Contractor employed more than 40 full-time employees on a single working day during the previous 12 months in Minnesota or in the state where it has its principal place of business, then the Contractor must comply with the requirements of Minn. Stat. § 363A.36 and Minn. R. 5000.3400-5000.3600.

b. Minn. R. 5000.3400-5000.3600 implement Minn. Stat. § 363A.36. These rules include, but are not limited to, criteria for contents, approval, and implementation of affirmative action plans; procedures for issuing certificates of compliance and criteria for determining a contractor's compliance status; procedures for addressing deficiencies, sanctions, and notice and hearing; annual compliance reports; procedures for compliance review; and contract consequences for noncompliance. The specific criteria for approval or rejection of an affirmative action plan are contained in various provisions of Minn. R. 5000.3400 5000.3600 including, but not limited to, parts 5000.3420-5000.3500 and parts 5000.3552 5000.3559.

c. Disabled Workers. Minn. R. 5000.3550 provides the Contractor must comply with the following affirmative action requirements for disabled workers.

AFFIRMATIVE ACTION FOR DISABLED WORKERS

(a) The Contractor must not discriminate against any employee or applicant for employment because of physical or mental disability in regard to any position for which the employee or applicant for employment is qualified. The Contractor agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified disabled persons without discrimination based upon their physical or mental disability in all employment practices such as the following: employment, upgrading, demotion or transfer, recruitment, advertising, layoff or termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship.

(b) The Contractor agrees to comply with the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(c) In the event of the Contractor's noncompliance with the requirements of this clause, actions for noncompliance may be taken in accordance with Minn. Stat. § 363A.36 and the rules and relevant orders of the Minnesota Department of Human Rights issued pursuant to the Minnesota Human Rights Act.

(d) The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices in a form to be prescribed by the commissioner of the Minnesota Department of Human Rights. Such notices must state the Contractor's obligation under the law to take affirmative action to employ and advance in employment qualified disabled employees and applicants for employment, and the rights of applicants and employees.

(e) The Contractor must notify each labor union or representative of workers with which it has a collective bargaining agreement or other contract understanding, that the Contractor is bound by the terms of Minn. Stat. § 363A.36 of the Minnesota Human Rights Act and is committed to take affirmative action to employ and advance in employment physically and mentally disabled persons.

d. Consequences. The consequences of a Contractor's failure to implement its affirmative action plan or make a good faith effort to do so include, but are not limited to, suspension or revocation of a certificate of compliance by

the commissioner, refusal by the commissioner to approve subsequent plans, and termination of all or part of the Contract by the commissioner or the State.

e. Certification. The Contractor hereby certifies that it is in compliance with the requirements of Minn. Stat. § 363A.36, subd. 1 and Minn. R. 5000.3400-5000.3600 and is aware of the consequences for noncompliance. It is agreed between the parties that Minn. Stat. 363.36 and Minn. R. 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of Minn. Stat. § 363A.36 and Minn. R. 5000.3400 to 5000.3600 are available upon request from the contracting agency.

10. **Equal Pay Certification.**
If required by Minn. Stat. §363A.44, the Contractor must have a current Equal Pay Certificate prior to Contract execution. If Contractor's Equal Pay Certificate expires during the term of this Contract, Contractor must promptly re-apply for an Equal Pay Certificate with the Minnesota Department of Human Rights and notify the State's Authorized Representative once the Contractor has received the renewed Equal Pay Certificate. If Contractor claims to be exempt, the Lead State may require Contractor to verify its exempt status.

11. **Americans with Disabilities Act (ADA).**
Products provided under the Master Agreement must comply with the requirements of the Americans with Disabilities Act (ADA). The Contractor's catalog and other marketing materials utilized to offer products under the Master Agreement must state when a product is not in compliance. If any descriptive marketing materials are silent as to these requirements, the Contractor agrees that the customer can assume the product meets or exceeds the ADA requirements.

12. **Nonvisual Access Standards.**
Pursuant to Minn. Stat. § 16C.145, the Contractor shall comply with the following nonvisual technology access standards:

a. That the effective interactive control and use of the technology, including the operating system applications programs, prompts, and format of the data presented, are readily achievable by nonvisual means;

b. That the nonvisual access technology must be compatible with information technology used by other individuals with whom the blind or visually impaired individual must interact;

c. That nonvisual access technology must be integrated into networks used to share communications among employees, program participants, and the public; and

d. That the nonvisual access technology must have the capability of providing equivalent access by nonvisual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

These standards do not require the installation of software or peripheral devices used for nonvisual access when the information technology is being used by individuals who are not blind or visually impaired.

13. **Accessibility Standards.**
Contractor acknowledges and is fully aware that the Lead State (Executive branch state agencies) has developed IT Accessibility Standard effective September 1, 2010. The standard entails, in part, the Web Content Accessibility Guidelines (WCAG) and Section 508 which can be viewed at: https://mn.gov/mnit/government/policies/accessibility/.

The Standards apply to web sites, software applications, electronic reports and output documentation, training delivered in electronic formats (including, but not limited to, documents, videos, and webinars), among others. As upgrades are made to the software, products, or subscriptions available through this Contract, the Contractor agrees to

develop functionality which supports accessibility. If any issues arise due to nonconformance with the above-mentioned accessibility Standards, the Contractor agrees to provide alternative solutions upon request at no additional charge to the State.

When updates or upgrades are made to the products or services available through this Contract, the Contractor agrees to document how the changes will impact or improve the product's or service's accessibility and usability. This documentation, upon request, must be provided to the Lead State in advance of the change, occurring within an agreed upon timeframe sufficient for the state to review the changes and either approve them or request a remediation plan from the Contractor. Contractor warrants that its Products comply with the above-mentioned accessibility Standards and agrees to indemnify, defend, and hold harmless the Lead State against any claims related to non-compliance of Contractor's Product with the above-mentioned accessibility Standards. If agreed-upon updates fail to improve the product or service's accessibility or usability as planned, the failure to comply with this requirement may be cause for contract cancellation or for the Lead State to consider the Contractor in default.

14. **Conflict Minerals.**
Contractor agrees to provide information upon request regarding adherence to the Conflict Minerals section of the Dodd-Frank Wall Street Reform and Consumer Protection Act (Section 1502).

See: http://beta.congress.gov/111/bills/hr4173/111hr4173enr.pdf#page=838
http://www.sec.gov/news/press/2012/2012-163.htm

15. **Hazardous Substances.**
To the extent that the goods to be supplied by the Contractor contain or may create hazardous substances, harmful physical agents or infectious agents as set forth in applicable state and federal laws and regulations, the Contractor must provide Material Safety Data Sheets regarding those substances. A copy must be included with each delivery.

16. **Copyrighted Material Waiver.**
The Lead State reserves the right to use, reproduce and publish proposals in any manner necessary for State agencies and local units of government to access the responses, including but not limited to photocopying, State Intranet/Internet postings, broadcast faxing, and direct mailing. In the event that the response contains copyrighted or trademarked materials, it is the responder's responsibility to obtain permission for the Lead State to reproduce and publish the information, regardless of whether the responder is the manufacturer or reseller of the products listed in the materials. By signing its response, the responder certifies that it has obtained all necessary approvals for the reproduction and distribution of the contents of its response and agrees to indemnify, protect, save and hold the Lead State, its representatives and employees harmless from any and all claims arising from the violation of this section and agrees to pay all legal fees incurred by the Lead State in the defense of any such action.

17. **Publicity.**
The Contractor shall make no representations of the State's opinion or position as to the quality or effectiveness of the products or services that are the subject of the Master Agreement without the prior written consent of the State's Assistant Director or designee of Office of State Procurement. Representations include any publicity, including but not limited to advertisements, notices, press releases, reports, signs, and similar public notices.

18. **Performance While Dispute is Pending.**
Notwithstanding the existence of a dispute, the parties shall continue without delay to carry out all of their responsibilities under the Master Agreement that are not affected by the dispute. If a party fails to continue without delay to perform its responsibilities under the Master Agreement, in the accomplishment of all undisputed work, any additional cost incurred by the other parties as a result of such failure to proceed shall be borne by the responsible party.

19. **Organizational Conflicts of Interest.**
An organizational conflict of interest exists when, because of existing or planned activities or because of relationships with other persons:

a. the Contractor is unable or potentially unable to render impartial assistance or advice to the State;

b. the Contractor's objectivity in performing the work is or might be otherwise impaired; or

c. the Contractor has an unfair competitive advantage.

The Contractor agrees that if an organizational conflict of interest is discovered after award, an immediate and full disclosure in writing shall be made to the Assistant Director of the Lead State's Department of Administration's Office of State Procurement that shall include a description of the action the Contractor has taken or proposes to take to avoid or mitigate such conflicts. If an organizational conflict of interest is determined to exist, the Lead State may, at its discretion, cancel the Master Agreement. In the event the Contractor was aware of an organizational conflict of interest prior to the award of the Master Agreement and did not disclose the conflict to the Master Agreement Administrator, the Lead State may terminate the Master Agreement for default. The provisions of this clause shall be included in all subcontracts for work to be performed, and the terms "Contract," "Contractor," "Master Agreement", "Master Agreement Administrator" and "Contract Administrator" modified appropriately to preserve the State's rights.

20. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion**

a. Certification regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – Lower Tier Covered Transactions. Instructions for certification:

1. By signing and submitting this proposal, the prospective lower tier participant [responder] is providing the certification set out below.

2. The certification in this clause is a material representation of fact upon which reliance was placed when this transaction was entered into. If it is later determined that the prospective lower tier participant knowingly rendered an erroneous certification, in addition to other remedies available to the federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.

3. The prospective lower tier participant shall provide immediate written notice to the person to whom this proposal [response] is submitted if at any time the prospective lower tier participant learns that its certification was erroneous when submitted or had become erroneous by reason of changed circumstances.

4. The terms covered transaction, debarred, suspended, ineligible lower tier covered transaction, participant, person, primary covered transaction, principal, proposal, and voluntarily excluded, as used in this clause, have the meaning set out in the Definitions and Coverages section of rules implementing Executive Order 12549. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations.

5. The prospective lower tier participant agrees by submitting this response that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction [subcontract equal to or exceeding $25,000] with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated.

6. The prospective lower tier participant further agrees by submitting this proposal that it will include this clause titled, "Certification Regarding Debarment, Suspension, Ineligibility, and Voluntary Exclusion – Lower Tier Covered Transaction," without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions.

7. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that it is not proposed for debarment under 48 CFR part 9, subpart 9.4, debarred, suspended, ineligible, or voluntarily excluded from covered transactions, unless it knows that the certification is erroneous. A participant may decide the method and frequency by which it determines the eligibility of its principals. Each participant may, but is not required to, check the list of parties excluded from federal procurement and nonprocurement programs.

8. Nothing contained in the foregoing shall be construed to require establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of a participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

9. Except for transactions authorized under paragraph 5 of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is proposed for debarment under 48 CFR part 9, subpart 9.4, suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal government, the department or agency with which this transaction originated may pursue available remedies, including suspension and debarment.

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

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal department or agency.

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

21. **Government Data Practices.**

The Contractor and the Lead State must comply with the Minnesota Government Data Practices Act, Minn. Stat. Ch. 13, (and where applicable, if the Lead State contracting party is part of the judicial branch, with the Rules of Public Access to Records of the Judicial Branch promulgated by the Minnesota Supreme Court as the same may be amended from time to time) as it applies to all data provided by the Lead State to the Contractor and all data provided to the Lead State by the Contractor. In addition, the Minnesota Government Data Practices Act applies to all data created, collected, received, stored, used, maintained, or disseminated by the Contractor in accordance with the Master Agreement that is private, nonpublic, protected nonpublic, or confidential as defined by the Minnesota Government Data Practices Act, Ch. 13 (and where applicable, that is not accessible to the public under the Rules of Public Access to Records of the Judicial Branch).

In the event the Contractor receives a request to release the data referred to in this article, the Contractor must immediately notify the Lead State. The Lead State will give the Contractor instructions concerning the release of the data to the requesting party before the data is released. The civil remedies of Minn. Stat. § 13.08, apply to the release of the data by either the Contractor or the Lead State.

The Contractor agrees to indemnify, save, and hold the Lead State, its agent and employees, harmless from all claims arising out of, resulting from, or in any manner attributable to any violation of any provision of the Minnesota

Government Data Practices Act (and where applicable, the Rules of Public Access to Records of the Judicial Branch), including legal fees and disbursements paid or incurred to enforce this provision of the Master Agreement. In the event that the Contractor subcontracts any or all of the work to be performed under the Master Agreement, the Contractor shall retain responsibility under the terms of this article for such work.

22. **Survivability.**
Certain rights and duties of the Lead State and Contractor will survive the expiration or cancellation of the RFP and resulting Master Agreement. These rights and duties include but are not limited to paragraphs: Indemnification; Limitations of Liability; State Audits; Government Data Practices; Governing Law and Venue; Publicity; and Administrative Fees.

23. **Severability.**
If any provision of the Master Agreement, including items incorporated by reference, is found to be illegal, unenforceable, or void, then both the Lead State and the Contractor shall be relieved of all obligations arising under such provisions. If the remainder of the Master Agreement is capable of performance it shall not be affected by such declaration or finding and shall be fully performed.

## Exhibit C: Requirements

1. **Contractor Verification.**

Contractor must be a manufacturer of a Product in the Band(s) it is awarded a Master Agreement. "Re-branding" a product that is manufactured by another company does not meet this requirement. If the Contractor ceases production, sells or assigns their manufacturing to another vendor, or otherwise no longer manufactures a product during the life of the Master Agreement the Lead State reserves the right to terminate the Contractor's Master Agreement.

2. **Warranty and Maintenance.**

Contractor must ensure warranty service and maintenance for all equipment, including third party products provided. The Contractor must facilitate the Manufacturer or Publisher warranty and maintenance of third party products furnished through the Master Agreement. The Contractor shall provide the warranty service and maintenance for equipment and all peripherals on the Master Agreement.

3. **Website.**

Contractor must develop and maintain a URL to a web site specific to the awarded Master Agreement. Contractor's Master Agreement website must offer twenty-four (24) hours per day, seven (7) days per week availability, except for regularly scheduled maintenance times. The website must be separate from the Contractor's commercially available (i.e., public) on-line catalog and ordering systems. No other items or pricing may be shown on the website without written approval from the Lead State

a. Mandatory Specifications:

- Designated Baseline Price List(s) (e.g., MSRP, List, or Education)
- Product and Service Schedule (PSS)
- Product specifications, pricing, and configuration aids for the major product categories proposed that can be used to obtain an on-line quote,
- Service options and service agreements available on the contract. Please refer to Paragraph 5.
- Contact information for order placement, service concerns (warranty and maintenance), problem reporting, and billing concerns
- Sales representatives for participating entities
- Links to environmental certification, including but not limited to take-back/recycling programs, EPEAT, Energy Star, etc.

b. Desirable Specifications:

- Purchase order tracking
- Information on accessibility and accessible products
- Signed Master Agreement
- Online ordering capability with the ability to remember multiple ship to locations (if applicable to product)
- List of approved partners, if applicable

Within 30 calendar days of the notice of intent to award a Master Agreement, Contractor must provide a sample URL of the Master Agreement webpage to the Lead State for review and approval. The Lead State will review and determine acceptability of the website format and data. If the information is determined to be unacceptable or incorrect, the Contractor will have 15 calendar days to provide revisions to the Lead State. After the Lead State approves the website, Contractor may not make material changes to the website without notifying the Lead State through the ARF process and receiving written approval of the changes.

4. **Environmental Certifications.**
Contractor must include environmental or supply chain responsibility certifications and registrations for products sold through this Contract on their website. Contractor must provide these certifications and registrations for specific products to Participating Entities upon request.

5. **EPEAT Registration.**
Contractor agrees that applicable products offered that have EPEAT Standards provided under the Master Agreement must have achieved a minimum EPEAT Bronze registration. This requirement does not apply to Band 3.

Contractor may propose the addition of a product that has not yet achieved a minimum EPEAT Bronze registration. The Lead State, in its sole discretion may require Contractor to provide the following documentation to support the addition of the proposed product:

- A letter from the Green Electronics Council (GEC) on GEC's letterhead confirming that the verification process is underway; or
- A copy of Contractor's GEC contract, Conformity Assurance Board (CAB) contract, and a letter from Contractor's CAB stating that the relevant product has been registered with the CAB and that verification is underway.

The Lead State reserves the right to reject the inclusion of such product, or if approved, require Contractor to remove the product at a later date if the product does not achieve a minimum EPEAT Bronze registration. The Contractor must remove any products that subsequently exit the verification process without achieving EPEAT Bronze or greater from the Master Agreement.

6. **Third-Party Products.**
Some products offered may be manufactured by a third party. Contractor, however, must provide or facilitate the warranty service and maintenance for all Third-Party Products on the Master Agreement either directly or pass-through from the manufacturer. Contractor may not offer products manufactured by another Contractor holding a Minnesota NASPO ValuePoint Master Agreement for Computer Equipment without approval from the Lead State. Warranty for third-party products must be provided by the Contractor. Warranty documents for products manufactured by a third party are preferred to be delivered to the Participating Entity with the products. Contractor can only offer Third-Party Products in a Band they have been awarded.

Third-Party Products are intended to enhance or supplement a Contractor's own product line, and are not intended to represent more than a third of Contractor's total sales under this Master Agreement. The Lead State may limit the sale of Third-Party Products through the Master Agreement during the life of the Master Agreement should Third-Party Product sales be determined to consistently exceed one third of the total sales under this Master Agreement. Such limitation may take the form of any action the Lead State so chooses, up to and including non-renewal or cancellation of the Master Agreement.

7. **Partner Utilization.**
If utilizing partners, the Contractor is responsible for the partners providing products and services, as well as warranty service and maintenance for equipment the partner provides. Participating Entities have the option of utilizing partners. Contractor must provide a Participating Entity a copy of its plan for partner utilization upon request. Contractor must make available a list of approved partners for each Participating Entity. Participating Entities must approve specific Partners as outlined within the relevant Participating Addendum, and only partners approved by the Participating Entity may be deployed. The Participating Entity will define the process to add and remove partners in their Participating Addendum.

8. **2019 National Defense Authorization Act, Section 889(f)(3).**
Under the 2019 National Defense Authorization Act, Section 889(f)(3), the US military is prohibited from purchasing video surveillance and telecommunications equipment from certain Chinese-owned technology firms. While US state are

not subject to this act, there is increasing concern for the security of state data. Contractor certifies for the term of this Master Agreement that it is not subject to laws, rules, or policies potentially requiring disclosure of, or provision of access to, customer data to foreign governments or entities controlled by foreign governments, and that Contractor's Products do not contain, include, or utilize components or services supplied by any entity subject to the same. Contractor also certifies that its Products do not contain, include, or utilize any covered technology prohibited under Section 889 of the National Defense Authorization Act, as amended.

**Exhibit D: Pricing Schedule**

Attached and incorporated into this Master Agreement as Exhibit D is the Price Schedule.

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# Exhibit D: Price Schedule

*NASPO ValuePoint Computer Equipment (2023-2028)*
**CONTROL SET**

**Master Agreement:** 23004
**Contractor Name:** Dell Marketing, LP

**Awarded Bands:**

x Band 1: Personal Computing Devices (Windows)
x Band 2: Personal Computing Devices (Non-Windows)
x Band 3: Servers and Storage

| Band | Category Code | Category Description | Discount off Baseline List |
|---|---|---|---|
| 1 | 1B | Band 1 - Minimum Discount | 18.0% |
| 1 | 1T | Band 1 - Third Party Product Minimum Discount | 5.5% |
| 2 | 2B | Band 2 - Minimum Discount | 18.0% |
| 2 | 2T | Band 2 - Third Party Product Minimum Discount | 5.5% |
| 3 | 3B | Band 3 - Minimum Discount | 18.0% |
| 3 | 3T | Band 3 - Third Party Product Minimum Discount | 5.5% |
| | S-1 | Standalone Services | 4.0% |
| | S-2 | Warranty Services | 4.0% |
| | S-3 | Training and Other Professional Services | 4.0% |

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# Exhibit D: Price Schedule

**Discount Structure**

**Master Agreement:** 23004
**Contractor Name:** Dell Marketing, LP
**Baseline Price List:** Posted on Contractor's dedicated NASPO ValuePoint website

**Band 1: Personal Computer Equipment (Windows OS)**

| Band | Category Code | Category Description | Discount off Baseline List |
|---|---|---|---|
| **1** | **1B** | **Band 1 - Minimum Discount** | **18.0%** |
| 1 | 1B-1 | Desktops - Alienware, Inspiron, Vostro, XPS | 0.5% |
| 1 | 1B-2 | Notebooks - Alienware, Inspiron, Vostro, XPS | 2.5% |
| 1 | 1B-3 | Projectors/Monitors/Other Electronics | 2.5% |
| 1 | 1B-4 | Displays | 2.5% |
| 1 | 1B-5 | Imaging | 2.5% |
| 1 | 1B-6 | Dell Branded - Printer accessories, parts, and toner | 1.5% |
| 1 | 1B-7 | Spare Parts related to Band 1 | 0.5% |
| 1 | 1B-8 | Customer Kits | 15.0% |
| 1 | 1B-9 | Ready to Ship configurations | 4.0% |
| **1** | **1T** | **Band 1 - Third Party Product Minimum Discount** | **5.5%** |
| 1 | 1T-1 | Selected Third Party - Software and Peripherals | 0.5% |

**Band 2: Personal Computer Equipment (Non-Windows OS)**

| Band | Category Code | Category Description | Discount off Baseline List |
|---|---|---|---|
| **2** | **2B** | **Band 2 - Minimum Discount** | **18.0%** |
| 2 | 2B-1 | Commercial Chromebooks | 15.0% |
| 2 | 2B-2 | Consumer Chromebooks | 15.0% |
| 2 | 2B-3 | Projectors/Monitors/Other Electronics | 2.5% |
| 2 | 2B-4 | Displays | 2.5% |
| 2 | 2B-5 | Imaging | 2.5% |
| 2 | 2B-6 | Dell Branded - Printer accessories, parts, and toner | 1.5% |
| 2 | 2B-7 | Spare Parts related to Band 2 | 0.5% |
| 2 | 2B-8 | Customer Kits | 15.0% |
| 2 | 2B-9 | Ready to Ship configurations | 4.0% |
| **2** | **2T** | **Band 2 - Third Party Product Minimum Discount** | **5.5%** |
| 2 | 2T-1 | Selected Third Party - Software and Peripherals (Non-discountable) | 0.5% |

**Band 3: Servers and Storage**

| Band | Category Code | Category Description | Discount off Baseline List |
|---|---|---|---|
| **3** | **3B** | **Band 3 - Minimum Discount** | **18.0%** |
| 3 | 3B-1 | Spare Parts related to Band 3 | 0.5% |
| 3 | 3B-2 | Customer Kits | 15.0% |
| **3** | **3T** | **Band 3 - Third Party Product Minimum Discount** | **5.5%** |
| 3 | 3T-1 | Selected Third Party - Software and Peripherals | 0.5% |

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# Exhibit D: Price Schedule

**Volume-Based Discounts**

**Master Agreement:** 23004
**Contractor Name:** Dell Marketing, LP

## Bands 1 & 2

**1. Per Transaction Multiple Unit Discount(s)**

*Contractor provides a contractual volume discount program as follows based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity, or multiple entities conducting a cooperative purchase.*

| Min $ Single Transaction | Max $ Single Transaction | Per Transaction Multiple Unit Discount |
|---|---|---|
| $100,000.00 | $199,999.99 | 1.0% |
| $200,000.00 | $399,999.99 | 2.0% |
| $400,000.00 | $599,999.99 | 4.0% |
| $600,000.00 | $999,999.99 | 6.0% |
| $1,000,000.00 | No Maximum | 8.0% |

Note: Per Transaction Multiple Unit Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers

**2. Cumulative Discount(s)**

*Contractor provides a cumulative volume discount as follows based on dollars resulting from the cumulative purchases by all purchases made by Purchasing Entities for the duration of the Master Agreement.*

| Threshold | Discount Level |
|---|---|
| Up to 2B | 0.0% |
| $2B to $4B | 1.0% |
| $4B to $6B | 2.0% |
| $6B to $8B | 3.0% |
| $8B to $10B | 4.0% |
| Greater than $10B | 5.0% |

Note: Cumulative Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers

**3. Other Discount(s)**

| |
|---|
| none |

## Band 3

**1. Per Transaction Multiple Unit Discount(s)**

*Contractor provides a contractual volume discount program as follows based on dollars in a single purchase order or combination of purchase orders submitted at one time by a Purchasing Entity, or multiple entities conducting a cooperative purchase.*

| Min $ Single Transaction | Max $ Single Transaction | Per Transaction Multiple Unit Discount |
|---|---|---|
| $250,000.00 | $499,999.99 | 1.0% |
| $500,000.00 | $999,999.99 | 2.0% |
| $1,000,000.00 | $1,499,999.99 | 4.0% |
| $1,500,000.00 | $1,999,999.99 | 6.0% |
| $2,000,000.00 | No Maximum | 8.0% |

Note: Per Transaction Multiple Unit Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers.

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**2. Cumulative Discount(s)**

*Contractor provides a cumulative volume discount as follows based on dollars resulting from the cumulative purchases by all purchases made by Purchasing Entities for the duration of the Master Agreement.*

| Column1 | Discount Level |
|---|---|
| Up to 2B | 0.0% |
| $2B to $4B | 1.0% |
| $4B to $6B | 2.0% |
| $6B to $8B | 3.0% |
| $8B to $10B | 4.0% |
| Greater than $10B | 5.0% |

Note: Cumulative Discount does not apply to Category Exceptions, 3rd party products, services, and special promotional offers.

**3. Other Discount(s)**

*Additional discount(s) available.*

| |
|---|
| none |

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# Exhibit D: Price Schedule



**Master Agreement:** 23004
**Contractor Name:** Dell Marketing, LP

Each Purchasing Entity will determine if and how services will be offered in the Participating

Travel for Services will be negotiated with each Participating Entity in the Participating Addendum.

| All Awarded Bands | | |
|---|---|---|
| **Category Code** | **Description of Service** | **Percent Discount** |
| S-1 | Standalone Services | 4.0% |
| S-2 | Warranty Services | 4.0% |
| S-3 | Training and Other Professional Services | 4.0% |

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# Exhibit D: Price Schedule



**Master Agreement:** 23004
**Contractor Name:** Dell Marketing, LP

**All Awarded Bands**

**Optional: Lease Rates**

Dell Financial Services (DFS') payment solutions offer flexible end-of term options designed to suit each entity's unique needs. Payment terms are generally from 24 through 60 months and are tailored to match the essential useful life of the equipment to the payment term. Payments can be billed monthly, quarterly, semi-annually or annually.

DFS payment solution rates are adjusted quarterly in accordance with a formula based on fluctuations in treasury notes. Our rates are a function of several factors including estimates of future residual values, prevailing interest rates, borrowing costs, general and administrative expenses, and solution structure. Once a payment schedule has commenced, the rate remains constant for the term of the schedule.

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# Exhibit D: Price Schedule

**Prompt Payment Discount**

**Master Agreement:** 23004
**Contractor Name:** Dell Marketing, LP

**All Awarded Bands**

| | | |
|---|---|---|
| | | in 30 |
| | | in 15, Net 30 |
| | | in 10, Net 30 |
| X | | Net 30 |
| | Other (specify): | |

**Exhibit E: Contractor Terms and Conditions**

Attached by reference as Exhibit E are the following Contractor document(s):

- **Software Licenses.** Customer's rights to use the Software delivered by Supplier are governed by the terms of the applicable end-user license agreement. Unless different terms have been agreed between the parties, the terms posted on www.dell.com/eula (the "EULA") shall apply. Supplier will provide a hard copy of the applicable terms upon request. Unless expressly otherwise agreed, microcode, firmware or operating system software required to enable the Equipment with which it is shipped to perform its basic or enhanced functions, is licensed for use solely on such Equipment.

- **Dell Return Policy.** Customer may return Products to Supplier pursuant to the return policy at www.dell.com/returnspolicy.

- **Equipment Warranty.** Unless provided otherwise in a Schedule, additional terms governing the limited warranties for Equipment are found at https://www.dell.com/learn/us/en/uscorp1/terms-of-sale-commercial-and-public-sector-warranties?c=us&l=en&s=corp or in the applicable documentation or Product Notice for the specific Equipment.

- **Product- and Service-Specific Terms.** Scope and details of Services and Product-specific terms are specified in the applicable standard service description that is attached to or referred in a Schedule or Quote, or is made available through the then-current Supplier website for product- or service-specific terms, currently located at www.dell.com/offeringspecificterms. Such standard descriptions are from time to time referred to as "Service Description(s)", "Product Notices" or "Service Briefs." The version of the applicable document that is effective as of the date of the applicable Quote, shall be deemed incorporated into the Order. Scope and details of customized Professional Services not covered by such a standard description shall be documented in a mutually agreed Statement of Work ("SOW").

These Contractor terms and conditions are being provided for **informational purposes only**. They are intended to be negotiated by Contractor and a Participating Entity as part of a Participating Addendum, or by Contractor and a Purchasing Entity as part of an Order, and shall apply only as agreed to in writing by the parties. Unless such terms are expressly accepted in writing, terms in the following document(s) that derogate the application to a Purchasing Entity of a corresponding term in this Master Agreement or applicable Participating Addendum shall be deemed void.

Ronda Perez
City Manager

Roxanne Faber
Acting City Clerk

William P Curley, III
Interim City Attorney

# A quote for your consideration

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we've created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your **Premier page**, or, if you do not have Premier, use this **Quote to Order**.

| | | | |
|---|---|---|---|
| **Quote No.** | **3000158289890.2** | Sales Rep | Charlie Ballon |
| **Total** | **$313,474.66** | Phone | (800) 456-3355, 80000 |
| Customer # | 6940179 | Email | Charlie.Ballon@Dell.com |
| Quoted On | Aug. 10, 2023 | **Billing To** | STUART THOMPSON<br>CITY OF PALMDALE<br>38300 SIERRA HWY<br>STE D<br>PALMDALE, CA 93550-4611 |
| Expires by | Sep. 09, 2023 | | |
| Contract Name | Dell NASPO Computer Equipment PA - California | | |
| Contract Code | C000000181156 | | |
| Customer Agreement # | MNWNC-108 / 7-15-70-34-003 | | |
| Solution ID | 18053992.29 | | |
| Deal ID | 23626292 | | |

**Message from your Sales Rep**

Please contact your Dell sales representative if you have any questions or when you are ready to place an order. Thank you for shopping with Dell!

Regards,
Charlie Ballon

## Shipping Group 1 of 3

**Shipping To**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Shipping Method**

Standard Delivery

**Install At**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Solution Name:**

5-Node NVMe

| Product | Unit Price | Quantity | Subtotal |
|---|---|---|---|
| **AX-750** | **$51,598.91** | **5** | **$257,994.55** |


Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

## Shipping Group 2 of 3

**Shipping To**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Shipping Method**

Standard Delivery

**Install At**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Solution Name:**

Switches

| | | | |
|---|---|---|---|
| **PowerSwitch S5224-ON** | **$11,326.64** | **2** | **$22,653.28** |

## Shipping Group 3 of 3

**Shipping To**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Shipping Method**

Standard Delivery

**Install At**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Solution Name:**

Migration

| | | | |
|---|---|---|---|
| **Non-tied Enterprise Deployment and Professional Services - [DELLSTAR_1211]** | **$10,436.26** | **1** | **$10,436.26** |

| | |
|---|---|
| **Subtotal:** | **$291,084.09** |
| **Shipping:** | **$0.00** |
| **Non-Taxable Amount:** | **$72,639.46** |
| **Taxable Amount:** | **$218,444.63** |
| **Estimated Tax:** | **$22,390.57** |
| **Total:** | **$313,474.66** |


Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

## Shipping Group 1 of 3, Details

**Shipping To**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Shipping Method**

Standard Delivery

**Install At**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Solution Name:**

5-Node NVMe

| | | Quantity | Subtotal |
|---|---|---|---|
| **AX-750**<br>Estimated delivery if purchased today:<br>Aug. 24, 2023<br>Contract # C000000181156<br>Customer Agreement # MNWNC-108 / 7-15-70-34-003 | **$51,598.91** | **5** | **$257,994.55** |

| Description | SKU | Unit Price | Quantity | Subtotal |
|---|---|---|---|---|
| 2.5 Chassis | 379-BDTF | - | 5 | - |
| NVMe Backplane | 379-BDSX | - | 5 | - |
| No Rear Storage | 379-BDTE | - | 5 | - |
| No GPU Enablement | 379-BDSR | - | 5 | - |
| Dell EMC AX-750 | 210-BBSN | - | 5 | - |
| Azure Stack HCI Operating System | 379-BEHV | - | 5 | - |
| Luggage Tag Label, Azure Stack HCI | 350-BCBR | - | 5 | - |
| NVMe Node, Azure Stack HCI | 350-BCCE | - | 5 | - |
| Lug Tag, Azure Stack HCI AX-750 | 350-BCGU | - | 5 | - |
| All NVMe Config | 350-BCCB | - | 5 | - |
| IDM, AX-750 | 350-BCKG | - | 5 | - |
| Trusted Platform Module 2.0 V3 | 461-AAIG | - | 5 | - |
| 2.5" Chassis with up to 24 NMVe Drives | 321-BGXU | - | 5 | - |
| Intel Xeon Platinum 8358 2.6G, 32C/64T, 11.2GT/s, 48M Cache, Turbo, HT (250W) DDR4-3200 | 338-CBCH | - | 5 | - |
| Intel Xeon Platinum 8358 2.6G, 32C/64T, 11.2GT/s, 48M Cache, Turbo, HT (250W) DDR4-3200 | 338-CBCH | - | 5 | - |
| Additional Processor Selected | 379-BDCO | - | 5 | - |
| Heatsink for 2 CPU with GPU configuration | 412-AAVC | - | 5 | - |
| Performance Optimized | 370-AAIP | - | 5 | - |
| 3200MT/s RDIMMs | 370-AEVR | - | 5 | - |
| C30, No RAID for NVME chassis | 780-BCDO | - | 5 | - |
| No Controller | 405-AACD | - | 5 | - |
| No Hard Drive | 400-ABHL | - | 5 | - |
| UEFI BIOS Boot Mode with GPT Partition | 800-BBDM | - | 5 | - |
| Very High Performance Fan x6 | 750-ADGJ | - | 5 | - |
| Dual, Hot-Plug,Power Supply Redundant (1+1), 1400W, Mixed Mode | 450-AJHG | - | 5 | - |
| Riser Config 2, Full Length, 4x16, 2x8 slots, DW GPU Capable | 330-BBRW | - | 5 | - |


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| | | | | |
|---|---|---|---|---|
| R750 Motherboard with Broadcom 5720 Dual Port 1Gb On-Board LOM | 329-BFGT | - | 5 | - |
| iDRAC9 Datacenter 15G | 528-CRVW | - | 5 | - |
| OpenManage Integration with MS Windows Admin Center Premium License for MSFT HCI Solutions, Perpetual | 528-CJIT | - | 5 | - |
| Broadcom 57414 Dual Port 10/25GbE SFP28, OCP NIC 3.0 | 540-BCOC | - | 5 | - |
| Azure Stack HCI, 2U Standard Bezel | 325-BEEY | - | 5 | - |
| BOSS-S2 controller card + with 2 M.2 240GB (RAID 1) | 403-BCMG | - | 5 | - |
| BOSS Cables and Bracket for R750 (Riser 1) | 470-AERR | - | 5 | - |
| Quick Sync 2 (At-the-box mgmt) | 350-BBYW | - | 5 | - |
| iDRAC,Legacy Password | 379-BCSG | - | 5 | - |
| iDRAC Group Manager, Disabled | 379-BCQY | - | 5 | - |
| Microsoft Azure Stack HCI OS 22H2 | 634-BZYZ | - | 5 | - |
| Windows Server 2022 Datacenter,16CORE,DF Recovery Image, Multi Lang, (Downgrade not included) | 528-CSCT | - | 5 | - |
| Windows Server 2022 Datacenter,16CORE,Secondary OS,Media Kit, Multi Lang, (Downgrade not included) | 634-BYLT | - | 5 | - |
| Windows Server 2022 Datacenter,No Media,WS2019 DC Downgrade DF Media, Multi Language | 528-CSCS | - | 5 | - |
| Windows Server 2022 Datacenter,No Media, WS2019 DC Downgrade w/DVD Media,Multi Lang | 634-BYLR | - | 5 | - |
| Windows Server 2022 Datacenter,16CORE,Secondary OS,No MEDIA,Unlimited VMs | 634-BYKB | - | 5 | - |
| ReadyRails Sliding Rails | 770-BBBQ | - | 5 | - |
| Cable Management Arm, 2U | 770-BDRQ | - | 5 | - |
| Fan Foam, HDD 2U | 750-ACOM | - | 5 | - |
| No Systems Documentation, No OpenManage DVD Kit | 631-AACK | - | 5 | - |
| PowerEdge R750 Shipping | 340-CULS | - | 5 | - |
| PowerEdge R750 Shipping Material | 481-BBFG | - | 5 | - |
| PowerEdge R750 CE Marking, No CCC Marking | 389-DYHE | - | 5 | - |
| Dell/EMC label (BIS) for 2.5" Chassis | 389-DYHF | - | 5 | - |
| Dell Hardware Limited Warranty Plus Onsite Service | 865-7971 | - | 5 | - |
| ProSupport Mission Critical 4-Hour 7X24 Onsite Service with Emergency Dispatch 3 Years | 865-7974 | - | 5 | - |
| ProSupport Mission Critical 4-Hour 7X24 Onsite Service with Emergency Dispatch 2 Years Extended | 865-7978 | - | 5 | - |
| ProSupport Mission Critical 7X24 Technical Support and Assistance 5 Years | 865-7993 | - | 5 | - |
| Dell Limited Hardware Warranty Plus Service, Extended Year(s) | 975-3462 | - | 5 | - |
| Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355 | 989-3439 | - | 5 | - |
| ProDeploy Plus No Charge Training 200 | 812-4011 | - | 5 | - |
| ProDeploy Plus for AX 1U-2U | 839-3618 | - | 5 | - |
| 32GB RDIMM, 3200MT/s, Dual Rank 16Gb BASE x8 | 370-AGDS | - | 80 | - |
| 7.68TB Enterprise NVMe Read Intensive AG Drive U.2 Gen4 with carrier | 400-BKGU | - | 30 | - |

| | | | | |
|---|---|---|---|---|
| Power Cord - C13, 3M, 125V, 15A (North America, Guam, North Marianas, Philippines, Samoa, Vietnam) | 450-AALV | - | 10 | - |
| C13 to C14, PDU Style, 12 AMP, 6.5 Feet (2m) Power Cord, North America | 492-BBDI | - | 10 | - |
| Mellanox ConnectX-5 Dual Port 10/25GbE SFP28 Adapter, PCIe Low Profile, V2 | 540-BDIN | - | 5 | - |
| Dell Networking, Cable, SFP28 to SFP28, 25GbE, Passive Copper Twinax Direct Attach Cable, 3 Meter | 470-ACEV | - | 20 | - |
| Windows Server 2022/2019 Datacenter Edition,Add License,16CORE,NO MEDIA/KEY | 634-BYJQ | - | 15 | - |

| | |
|---|---|
| **Subtotal:** | **$257,994.55** |
| **Shipping:** | **$0.00** |
| **Estimated Tax:** | **$21,579.57** |
| **Total:** | **$279,574.12** |

## Shipping Group 2 of 3, Details

**Shipping To**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Shipping Method**

Standard Delivery

**Install At**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Solution Name:**

Switches

| | | Quantity | Subtotal |
|---|---|---|---|
| **PowerSwitch S5224-ON**<br>Estimated delivery if purchased today:<br>Aug. 21, 2023<br>Contract # C000000181156<br>Customer Agreement # MNWNC-108 / 7-15-70-34-003 | **$11,326.64** | **2** | **$22,653.28** |

| Description | SKU | Unit Price | Quantity | Subtotal |
|---|---|---|---|---|
| Dell EMC S5224F-ON Switch, 24x 25GbE SFP28, 4x 100GbE QSFP28 ports, PSU to IO air, 2x PSU | 210-APHT | - | 2 | - |
| Dell EMC S52XX-ON Series User Guide | 343-BBLP | - | 2 | - |
| OS10 Enterprise, S5224F-ON | 634-BRWJ | - | 2 | - |
| OS10 SmartFabric Services | 634-BYIJ | - | 2 | - |
| Dell Hardware Limited Warranty 1 Year | 818-4983 | - | 2 | - |
| Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, 1 Year | 818-4992 | - | 2 | - |
| Mission Critical Package: 4-Hour 7x24 On-Site Service with Emergency Dispatch, Extended to 4 Years | 818-4994 | - | 2 | - |
| ProSupport Mission Critical:7x24 HW/SW Technical Support and Assistance, 5 Years | 818-5006 | - | 2 | - |
| Dell Limited Hardware Warranty Extended Year(s) | 975-3461 | - | 2 | - |
| Thank you choosing Dell ProSupport. For tech support, visit //www.dell.com/support or call 1-800- 945-3355 | 989-3439 | - | 2 | - |
| Info 3rd Party Software Warranty provided by Vendor | 997-6306 | - | 2 | - |
| ProDeploy Plus Dell Networking S Series 5XXX Switch - Deployment | 804-2152 | - | 2 | - |


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| | | | | |
|---|---|---|---|---|
| ProDeploy Plus Dell Networking S Series 5XXX Switch - Deployment Verification | 804-2153 | - | 2 | - |
| ProDeploy Plus No Charge Training 500 | 812-4037 | - | 2 | - |
| 5 Years ProSupport OS10 Enterprise Software Support-Maintenance | 848-8539 | - | 2 | - |
| Dell Networking, Transceiver, SFP+, 10GbE, SR, 850nm Wavelength, 300m Reach | 407-BCZR | - | 4 | - |
| Dell Networking Cable, 100GbE QSFP28 to QSFP28, Passive Copper Direct Attach Cable, 0.5 Meter | 470-ABOU | - | 2 | - |
| Dell Networking, Jumper Cord, 250V, 12A, 2 Meters, C13/C14, US | 450-AASX | - | 2 | - |
| Dell Networking, Jumper Cord, 250V, 12A, 2 Meters, C13/C14, US | 450-AASX | - | 2 | - |

| | |
|---|---|
| **Subtotal:** | **$22,653.28** |
| **Shipping:** | **$0.00** |
| **Estimated Tax:** | **$811.00** |
| **Total:** | **$23,464.28** |

## Shipping Group 3 of 3, Details

**Shipping To**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Shipping Method**

Standard Delivery

**Install At**

MATHEW KUNZE
CITY OF PALMDALE
38300 SIERRA HWY
PALMDALE, CA 93550
(661) 267-5537

**Solution Name:**

Migration

| | | Quantity | Subtotal |
|---|---|---|---|
| **Non-tied Enterprise Deployment and Professional Services - [DELLSTAR_1211]** | **$10,436.26** | **1** | **$10,436.26** |

Estimated delivery if purchased today:
Aug. 16, 2023
Contract # C000000181156
Customer Agreement # MNWNC-108 / 7-15-70-34-003

| Description | SKU | Unit Price | Quantity | Subtotal |
|---|---|---|---|---|
| Data Migration Services: Remote Virtual V2V Migration 10-50 VMs (Per VM) | 848-8795 | - | 43 | - |

| | |
|---|---|
| **Subtotal:** | **$10,436.26** |
| **Shipping:** | **$0.00** |
| **Estimated Tax:** | **$0.00** |
| **Total:** | **$10,436.26** |


Dell Marketing LP. U.S. only. Dell Marketing LP. is located at One Dell Way, Mail Stop 8129, Round Rock, TX 78682

# Important Notes

## Terms of Sale

This Quote will, if Customer issues a purchase order for the quoted items that is accepted by Supplier, constitute a contract between the entity issuing this Quote ("Supplier") and the entity to whom this Quote was issued ("Customer"). Unless otherwise stated herein, pricing is valid for thirty days from the date of this Quote. All product, pricing and other information is based on the latest information available and is subject to change. Supplier reserves the right to cancel this Quote and Customer purchase orders arising from pricing errors. Taxes and/or freight charges listed on this Quote are only estimates. The final amounts shall be stated on the relevant invoice. Additional freight charges will be applied if Customer requests expedited shipping. Please indicate any tax exemption status on your purchase order and send your tax exemption certificate to Tax_Department@dell.com or ARSalesTax@emc.com, as applicable.

**Governing Terms**: This Quote is subject to: (a) a separate written agreement between Customer or Customer's affiliate and Supplier or a Supplier´s affiliate to the extent that it expressly applies to the products and/or services in this Quote or, to the extent there is no such agreement, to the applicable set of Dell's Terms of Sale (available at www.dell.com/terms or www.dell.com/oemterms), or for cloud/as-a-Service offerings, the applicable cloud terms of service (identified on the Offer Specific Terms referenced below); and (b) the terms referenced herein (collectively, the "Governing Terms"). Different Governing Terms may apply to different products and services on this Quote. The Governing Terms apply to the exclusion of all terms and conditions incorporated in or referred to in any documentation submitted by Customer to Supplier.

**Supplier Software Licenses and Services Descriptions**: Customer's use of any Supplier software is subject to the license terms accompanying the software, or in the absence of accompanying terms, the applicable terms posted on www.Dell.com/eula. Descriptions and terms for Supplier-branded standard services are stated at www.dell.com/servicecontracts/global or for certain infrastructure products at www.dellemc.com/en-us/customer-services/product-warranty-and-service-descriptions.htm.

**Offer-Specific, Third Party and Program Specific Terms**: Customer's use of third-party software is subject to the license terms that accompany the software. Certain Supplier-branded and third-party products and services listed on this Quote are subject to additional, specific terms stated on www.dell.com/offeringspecificterms ("Offer Specific Terms").

**In case of Resale only**: Should Customer procure any products or services for resale, whether on standalone basis or as part of a solution, Customer shall include the applicable software license terms, services terms, and/or offer-specific terms in a written agreement with the end-user and provide written evidence of doing so upon receipt of request from Supplier.

**In case of Financing only**: If Customer intends to enter into a financing arrangement ("Financing Agreement") for the products and/or services on this Quote with Dell Financial Services LLC or other funding source pre-approved by Supplier ("FS"), Customer may issue its purchase order to Supplier or to FS. If issued to FS, Supplier will fulfill and invoice FS upon confirmation that: (a) FS intends to enter into a Financing Agreement with Customer for this order; and (b) FS agrees to procure these items from Supplier. Notwithstanding the Financing Agreement, Customer's use (and Customer's resale of and the end-user's use) of these items in the order is subject to the applicable governing agreement between Customer and Supplier, except that title shall transfer from Supplier to FS instead of to Customer. If FS notifies Supplier after shipment that Customer is no longer pursuing a Financing Agreement for these items, or if Customer fails to enter into such Financing Agreement within 120 days after shipment by Supplier, Customer shall promptly pay the Supplier invoice amounts directly to Supplier.

Customer represents that this transaction does not involve: (a) use of U.S. Government funds; (b) use by or resale to the U.S. Government; or (c) maintenance and support of the product(s) listed in this document within classified spaces. Customer further represents that this transaction does not require Supplier's compliance with any statute, regulation or information technology standard applicable to a U.S. Government procurement.

For certain products shipped to end users in California, a State Environmental Fee will be applied to Customer's invoice. Supplier encourages customers to dispose of electronic equipment properly.

Electronically linked terms and descriptions are available in hard copy upon request.

**^DELL BUSINESS CREDIT (DBC):** Offered to business customers by WebBank, who determines qualifications for and terms of credit. Taxes, shipping and other charges are extra and vary. The Total Minimum Payment Due is the greater of either $20 or 3% of the New Balance shown on the statement rounded up to the next dollar, plus all past due amounts. Dell and the Dell logo are trademarks of Dell Inc.

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 08/21/2023

**THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.**

**IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).**

**PRODUCER**
MARSH RISK & INSURANCE SERVICES
FOUR EMBARCADERO CENTER, SUITE 1100
CALIFORNIA LICENSE NO. 0437153
SAN FRANCISCO, CA 94111
Attn: SanFrancisco.Certs@marsh.com / FAX 212-948-0398
CN101640193-STND-GAWUE-23-

**CONTACT NAME:**
**PHONE (A/C, No, Ext):** | **FAX (A/C, No):**
**E-MAIL ADDRESS:**

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| **INSURER A :** National Union Fire Ins Co Pittsburgh PA | 19445 |
| **INSURER B :** AIU Insurance Co | 19399 |
| **INSURER C :** Lloyd's of London-Syndicate 2623/623 at Lloyd's | 15792 |
| **INSURER D :** | |
| **INSURER E :** | |
| **INSURER F :** | |

**INSURED**
Dell Technologies Inc.
and all Subsidiaries
One Dell Way - RR1-50
Round Rock, TX 78682

**COVERAGES** **CERTIFICATE NUMBER:** SEA-003940950-03 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | | |
|---|---|---|---|---|---|---|---|---|---|
| A | X **COMMERCIAL GENERAL LIABILITY** | | | 6547039 | 03/01/2023 | 03/01/2024 | EACH OCCURRENCE | $ | 5,000,000 |
| | CLAIMS-MADE [X] OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ | 5,000,000 |
| | | | | | | | MED EXP (Any one person) | $ | 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ | 5,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ | 10,000,000 |
| | X POLICY [ ] PRO-JECT [ ] LOC | | | | | | PRODUCTS - COMP/OP AGG | $ | 10,000,000 |
| | OTHER: | | | | | | | $ | |
| A | **AUTOMOBILE LIABILITY** | | | 6890179 (AOS) | 03/01/2023 | 03/01/2024 | COMBINED SINGLE LIMIT (Ea accident) | $ | 5,000,000 |
| B | X ANY AUTO | | | 6890178 (MA) | 03/01/2023 | 03/01/2024 | BODILY INJURY (Per person) | $ | |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ | |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ | |
| | | | | | | | | $ | |
| | **UMBRELLA LIAB** OCCUR | | | | | | EACH OCCURRENCE | $ | |
| | **EXCESS LIAB** CLAIMS-MADE | | | | | | AGGREGATE | $ | |
| | DED RETENTION $ | | | | | | | $ | |
| B | **WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N | | | WC015824825 (AOS) | 03/01/2023 | 03/01/2024 | X PER STATUTE / OTH-ER | | |
| B | ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? [N] | N / A | | WC015824826 (CA) | 03/01/2023 | 03/01/2024 | E.L. EACH ACCIDENT | $ | 1,000,000 |
| B | **(Mandatory in NH)** If yes, describe under DESCRIPTION OF OPERATIONS below | | | WC015824827 (WI) | 03/01/2023 | 03/01/2024 | E.L. DISEASE - EA EMPLOYEE | $ | 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ | 1,000,000 |
| C | Professional E&O/ Technology Errors & Omissions | | | B0509FINPT2350059 SIR: $20,000,000 | 06/01/2023 | 06/01/2024 | Each Claim/Aggregate (Claims Made) | | 15,000,000 |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**
The City of Palmdale, Successor Agency to the Community Redevelopment Agency of the City of Palmdale, Palmdale Civic Authority, Housing Authority, Industrial Development Authority, Airport Authority, their officers, agents, employees and volunteers are included as additional insured where required by written contract with respect to General Liability and Auto Liability. Any such coverage extended to the additional insured will apply as primary and non-contributory, to the extent of liability assumed under contract. Waiver of subrogation applies where required by written contract and permitted by law.

**CERTIFICATE HOLDER**

CITY OF PALMDALE
38300 Sierra Hwy., Suite D
Palmdale, CA 93550

**CANCELLATION**

**SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.**

**AUTHORIZED REPRESENTATIVE**

*Marsh Risk & Insurance Services*

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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - SCHEDULED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

**SCHEDULE**

| Name Of Additional Insured Person(s) Or Organization(s) | Location(s) Of Covered Operations |
|---|---|
| ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTERED INTO. | PER THE CONTRACT OR AGREEMENT. |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |


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**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

1. Your acts or omissions; or
2. The acts or omissions of those acting on your behalf;

in the performance of your ongoing operations for the additional insured(s) at the location(s) designated above.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following additional exclusions apply:

This insurance does not apply to "bodily injury" or "property damage" occurring after:

1. All work, including materials, parts or equipment furnished in connection with such work, on the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the location of the covered operations has been completed; or
2. That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project.

**C.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.


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**THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.**

# ADDITIONAL INSURED - OWNERS, LESSEES OR CONTRACTORS - COMPLETED OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
PRODUCTS/COMPLETED OPERATIONS LIABILITY COVERAGE PART

**SCHEDULE**

| Name Of Additional Insured Person(s) Or Organization(s) | Location And Description Of Completed Operations |
|---|---|
| ANY PERSON OR ORGANIZATION WHOM YOU BECOME OBLIGATED TO INCLUDE AS AN ADDITIONAL INSURED AS A RESULT OF ANY CONTRACT OR AGREEMENT YOU HAVE ENTER INTO. | PER THE CONTRACT OR AGREEMENT |
| Information required to complete this Schedule, if not shown above, will be shown in the Declarations. | |

**A. Section II – Who Is An Insured** is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury" or "property damage" caused, in whole or in part, by "your work" at the location designated and described in the Schedule of this endorsement performed for that additional insured and included in the "products-completed operations hazard".

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

**B.** With respect to the insurance afforded to these additional insureds, the following is added to **Section III – Limits Of Insurance:**

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable limits of insurance;

whichever is less.

This endorsement shall not increase the applicable limits of insurance.


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**ENDORSEMENT**

This endorsement, effective 12:01 A.M. 03/01/2023
forms a part of Policy No. 689-01-78
issued to DELL TECHNOLOGIES, INC.
by A I U INSURANCE COMPANY

## ADDITIONAL INSURED - WHERE REQUIRED UNDER CONTRACT OR AGREEMENT

*This endorsement modifies insurance provided under the following:*

BUSINESS AUTO COVERAGE FORM

**SCHEDULE**

**ADDITIONAL INSURED:**

**ANY PERSON OR ORGANIZATION FOR WHOM YOU ARE CONTRACTUALLY BOUND TO PROVIDE ADDITIONAL INSURED STATUS. BUT ONLY TO THE EXTENT OF SUCH PERSON'S OR ORGANIZATION'S LIABILITY ARISING OUT OF THE USE OF A COVERED "AUTO".**

I. **SECTION II - COVERED AUTOS LIABILITY COVERAGE, A. Coverage, 1. - Who Is Insured,** is amended to add:

d. Any person or organization, shown in the schedule above, to whom you become obligated to include as an additional insured under this policy, as a result of any contract or agreement you enter into which requires you to furnish insurance to that person or organization of the type provided by this policy, but only with respect to liability arising out of use of a covered "auto". However, the insurance provided will not exceed the lesser of:

(1) The coverage and/or limits of this policy, or

(2) The coverage and/or limits required by said contract or agreement.

AUTHORIZED REPRESENTATIVE

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **FINANCE DEPARTMENT**
**INFORMATION TECHNOLOGY DIVISION**

**DISTRICT:** **ALL**

**SUBJECT:** **APPROVE FIRST AMENDMENT TO AGREEMENT WITH DATALINK NETWORKS, INC. FOR MICROSOFT LICENSING TO INCREASE THE CONTRACT PRICE BY $292,804 FOR AN AMOUNT NOT TO EXCEED $677,964 FOR THE REMAINDER OF THE TERM, THROUGH OCTOBER 4, 2025.**

## ISSUE

Approve First Amendment to Agreement with Datalink Networks, Inc. for Microsoft Licensing to increase the contract price by $292,804 for an amount not to exceed $677,964 for the remainder of the term, through October 4, 2025.

## RECOMMENDATION

Staff recommends that the City Council:

1. Approve First Amendment to Agreement with Datalink Networks, Inc. for Microsoft Licensing to increase the contract price by $292,804 for an amount not to exceed amount of $677,964 for the remainder of the term, through October 4, 2025.

2. Authorize the City Manager or her designee to execute Agreement with Datalink Networks, Inc., including non-substantive changes.

## BACKGROUND

The City has contracted with Datalink Networks since November 2022 and is currently under contract to provide Office 365 G3 licensing, which includes the standard Microsoft Office Suite (Word, Excel, Outlook OneDrive, Teams, PowerPoint and Entra ID Premium P2 - advanced identity services) licensing to the City, for a cost of $116,715 annually. Additionally, the City has a contract with Insight Public Sector for Windows licensing for a cost of $45,700 annually. The existing agreement with Insight Public Sector will be eliminated at the end of the term in November 2023.

The proposed contract amendment with Datalinks Networks would consolidate current licensing into a single Microsoft government contract, eliminating the need for multiple contracts covering various standalone components.

In addition to consolidating services under a single agreement, this amendment proposes the inclusion of additional Microsoft services, including Power BI (Business Intelligence) for real-time analytics, Visio, Intune for enterprise device management, and VoIP telephone services.

## DISCUSSION

Microsoft 365 G5 is a comprehensive software suite that includes Microsoft Office, email, VoIP phone service, Microsoft Windows, identity services, and several other cloud-based software offerings.

All pricing in this agreement is based on the OMNIA cooperative contract. Consolidation is expected to be complete by June 2026 with the implementation of Microsoft-based VoIP service, resulting in savings of approximately $18,000 annually thereafter.

The Microsoft VoIP telephone services would allow the City to integrate telephone service directly into the Microsoft Teams platform while maintaining the existing phone hardware already purchased with the current vendor. By bundling these services, the City would save the $72,000 paid annually to the current VoIP provider.

Intune device management is an additional feature bundled in the Microsoft 365 G5 license that would allow the City's IT team to manage and deploy computers to support daily operations. This service is on the roadmap to be implemented in Fiscal Year 2023-24 and will significantly improve IT staff efficiency.

Power BI (Business Intelligence) is an additional feature bundled with the Microsoft 365 G5 license that would allow all users to create real-time analytic reports to help better drive data-based decision-making across the organization. Adopting this technology across the organization is expected to take approximately three years and is anticipated to be fully implemented by June 2026.

## FISCAL IMPACT

The agreement with Datalinks is proposed to increase by $292,804, for a not-to-exceed amount of $677,964, for the three (3) year term through October 2025. Funds are budgeted and available in FY 2023-24 in account 15316001-774400, Information Technology Capital Outlay. Additional savings will be recognized over the three (3) year term in the amount of $54,813.

## STRATEGIC PLAN

Goal III: 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.

| | |
|---|---|
| Prepared by: | Matthew Kunze, IT Analyst |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William Patrick Curley III, Interim City Attorney |

**Attachments:**

1. First Amendment to Agreement with Datalinks Networks, Inc.

**1ST AMENDMENT TO AGREEMENT A-8052**
**BETWEEN THE CITY OF PALMDALE AND DATALINK NETWORKS, INC.**

This 1ST Amendment to Agreement No. A-8052 (“Agreement”) is made and entered into by and between the City of Palmdale (hereinafter called “CITY”) and DATALINK NETWORKS, INC. (hereinafter called "CONTRACTOR"). This Contract shall become effective on the date of the last signatory.

WHEREAS, on November 1, 2022 ("Original Agreement") the CITY and CONTRACTOR entered into an agreement to provide:

Provide a 3-year license for Office 365 Government G3 GCC.
Year 1 - $116,715.00
Year 2 - $116,715.00
Year 3 - $116,715.00
10% Contingency - $35,014.00
Total - $385,159.00

WHEREAS, the parties desire to amend the Original Agreement to:

Amend the Agreement to upgrade the licenses from Office 365 Government G3 GCC to Microsoft 365 Government for G5 GCC.
Year 1 - $116,715.00
Year 2 - $249,808.00
Year 3 - $249,808.00
10% Contingency - $61,633.00
Total - $677,964.00

NOW THEREFORE, the parties agree as follows:

1. Upgrade licenses from O365 G3 to M365 G5
2. Agreement is hereby increased by an additional Two Hundred, Ninety-Two Thousand Dollars ($292,804), bringing the total amount of the contract to Six Hundred Seventy-Seven Thousand, Nine Hundred Sixty-Four Dollars ($677,964)

All other terms and conditions of the Original Agreement not amended herein, remain in full force and effect.

**In Witness Whereof,** the parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized.

CITY OF PALMDALE:

Ronda Perez
City Manager

JS
Signed: 9/5/2023

ADDRESS FOR NOTICE:
CITY OF PALMDALE
38300 Sierra Hwy., Suite D
Palmdale, CA 93550

APPROVE AS TO FORM:

William Patrick Curley III
Signed: 9/7/2023

William P. Curley, III
Interim City Attorney

ATTEST:

Roxanne Faber
Acting City Clerk

DATALINK NETWORKS, INC.:

Donald Wisdom
Signed: 9/5/2023

Don Wisdom
President

ADDRESS FOR NOTICE:
DATALINK NETWORKS, INC.
28110 Avenue Stanford, Unit A
Santa Clarita, CA 91355

---------- INTERNAL USE ONLY ----------

■Certificate(s) and Endorsement(s) attached
■Confirmed business name on contract with certificate(s)
■Original contract and previous amendment(s) (if any) are attached
■Attached Agreement Checklist and met all requirements

# Record of Signing

For
Name
Title



**Signed on 2023-09-05 15:32:53 GMT**

Secured by Concord™
DocumentID: OTE3MTYwYTItOD
SigningID: NDVmM2I4MzYtMD
Signing date: 9/5/2023
IP Address: 206.171.111.149
Email: jsamson@cityofpalmdale.org

For
Name
Title



**Signed on 2023-09-05 21:50:54 GMT**

Secured by Concord™
DocumentID: OTE3MTYwYTItOD
SigningID: MzM2MWFjNmUtMD
Signing date: 9/5/2023
IP Address: 76.242.118.161
Email: donw@datalinknetworks.net

For
Name
Title



**Signed on 2023-09-07 16:40:06 GMT**

Secured by Concord™
DocumentID: OTE3MTYwYTItOD
SigningID: NDBjNTQ2YzAtZW
Signing date: 9/7/2023
IP Address: 107.131.11.226
Email: wcurley@harperburns.com

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# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PARKS AND RECREATION DEPARTMENT**

**DISTRICT:** **ALL**

**SUBJECT:** **APPROVE SERVICE AGREEMENT WITH WILSON EVENTS, INC. TO PROVIDE ENTERTAINMENT BOOKING AND MANAGEMENT SERVICES**

## ISSUE

Approve Service Agreement with Wilson Events, Inc., to provide entertainment booking and management services.

## RECOMMENDATION

Staff recommends that the City Council:

1. Approve Service Agreement A-8504 with Wilson Events, Inc. to provide entertainment booking and management services; and,

2. Authorize the City Manager or their designee to execute the Service Agreement and take all necessary actions to implement the approved measures.

## BACKGROUND

Wilson Events, Inc. has provided entertainment booking services for the City of Palmdale, State of California, and support to clients throughout the United States over the past several years. Services received include access to all national touring vocal performance artists, negotiating performance conditions and house provisions, providing onsite management of artist personnel on the day of the event, coordination with the stage production crew, and rental of show production equipment required by the artist and not supplied by the tour. Wilson Events, Inc. provides complete turnkey services offering continual support from artist booking through performance.

Wilson Events, Inc. is a significant talent buyer supporting most summer tours and routes throughout the Western United States. The many corporate and private clients that utilize their services enhance their buying power. Wilson Events, Inc. is in daily contact with national artist agencies and has developed close connections with various management companies. These connections enable them to retain up-to-date artist touring information. During the last 30 years, Wilson Events, Inc. reports to have booked and produced over

$450 million in talent purchases and has served hundreds of clients on various levels throughout the country.

## DISCUSSION

The City requires entertainment booking services to secure nationally recognized vocal artists for performances. Booking services include management support from booking to the performance date, including contract terms and conditions negotiation. Additional support is provided to enforce City amendments to artist agreements, which protects the City's interests and requirements. Additional services include stage production coordination, media support, artist's guest and fan club support, and direct liaison with the artist manager to address any onsite needs.

Per Ordinance No. 1599, Section 3.08.140, services from specified professional classifications, including entertainment services, may be procured without regard to the dollar amount of the contract. Professional services are exempt from the competitive process and shall be selected based on qualifications. The service agreement's initial term will be for a two-year term, with two optional, mutually agreed upon, one-year extensions.

## FISCAL IMPACT

The agreement with Wilson Events, Inc. will not exceed $250,000 for the total term of the contract. Funds for this agreement are currently budgeted in Contract Services, Concert Program account 101-42001-722134-1088. Annual funding necessary for ongoing expenses will be evaluated and approved as part of the City's budget adoption process.

## 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.

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

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

| | |
|---|---|
| Prepared by: | Keri Smith, Director of Parks and Recreation |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

Agreement No. A-8504

**AGREEMENT NO. A-8504**
**CONTRACT FOR SERVICES**
**BETWEEN THE CITY OF PALMDALE AND WILSON EVENTS INCORPORATED**

**This CONTRACT for services** ("Contract" herein) is made and entered into by and between the City of Palmdale, a public body corporate and politic, (hereinafter called "CITY"), and WILSON EVENTS INCORPORATED, a California Corporation , (hereinafter called "CONTRACTOR"). This Contract shall become effective on the date of the last signatory.

## RECITALS

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in this Contract.

NOW THEREFORE, CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

## 1 CITY PROJECT MANAGER

To provide the services required by this Contract, CONTRACTOR shall act under the authority and approval of Keri Smith Director/designee, who shall oversee this Contract, the work performed by CONTRACTOR, assist CONTRACTOR with any necessary information, audit billings, and approve payments. The CONTRACTOR shall channel all contacts and requests through the City project manager.

## 2 DESCRIPTION OF WORK

2.1 CONTRACTOR shall provide the following services in a manner satisfactory to CITY:

• Provide booking and onsite production services for the Palmdale Concert Series.

• Consult and develop a talent plan including projections of budget and program considerations with regard to audience appeal, potential, and appropriateness to Concert Series.

• Secure booking for Palmdale Concert Series and facilitate City contact and insurance requirements.

• Identify, review and facilitate all backline and rider requirements.

• The Proposer should be qualified in the following:

  • Demonstrated ability to secure timely booking of quality regional and national acts.

• Demonstrated ability to effectively identify and budget for all backline, rider, and contractual costs including lodging, hospitality, transport, equipment, sound, and staging.

• Demonstrated ability to provide quality production services.

• Demonstrated ability to work effectively with sponsors, event volunteers, and other service providers.

• Experience working with performers' booking agents and representatives to meet the specific requirements of each artist's contractual provisions.

• Demonstrated ability to work as a consultant with a government agency and provide quality services before, during, and after the scheduled event.

2.2 CONTRACTOR shall have no claim for compensation for any services or work, which has not been authorized by CITY's Authorization to Proceed.

2.3 CONTRACTOR shall not accept any change of scope, or change in contract provisions, to this Contract unless issued in writing, as a contract change order or amendment and signed by CITY. Any extensions of time must be mutually agreed upon in writing and executed by both parties.

2.4 CONTRACTOR shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.

2.5 All work supplied under this Contract shall be fully guaranteed by CONTRACTOR for a minimum period of 30 days from the date of acceptance by CITY. Any defects of design, workmanship, or materials that would result in non-compliance with the Contract specifications shall be fully corrected by CONTRACTOR (including parts and labor) without cost to CITY. The written warranty shall be included with the delivered products to the using Department.

2.6 CITY shall provide to CONTRACTOR, without charge, all data, program information, including reports, records, maps, and other information, now in CITY's possession, which may facilitate the timely performance of the work.

## 3 CONTRACTOR'S KEY PERSONNEL

3.1 **Key Staff.** CITY reserves the right to review and approve CONTRACTOR'S staff including all subcontractors to be assigned to any project by CONTRACTOR during the term of this Contract.

This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not

change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.

CONTRACTOR's Team and Key Personnel are as follows:

Ethan Hirsch, Vice President
(707) 763-9534
amf@wilsonevents.com

This Services Contract has been awarded to CONTRACTOR based on its representation that those personnel and subcontractors submitted as part of its bid and listed above will perform the portions of the work listed above.

CONTRACTOR shall not deviate nor substitute any of these team members without prior written approval by CITY.

3.2 **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.

CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

3.3 **Direct Responsibility.** All services required under this Contract shall be performed by CONTRACTOR, or under CONTRACTOR's direct supervision, and all personnel shall possess the qualifications, permits and licenses required by State and local law to perform such services.

3.3.1 CONTRACTOR shall be solely responsible for the satisfactory work performance of all personnel engaged in performing services required by this Contract, and compliance with all reasonable performance standards established by CITY.

3.3.2 CONTRACTOR shall be responsible for payment of all CONTRACTOR's employees' and subcontractor's wages and benefits and shall comply with all requirements pertaining to the employer's liability, workers' compensation, unemployment insurance, and Social Security.

3.3.3 CONTRACTOR shall indemnify and hold harmless CITY, and its respective officers, agents and employees from and against all claims, demands, damages or costs arising from CONTRACTOR's acts or omissions with respect to any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices.

## 4 CONTRACT TERM

The term of this Contract is TWO (2) YEARS, commencing on the effective date, with CITY reserving the option to extend the agreement for 2 additional terms of one year each.

## 5 ACCEPTANCE AND DOCUMENTATION

Each task shall be reviewed and approved by the Contract Project Manager to determine acceptable completion.

5.1 **Records**. The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other “records” relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

5.2 **Property of CITY.** All materials, including reports, computer programs and other deliverables, supplied or created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

5.3 **Products.** All equipment, materials, parts, and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.

## 6 PRICE

CITY shall pay to CONTRACTOR an amount not to exceed Two Hundred Fifty Thousand dollars ($250000.00) for the completion of all the work and services described in Section 2, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as follows:

CITY shall pay CONTRACTOR a fee not to exceed the sum of Two Hundred Fifty Thousand Dollars ($250000.00) to provide artist booking and management services.

- Artist Booking Fee Per Act: $5,000 or 15% of artist contract, whichever is greater

- Artist Management Fee Per Act: $2,500

- Artist Backline Fee: $0-$20,000 pursuant to artist contract requirements

6.1 An application for payment form must be submitted to CITY which shall include the following: a clear, detailed invoice reflecting work being billed for, a summary sheet showing percentage of work completed to date, amount/percent billed to date and current status of all tasks within a project; any/all backup documentation

supporting the above items. Work schedule updates must also be included with the payment requests.

6.2 CONTRACTOR shall maintain adequate records and shall permit inspection and audit by CITY of CONTRACTOR's charges under this Contract. CONTRACTOR shall make such records available to CITY during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records, and they will be available only to CITY and any specified public agencies. Such records shall be maintained by CONTRACTOR for one (1) year following completion of the work under this Contract unless a longer period of time is required by state or federal law, in which event CONTRACTOR shall retain its records for the time required by such laws.

6.3 **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.

## 7 TAXES

7.1 CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by CONTRACTOR in accordance with state and local laws.

7.2 CONTRACTOR is an independent contractor and shall have no power or authority to incur any debt, obligation, or liability on behalf of CITY. No person employed by CONTRACTOR or acting on its behalf, in connection with this Contract shall be considered the Agent or employee of CITY.

7.3 CONTRACTOR shall be required to obtain a current City of Palmdale business license, as required by the Palmdale Municipal Code, before an Authorization to Proceed is issued.

7.4 When equipment, materials or supplies generally taxable to CONTRACTOR are eligible for a tax exemption due to the nature of the work, CONTRACTOR shall assist the City in applying for and obtaining such tax credits and exemptions, which shall be paid or credited to the City.

## 8 PATENT FEES AND ROYALTIES

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use, in the performance of the work or the incorporation in the work of any invention, design, process, program, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, program, product or device is specified in the contract documents for use in the performance of the work and if, to the actual knowledge of CITY, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by CITY in the contract documents. CONTRACTOR shall indemnify and hold harmless CITY and anyone directly or

indirectly employed by CITY from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work, or resulting from the incorporation in the work of any invention, design, process, program, product or device not specified in the contract documents, and shall defend all such claims in connection with any alleged infringement of such rights.

## 9 INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR and any subcontractors working on its behalf agree to indemnify CITY, its officers, employees, agents and elected and appointed boards (hereinafter “Indemnified Parties”) for any loss, claim, demand, cause of action, cost, expense, damage, obligation or liability which arises out of or is in any way connected with the performance of any work under this agreement, including any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of CONTRACTOR, or its subcontractors, and regardless of any acts, omissions or negligence (whether active or passive) of any person or entity indemnified hereunder. At their own expense, CONTRACTOR and, as applicable, any subcontractors working on its behalf, shall defend any suit, claim or action against the Indemnified Parties founded upon such loss, claim, demand, cause of action, cost, expense, damage, obligation or liability. CONTRACTOR shall ensure that the contract of any subcontractor working under this agreement contain an indemnity agreement, requiring the subcontractor to indemnify and defend the Indemnified Parties pursuant the terms set forth above. CONTRACTOR shall indemnify the Indemnified Parties, and save it harmless from any and all loss, damage, costs, expenses and attorney's fees suffered or incurred on account of any breach of the aforesaid obligations and covenants, and any other provision or covenant of this agreement.

## 10 INSURANCE

10.1 CONTRACTOR, at its expense, shall maintain in effect at all times during the performance of work under this Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers listed “A” or better in the Best’s Insurance Guide and authorized to do business in the State of California. **Proof of Insurance, as identified in Section 10.8, must be reviewed and accepted by the City Attorney**.

10.1.1 Workers’ Compensation and Employer’s Liability

- Workers’ Compensation -- coverage as required by the State of California
- Employer’s Liability -- $1,000,000.00 each accident
  $1,000,000.00 policy limit bodily injury
  $1,000,000.00 each employee bodily injury by disease

10.1.2 Commercial General Liability

- $1,000,000.00 limit on a per occurrence basis
- $2,000,000.00 general aggregate limit

10.1.3 Commercial Automobile Liability

- $1,000,000.00 combined single limit including owned, non-owned and hired automobile coverage

10.2 All of CONTRACTOR's policies shall contain an endorsement providing that written notice shall be given to CITY at least thirty (30) calendar days prior to termination, cancellation, or reduction of coverage in the policy.

10.3 Policies providing for bodily injury and property damage coverage shall contain the following:

A. An endorsement extending coverage to the City as an additional insured, as respects liability arising out of the performance of any work under the Contract. Such insurance shall be primary insurance, as respects the interest of the City, and any other insurance maintained by the City shall be considered excess coverage and not contributing insurance with the insurance required hereunder. The certificates shall state: "The City of Palmdale, Successor Agency to the Community Redevelopment Agency of the City of Palmdale, Palmdale Civic Authority, Housing Authority, Industrial Development Authority, Airport Authority, their officers, agents, employees and volunteers are named as additional insured".

B. "Severability of Interest" Clause.

10.4 Promptly upon execution of this Contract, and prior to commencement of any work, CONTRACTOR shall deliver to CITY certificates of insurance and endorsements to all required policies demonstrating that CONTRACTOR has the required coverage and showing the required named insured. Within five (5) days of written request from CITY, CONTRACTOR shall deliver to CITY full and complete copies of all insurance policies required by this Contract.

10.5 The requirements as to the types and limits of insurance to be maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify CONTRACTOR's liabilities and obligations under this Contract.

10.6 Any policy or policies of insurance that CONTRACTOR elects to carry as insurance against loss or damage to its equipment and tools or other personal property used in the performance of this Contract shall include a provision waiving the insurer's right of subrogation against CITY.

10.7 All insurance coverage must be maintained throughout the duration of this Contract.

10.8 Acceptable Proof of Insurance:

10.8.1 ACORD Certificate of Insurance listing all coverage, limits, deductibles and insured; and endorsements for all applicable coverage if agent has authority to issue

it; or additional insured Form CG20100704 and CG20370704 or equivalent must be provided for general liability coverage. Additional insured form CA0001 must be provided for automobile liability coverage.

10.8.2 Binders of insurance for all coverage. Agents must confirm that policy endorsements have been ordered from the respective insurance companies. Upon issuance, policy endorsements and a corresponding Certificate of Insurance listing all insurers and coverage must be submitted to the City Attorney.

10.9 Notwithstanding any other provision of this Contract, CITY may immediately terminate this Contract if, at any time CONTRACTOR fails to maintain the required insurance for any period of time or fails to comply with any of the insurance requirements listed above.

10.10 CONTRACTOR shall require any and all subcontractors working on its behalf to provide insurance coverages and limits that are based on the scope of work and nature of risk being performed by the subcontractor. Any and all subcontractors working on behalf of CONTRACTOR shall be subject to all other insurance requirements that are stated herein.

Any deviation in this requirement will be CONTRACTOR's sole risk. CONTRACTOR's insurance requirements in Section 10 will not be impacted and/or limited by such deviation.

## 11 TERMINATION WITHOUT CAUSE

City reserves the right to terminate this Contract or any part thereof for its sole convenience with fifteen (15) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. CONTRACTOR shall also surrender to CITY all finished or unfinished documents, processes, programs and other supplies and materials, which shall be City’s property. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive an amount equal to the value of the work completed as of the termination date in accordance with the fee schedule or as negotiated between the parties. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Contract.

## 12 TERMINATION FOR CAUSE

If CITY determines that CONTRACTOR has failed to supply an adequate working force, or to provide services of proper quality, or has failed in any other respect to satisfactorily perform the services specified in this Contract, CITY shall give written notice to CONTRACTOR specifying all defaults to be remedied within thirty (30) days. Such notice shall set forth the basis for CITY’s dissatisfaction and suggest corrective measures. If, after thirty days, CONTRACTOR has failed to implement appropriate corrective measures, CITY may elect to terminate this Contract in whole or in part.

12.1 In the event CITY terminates this Contract, in whole or in part, for cause, CITY may procure, upon such terms and in such manner, as it may deem appropriate, services similar to those terminated.

12.2 CONTRACTOR shall provide all finished or unfinished documents, data, studies, software, drawings, programs, processes, maps, photographs, reports, etc., prepared by CONTRACTOR within fifteen (15) working days after notice of termination. Upon such termination, CONTRACTOR shall be paid an amount equal to the value of the services provided and work performed as of the date of termination, taking into consideration the costs associated with hiring another CONTRACTOR to complete the services. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to both completed work and work in progress, to complete and incomplete documents when such are delivered to CITY, and to authorized reimbursement expenses. The above is in addition to any other remedies available by law or equity to CITY.

12.3 If, after notice of termination of the Contract under the provisions of this Section 12, it is determined, for any reason, that CONTRACTOR was not in default, or that the default was excusable, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 11.

## 13 DISPUTE RESOLUTION

All claims, disputes, and other matters in question between CITY and CONTRACTOR arising out of or relating to this Contract or the breach thereof shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

## 14 OWNERSHIP OF PRODUCT

All product, data, documents, programs and software including, but not limited to, research, field notes, investigations, analysis, studies, processes, software, instructions for use and other manuals, whether complete or incomplete, which are prepared or produced in the performance of this Contract are to be, and remain the property of CITY and shall be delivered to or left with CITY upon the completion or termination of this Agreement. CONTRACTOR shall furnish CITY, upon its request, originals and reproducible and electronic copies of product, data reports, studies and of all other documents listed above. Electronic copies shall be provided in an unprotected format which allows CITY to copy, reproduce and makes changes as CITY deems necessary.

## 15 DELEGATION AND ASSIGNMENT

15.1 CONTRACTOR shall not delegate or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY; provided, however, that claims for money due or to become due to CONTRACTOR from CITY under this Contract may be assigned to a bank, trust company or other financial institution without such approval.

15.2 Any assignment, delegation or subcontract shall be made in the name of CONTRACTOR and shall not bind or purport to bind CITY and shall not release CONTRACTOR from any obligations under this Contract including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegates and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to CONTRACTOR under this Contract.

## 16 NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

16.1 In performance of this Contract, CONTRACTOR shall not discriminate against any employee, subcontractor, or applicant for employment because of sex, color, race, religion, ancestry, national origin, disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sexual orientation, age, gender, gender identity, gender expression, genetic information, or military and veteran status. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, color, race, religion, ancestry, national origin, disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sexual orientation, age, gender, gender identity, gender expression, genetic information, or military and veteran status . Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

16.2 The provisions of subsection 16.1 above shall be included in all solicitations or advertisements placed by or on behalf of CONTRACTOR for personnel to perform any services under this Contract. CITY shall have access to all documents, data and records of CONTRACTOR and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section, and all applicable provisions of Executive Order No. 11246 which is incorporated herein by this reference. A copy of Executive Order No. 11246 is available for inspection at, and on file with, the Palmdale City Clerk’s Office.

## 17 FINANCIAL INTEREST CERTIFICATION

17.1 CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no officer or employee of the CITY has any interest, financially or otherwise, in CONTRACTOR’s firm.

17.2 For breach or violation of this warranty, CITY shall have the right to annul this Contract without liability or at its discretion to deduct from the Contract Price or

consideration, the full amount of such commission, percentage, brokerage or contingent fee.

## 18 CONFLICT OF INTEREST

18.1 CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract or which would cause CONTRACTOR to be “financial interested” (as provided in California Government Code Section 1090 et seq. or 87100 et seq.) in any contract or decision made by CITY on any matter.

18.2 CONTRACTOR shall not employ any City official or employee to perform any work required pursuant to this Contract.

18.3 To the extent required by the City Manager or his designee, CONTRACTOR shall complete and file with the City Clerk a Form 700 Statement of Economic Interests disclosing any reportable property interests, income, gifts, investments, or business positions.

## 19 COMPLIANCE WITH LAW

19.1 CONTRACTOR shall comply with all state and federal laws, including but not limited to, the requirement to hire only those persons authorized by federal law to work in the United States. If CONTRACTOR uses any subcontractors to complete this Contract, this same requirement shall be included in all subcontracts and strictly enforced by CONTRACTOR.

19.2 The law of the state of California shall govern this Contract. The venue of any legal action, either formal or informal, shall be the County of Los Angeles.

## 20 NOTICES

Any notice required under this Contract shall be in writing, addressed to the appropriate party at its address on the signature page and given personally or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## 21 ENTIRE AGREEMENT AND AMENDMENTS

21.1 This Contract is the complete Agreement between the parties and supersedes all prior proposals, agreements, and understandings between the parties and may not be modified or terminated orally.

21.2 No attempted waiver of any of the provisions hereof, nor any modification in the nature, extent or duration of the work to be performed by CONTRACTOR

hereunder, shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

21.3 The failure of any party to enforce against another party any provision of this Contract shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Contract.

## 22 ATTORNEY'S FEES

If any action at law or in equity is brought to enforce or interpret any provisions of this Contract, 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.

**In Witness Whereof,** the parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized.

CITY OF PALMDALE:

SIGNATURE AREA

Laura Betencourt
Mayor

SIGNATURE AREA

ADDRESS FOR NOTICE:
CITY OF PALMDALE
827 East Avenue Q-9
Palmdale, CA 93550

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
Interim City Attorney

ATTEST:

SIGNATURE AREA

Roxanne Faber
Acting City Clerk

WILSON EVENTS INCORPORATED:

SIGNATURE AREA

Ethan Hirsch
Vice President

ADDRESS FOR NOTICE:
WILSON EVENTS INCORPORATED
765 Baywood Dr., Ste. 235
Petaluma, CA 94954

---------- INTERNAL USE ONLY ----------

□Certificate(s) and Endorsement(s) attached
□Confirmed business name on contract with certificate(s)
□Attached Agreement Checklist and met all requirements

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **VISIT PALMDALE**

**DISTRICT:** **ALL**

**SUBJECT:** **RECEIVE AND FILE ANNUAL REPORTS FOR THE PALMDALE TOURISM IMPROVEMENT DISTRICT**

## ISSUE

Receive and file the annual reports for the Palmdale Tourism Improvement District (PTID) for fiscal years (FY) 2022/2023 and 2023/2024.

## RECOMMENDATION

Staff recommends that the City Council:

1. Receive and file the annual reports for the PTID for FY 2022/2023 and FY 2023/2024.

## BACKGROUND

The PTID was formed in 2021 pursuant to the Property and Business Improvement Law of 1994, Streets and Highways Code § 36600 et seq. (94 Law). Visit Palmdale, the designated Owners' Association for the PTID, is required to present an annual report at the end of each FY of operation for the upcoming FY to the City Council pursuant to Streets and Highways Code §36650. Given the complexities of forming and managing the PTID, staff were unable to compile the information necessary to provide the annual report for FY 2022/2023 by the end of the prior FY (FY 2021/2022). Therefore, both reports for FY 2022/2023 and FY 2023/2024 have been attached.

## DISCUSSION

In 2021, the City Council approved the formation of the PTID, which is a benefit assessment district proposed to help fund sales, marketing & communications and destination development programs for all Palmdale lodging businesses. The PTID includes all existing and future lodging businesses available for public occupancy located within the boundaries of the City. The two percent assessment began on November 1, 2021, for an initial five-year term.

Visit Palmdale is a non-profit organization that was formed and designated to serve as the Owners' Association, pursuant to Streets and Highways Code §36651. Visit

Palmdale manages matters related to the PTID including, but not limited to, management of assessment funds and full decision-making authority regarding PTID programs in accordance with the adopted PTID Management District Plan (MDP). The annual reports provide a broad overview of how the PTID funds are projected to be utilized in accordance with the adopted budget.

During the first two years of operation, Visit Palmdale established partnerships with the Aerospace Valley Air Show, Antelope Valley Fair, Air Force Plant 42, Antelope Valley Walls Public Art Program, and Palmdale Amphitheater. Additionally, Visit Palmdale created the first annual High Desert Beer and Wine Festival at the Palmdale Amphitheater, which was highly successful. The creation of a brand identity and build-out of the Visit Palmdale website with the help of Simpleview Inc. has also been a focus of the PTID. The new website is anticipated to launch this Fall.

The cost of providing improvements and activities for both FY 2022/2023 and FY 2023/2024 is consistent with the MDP. The categorical breakdown, as well as FY 2022/2023 actuals, are detailed in the attached annual reports. All budget category allocations are within the authorized 15 percent adjustment of the total budget from the prior year, as required by the MDP.

## FISCAL IMPACT

The City receives a fee of one percent of the total amount collected to cover the costs of collecting the assessment from the hotel partners. In addition, the City receives an annual $50,000 reimbursement to administer the day-to-day activities of Visit Palmdale.

## STRATEGIC PLAN

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

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

| | |
|---|---|
| Prepared by: | Megan Taggart, Executive Director – Visit Palmdale |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley III, Interim City Attorney |

## ATTACHMENTS

1. PTID Annual Report for FY 2022/2023
2. PTID Annual Report for FY 2023/2024



# Palmdale Tourism Improvement District

## 2022-2023 Annual Report

Submitted to the City of Palmdale pursuant to Streets and Highways Code section 36650, for the period from November 1, 2022 through October 31, 2023

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## Boundaries

There are no proposed changes to the boundaries. There have been changes to assessed businesses:

Two (2) new lodging businesses have opened and are therefore subject to assessment:

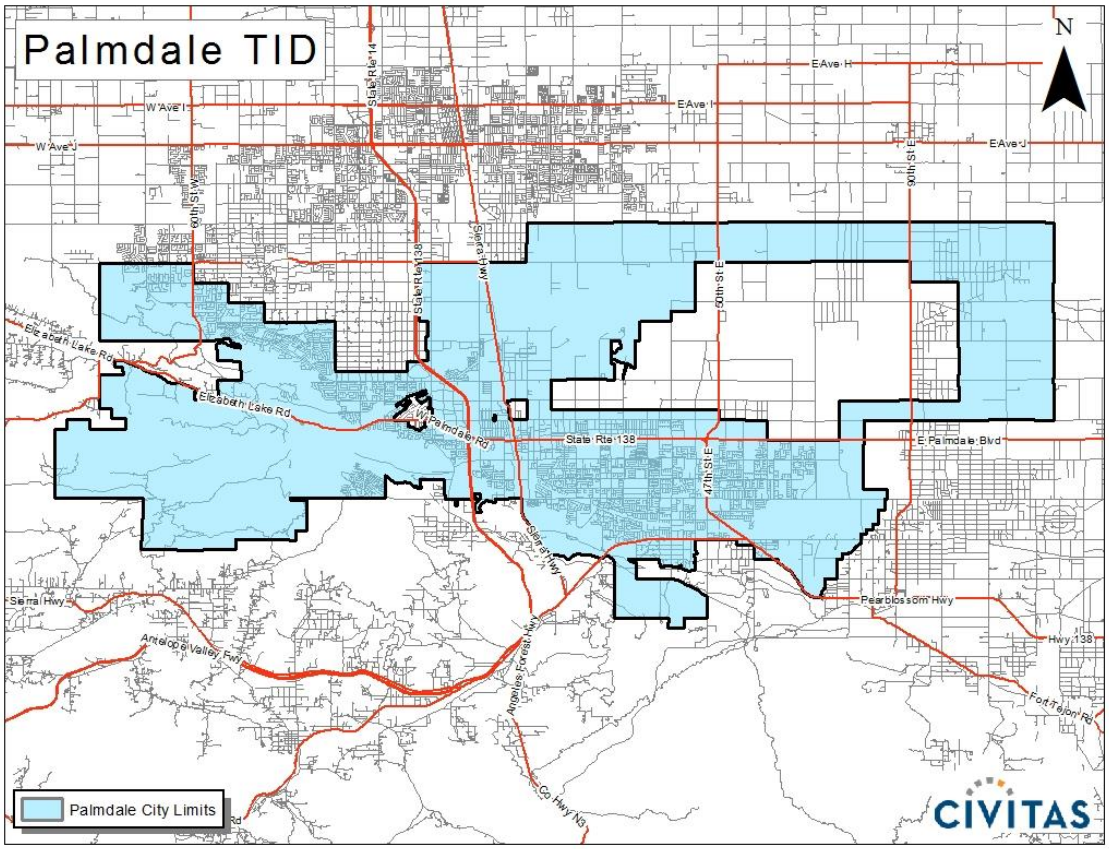
- Fairfield Inn & Suites Palmdale - 1052 West Avenue O-8, Palmdale, CA 93551
- Doubletree Palmdale- 300 W Palmdale Blvd, Palmdale, CA 93551

One (1) lodging business has changed their name:

- E-Z 8 Motel has changed their name to Palm Inn & Suites - 430 West Palmdale Blvd, Palmdale, CA 93551

The Palmdale Tourism Improvement District (PTID) will continue to include all lodging businesses, existing and in the future, available for public occupancy within the boundaries of the City of Palmdale.

A complete listing of lodging businesses within the PTID can be found in Appendix 2.



# Improvements and Activities

The PTID has established a partnership with AV Walls Public Art Program, Palmdale Amphitheater, AV Fair and the Aerospace Valley Air show. Additionally, Visit Palmdale created the first annual High Desert Beer and Wine Festival at the Palmdale Amphitheater which was highly successful. A brand identity with Simpleview and a build-out of the Visit Palmdale website has also been a focus of the PTID. For fiscal year 2022/2023, the improvements and activities to be provided are consistent with the Management District Plan (Plan).

### *Sales, Marketing, and Communications*

A sales, marketing and communications program will promote assessed businesses as tourist, meeting, and event destination. The sales, marketing and communications program will have a central theme of promoting the destination as a desirable place for overnight visits. The program will have the goal of increasing demand for overnight visitation and sales at assessed businesses, and may include the following activities:

- Development of a marketing plan to ensure district funds are strategically spent to market assessed businesses;
- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation to assessed businesses;
- Content development for photoshoots and video shoots for digital promotion, featuring assessed businesses to drive overnight visitation and sales to assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, visitor guides, promotional items, postcards, flyers and maps featuring assessed businesses;
- Advertising targeted at potential visitors to drive overnight visitation and sales to assessed businesses;
- Implementation of a public relations and communications strategy, inclusive of social media outlets and press release distribution designed to drive overnight visitation and increase sales at assessed businesses;
- Attendance of trade shows, professional industry conferences, and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists, business travelers, and group events to assessed businesses;
- Familiarization tours of assessed businesses;
- Visitor Service programs and enhancements, such as kiosks and Visitor Centers, that will enhance the visitor experience;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed businesses;
- Joint partnerships with local businesses as well as local and state tourism organizations to increase overnight visitation at assessed businesses; and

- Development of Visitor Studies and Return on Investment (ROI) analysis on effectiveness of district funds to improve effectiveness and increase demand for overnight visitation at assessed businesses.

### *Destination Product Development*

The Destination Project Development projects may include:

- Infrastructure improvements that enhance the destination's competitive position to attract visitors, filming, sporting events, and special events year-round, to increase sales at assessed businesses;
- Comprehensive and integrated wayfinding signage system and/or banner program targeted to increase demand for visitation and increase sales at assessed businesses; and
- Other programs and activities that will enhance the visitor experience to increase sales at assessed businesses.

### *Administration and Operations*

The administration and operations portion of the budget shall be utilized for administrative staffing costs, office costs, and other general administrative costs such as insurance, audits, legal, and accounting fees.

### *Contingency/Reserve*

The budget includes a contingency line item to account for uncollected assessments, or higher than anticipated program costs, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program or administration costs at the discretion of the Board. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the Board of the Owners' Association.

Additionally, in the event there are contingency/reserve funds remaining near the end of the PTID's term, contingency/reserve funds may be used for the cost of renewing the PTID.

### *City Collection Fee*

The City shall retain a fee equal to one percent of the amount of assessments collected, to cover collection and administration costs.

## Cost

### *FY 22/23 Projections*

The cost of providing improvements and activities for FY 22/23 is consistent with the Plan. The anticipated total budget for FY 22/23 is $925,374 in anticipated collections and $831,196 in carry over from the previous year, for a total estimated budget of $1,756,570. The categorical breakdown is below. All budget category allocations are within the authorized 15% adjustment of the total budget from the prior year.

| **Category** | **FY 21/22 Carry Over** | **FY 22/23 Estimated Collections** | **% of Budget** | **Total FY 22/23 Budget** |
|---|---|---|---|---|
| Sales, Marketing & Communications | $ 652,025 | $ 740,299 | 80% | $ 1,392,324 |
| Destination Development | $ 58,448 | $ 55,522 | 6% | $ 113,970 |
| Administration | $ 101,241 | $ 101,791 | 11% | $ 203,032 |
| Contingency/Reserve | $ 19,482 | $ 18,508 | 2% | $ 37,990 |
| City Fee | $ 0.00 | $ 9,254 | 1% | $ 9,254 |
| **Totals** | $ 831,196 | $ 925,374 | 100% | $ 1,756,570 |

### *FY 21/22 Actuals*

The projected FY 21/22 collections were $900,000. Actual collections were more than anticipated, totaling $974,125. Budgeted and actual expenses are shown below.

| **Category** | **FY 21/22 Budgeted** | | **FY 21/22 Actual** | | |
|---|---|---|---|---|---|
| | % | $ | % | $ Spent | $ Carryover |
| Sales, Marketing & Communications | 80% | $720,000 | 80% | $ 127,275 | $ 652,025 |
| Destination Development | 6% | $54,000 | 6% | $ 0.00 | $ 58,448 |
| Administration | 11% | $99,000 | 11% | $ 5,913 | $ 101,241 |
| Contingency/Reserve | 2% | $18,000 | 2% | $ 0.00 | $ 19,482 |
| City Fee | 1% | $9,000 | 1% | $ 9,741 | $ 0.00 |
| Totals | 100% | $900,000 | 100% | $ 142,929 | $ 831,196 |

## Assessment

There is no change in the method and basis of levying the assessment.

### *Assessment Rate*

The annual assessment rate is two percent of gross short term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than 30 consecutive days; stays of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; and stays pursuant to contracts executed prior to November 1, 2021.

The term "gross room rental revenue" as used herein means: the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the PTID assessment is identified separately it shall be disclosed as the "PTID Assessment." As an alternative, the disclosure may include the amount of the PTID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the "Tourism Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for any purpose, including calculation of transient occupancy taxes.

Bonds shall not be issued.

### *Time and Manner for Collecting Assessments*

The City will continue to be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The City shall take all reasonable efforts to collect the assessments from each lodging business. The City shall forward the assessments collected to the Owners' Association, Visit Palmdale.

### *Penalties and Interest*

The PTID shall reimburse the City of Palmdale for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent PTID assessment are sought to be recovered in the same collection action by the City, the PTID shall bear its pro

rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. ***Original Delinquency:*** Any lodging business owner who fails to remit any assessment imposed by this section within the time required shall pay a penalty of 10% of the amount of the unpaid assessment in addition to the amount of the assessment.
2. ***Continued Delinquency:*** Any lodging business owner who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of unpaid assessment, in addition to the amount of the assessment and the 10% penalty first imposed.
3. ***Fraud:*** If the City determines that the nonpayment of any remittance due under this section is due to fraud, a penalty of 25% of the amount of the assessment shall be added thereto in addition to the penalties stated in this section.
4. ***Interest:*** In addition to the penalties imposed, any lodging business owner who fails to remit any assessment imposed by this section shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of unpaid assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
5. ***Penalties Merged with Assessment:*** Every penalty imposed and such interest as accrues under the provisions of this chapter shall become a part of the assessment herein required to be paid.

## Surplus and Other Funding

### *Surplus*

The amount of surplus to be carried over from previous year is $831,196.

### *Other Funding*

There will be no outside funding for fiscal year 2022/2023.

# Appendix – Assessed Businesses

| Lodging Business | Business Address |
|---|---|
| Best Western | 600 W Palmdale Blvd, Palmdale, CA 93551 |
| Courtyard by Marriott | 530 W Rancho Vista Blvd, Palmdale, CA 93551 |
| Doubletree Palmdale | 300 W Palmdale Blvd, Palmdale, CA 93551 |
| Element Hotel | 39325 Trade Center Drive, Palmdale, CA 93551 |
| Embassy Suites | 39375 5th St W, Palmdale, CA 93551 |
| ~~EZ 8 Motel~~ Palm Inn & Suites | 430 W Palmdale Blvd, Palmdale, CA 93551 |
| Fairfield Inn & Suites | 1052 W Ave O-8, Palmdale, CA 93551 |
| Hampton Inn and Suites | 9428 Trade Center Dr, Palmdale, CA 93551 |
| Hilton Garden Inn Palmdale | 1309 W Rancho Vista Blvd, Palmdale, CA 93551 |
| Holiday Inn | 38630 5th St W, Palmdale, CA 93551 |
| Home2 Suites | 38750 5th St W, Palmdale, CA 93551 |
| Knights Inn Motel | 130 E Palmdale Blvd, Palmdale, CA 93550 |
| Motel 6 | 407 West Palmdale Blvd, Palmdale, CA, 93551 |
| OYO Hotel | 217 E Palmdale Blvd, Palmdale, CA 93550 |
| Palm Motel | 38535 6th St E, Palmdale, CA 93550 |
| Red Roof Inn | 200 W Palmdale Blvd, Palmdale, CA 93551 |
| Residence Inn by Marriot | 514 West Avenue P, Rancho Vista Blvd, Palmdale, CA 93551 |
| Sherwood Motel | 1331 E Palmdale Blvd, Palmdale, CA 93550 |
| Staybridge Suites Palmdale | 420 W Park Dr, Palmdale, CA 93551 |



# Palmdale Tourism Improvement District

## 2023-2024 Annual Report

Submitted to the City of Palmdale pursuant to Streets and Highways Code section 36650, for the period from November 1, 2023 through October 31, 2024

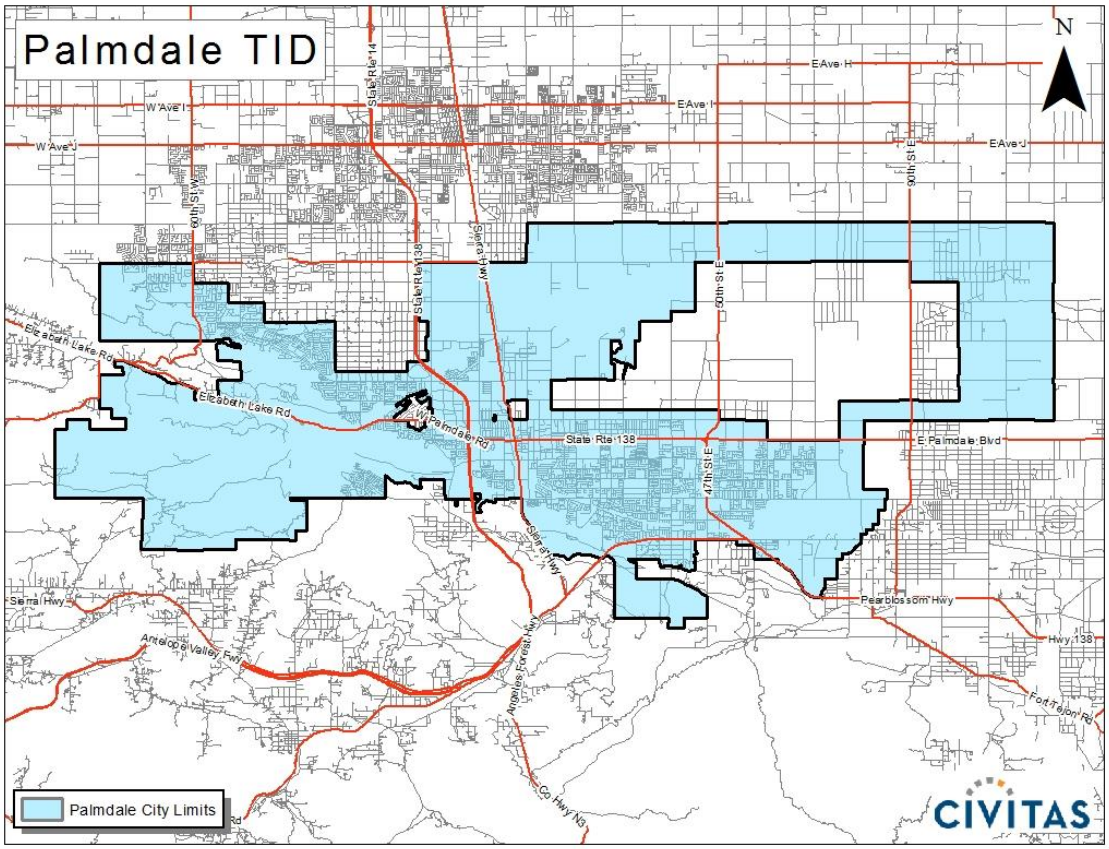
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## Boundaries

There are no proposed changes to the boundaries for fiscal year 2023/2024. The Palmdale Tourism Improvement District (PTID) will continue to include all lodging businesses, existing and in the future, available for public occupancy located within the boundaries of the City of Palmdale.

A complete listing of lodging businesses currently within the PTID can be found in Appendix 2.



# Improvements and Activities

For fiscal year 2023/2024, the improvements and activities to be provided are consistent with the Management District Plan (Plan).

### *Sales, Marketing, and Communications*

A sales, marketing and communications program will continue to promote assessed businesses as tourist, meeting, and event destination. The sales, marketing and communications program will continue to have a central theme of promoting the destination as a desirable place for overnight visits. The program will continue to have the goal of increasing demand for overnight visitation and sales at assessed businesses, and may include the following activities:

- Development of a marketing plan to ensure district funds are strategically spent to market assessed businesses;
- Internet marketing efforts to increase awareness and optimize internet presence to drive overnight visitation to assessed businesses;
- Content development for photoshoots and video shoots for digital promotion, featuring assessed businesses to drive overnight visitation and sales to assessed businesses;
- Preparation and production of collateral promotional materials such as brochures, visitor guides, promotional items, postcards, flyers and maps featuring assessed businesses;
- Advertising targeted at potential visitors to drive overnight visitation and sales to assessed businesses;
- Implementation of a public relations and communications strategy, inclusive of social media outlets and press release distribution designed to drive overnight visitation and increase sales at assessed businesses;
- Attendance of trade shows, professional industry conferences, and affiliation events to promote assessed businesses;
- Lead generation activities designed to attract tourists, business travelers, and group events to assessed businesses;
- Familiarization tours of assessed businesses;
- Visitor Service programs and enhancements, such as kiosks and Visitor Centers, that will enhance the visitor experience;
- Director of Sales and General Manager meetings to plan and coordinate tourism promotion efforts for assessed businesses;
- Joint partnerships with local businesses as well as local and state tourism organizations to increase overnight visitation at assessed businesses; and
- Development of Visitor Studies and Return on Investment (ROI) analysis on effectiveness of district funds to improve effectiveness and increase demand for overnight visitation at assessed businesses.

### *Destination Product Development*

The Destination Project Development projects may continue to include:

- Infrastructure improvements that enhance the destination's competitive position to attract visitors, filming, sporting events, and special events year-round, to increase sales at assessed businesses;
- Comprehensive and integrated wayfinding signage system and/or banner program targeted to increase demand for visitation and increase sales at assessed businesses; and
- Other programs and activities that will enhance the visitor experience to increase sales at assessed businesses.

### *Administration and Operations*

The administration and operations portion of the budget shall continue to be utilized for administrative staffing costs, office costs, and other general administrative costs such as insurance, audits, legal, and accounting fees.

### *Contingency/Reserve*

The budget includes a contingency line item to continue to account for uncollected assessments, or higher than anticipated program costs, if any. If there are contingency funds collected, they may be held in a reserve fund or utilized for other program or administration costs at the discretion of the Board. Policies relating to contributions to the reserve fund, the target amount of the reserve fund, and expenditure of monies from the reserve fund shall be set by the Board of the Owners' Association.

Additionally, in the event there are contingency/reserve funds remaining near the end of the PTID's term, contingency/reserve funds may be used for the cost of renewing the PTID.

### *City Collection Fee*

The City shall continue to retain a fee equal to one percent of the amount of assessments collected, to cover collection and administration costs.

## Cost

### *FY 2023/2024 Projections*

The cost of providing improvements and activities for FY 2023/2024 is consistent with the Plan. The anticipated total budget for FY 2023/2024 is $1,036,668.42 in anticipated collections and $1,239,285.03 in carryover from the previous year, for a total estimated budget of $2,275,953.45. The categorical breakdown is below. All budget category allocations are within the authorized 15% adjustment of the total budget from the prior year.

| **Category** | **FY 2022/2023 Carry Over** | **FY 2023/2024 Estimated Collections** | **% of Budget** | **Total FY 2023/2024 Budget** |
|---|---|---|---|---|
| Sales, Marketing & Communications | $1,018,005.92 | $829,334.74 | 81% | $1,847,340.66 |
| Destination Development | $69,649.46 | $62,200.11 | 6% | $131,849.57 |
| Administration | $111,746.50 | $114,033.53 | 10% | $225,780.02 |
| Contingency/Reserve | $39,883.15 | $20,733.37 | 2% | $60,616.52 |
| City Fee | $0.00 | $10,366.68 | 1% | $10,366.68 |
| **Totals** | $1,239,285.03 | $1,036,668.42 | 100% | $2,275,953.45 |

### *FY 2022/2023 Actuals*

The projected FY 2022/2023 collections were $1,016,341.59. Actual collections were more than anticipated, totaling $1,850,694.75. Budgeted and actual expenses are shown below.

| **Category** | **FY 2022/2023 Budgeted** | | **FY 2022/2023 Actual** | | |
|---|---|---|---|---|---|
| | % | $ | % | $ Spent | $ Carryover |
| Sales, Marketing & Communications | 80% | $813,073.27 | 79% | $483,304.40 | $1,018,005.92 |
| Destination Development | 6% | $60,980.50 | 8% | $50,000.00 | $69,649.46 |
| Administration | 11% | $111,797.57 | 11% | $67,941.90 | $111,746.50 |
| Contingency/Reserve | 2% | $20,326.83 | 0% | $0.00 | $39,883.15 |
| City Fee | 1% | $10,163.42 | 2% | $10,163.42 | $0.00 |
| Totals | 100% | $1,016,341.59 | 100% | $611,409.72 | $1,239,285.03 |

## Assessment

There is no change in the method and basis of levying the assessment.

### *Assessment Rate*

The annual assessment rate is two percent of gross short term room rental revenue. Based on the benefit received, assessments will not be collected on: stays of more than 30 consecutive days; stays of any officer or employee of a foreign government who is exempt by reason of express provision of federal law or international treaty; and stays pursuant to contracts executed prior to November 1, 2021.

The term "gross room rental revenue" as used herein means: the consideration charged, whether or not received, for the occupancy of space in a hotel, valued in money, whether to be received in money, goods, labor or otherwise, including all receipts, cash credits and property and services of any kind or nature, without any deduction therefrom whatsoever. Gross room rental revenue shall not include any federal, state or local taxes collected, including but not limited to transient occupancy taxes.

The assessment is levied upon and a direct obligation of the assessed lodging business. However, the assessed lodging business may, at its discretion, pass the assessment on to transients. The amount of assessment, if passed on to each transient, shall be disclosed in advance and separately stated from the amount of rent charged and any other applicable taxes, and each transient shall receive a receipt for payment from the business. If the PTID assessment is identified separately it shall be disclosed as the "PTID Assessment." As an alternative, the disclosure may include the amount of the PTID assessment and the amount of the assessment imposed pursuant to the California Tourism Marketing Act, Government Code §13995 et seq. and shall be disclosed as the "Tourism Assessment." The assessment is imposed solely upon, and is the sole obligation of the assessed lodging business even if it is passed on to transients. The assessment shall not be considered revenue for any purpose, including calculation of transient occupancy taxes.

Bonds shall not be issued.

### *Time and Manner for Collecting Assessments*

The City will continue to be responsible for collecting the assessment on a monthly basis (including any delinquencies, penalties and interest) from each lodging business. The City shall take all reasonable efforts to collect the assessments from each lodging business. The City shall forward the assessments collected to the Owners' Association, Visit Palmdale.

### *Penalties and Interest*

The PTID shall continue to reimburse the City of Palmdale for any costs associated with collecting unpaid assessments. If sums in excess of the delinquent PTID assessment are sought to be recovered in the same collection action by the City, the

PTID shall bear its pro rata share of such collection costs. Assessed businesses which are delinquent in paying the assessment shall be responsible for paying:

1. ***Original Delinquency:*** Any lodging business owner who fails to remit any assessment imposed by this section within the time required shall pay a penalty of 10% of the amount of the unpaid assessment in addition to the amount of the assessment.
2. ***Continued Delinquency:*** Any lodging business owner who fails to remit any delinquent remittance on or before a period of 30 days following the date on which the remittance first became delinquent shall pay a second delinquency penalty of 10% of the amount of unpaid assessment, in addition to the amount of the assessment and the 10% penalty first imposed.
3. ***Fraud:*** If the City determines that the nonpayment of any remittance due under this section is due to fraud, a penalty of 25% of the amount of the assessment shall be added thereto in addition to the penalties stated in this section.
4. ***Interest:*** In addition to the penalties imposed, any lodging business owner who fails to remit any assessment imposed by this section shall pay interest at the rate of one and one-half percent per month or fraction thereof on the amount of unpaid assessment, exclusive of penalties, from the date on which the remittance first became delinquent until paid.
5. ***Penalties Merged with Assessment:*** Every penalty imposed and such interest as accrues under the provisions of this chapter shall become a part of the assessment herein required to be paid.

## Surplus and Other Funding

### *Surplus*

The amount of surplus to be carried over from previous year is $1,239,285.03.

### *Other Funding*

There will be no outside funding for fiscal year 2023/2024.

# Appendix – Assessed Businesses

| Lodging Business | Business Address |
|---|---|
| Best Western | 600 W Palmdale Blvd, Palmdale, CA 93551 |
| Courtyard by Marriott | 530 W Rancho Vista Blvd, Palmdale, CA 93551 |
| Doubletree Palmdale | 300 W Palmdale Blvd, Palmdale, CA 93551 |
| Element Hotel | 39325 Trade Center Drive, Palmdale, CA 93551 |
| Embassy Suites | 39375 5th St W, Palmdale, CA 93551 |
| Palm Inn & Suites | 430 W Palmdale Blvd, Palmdale, CA 93551 |
| Fairfield Inn & Suites | 1052 W Ave O-8, Palmdale, CA 93551 |
| Hampton Inn and Suites | 9428 Trade Center Dr, Palmdale, CA 93551 |
| Hilton Garden Inn Palmdale | 1309 W Rancho Vista Blvd, Palmdale, CA 93551 |
| Holiday Inn | 38630 5th St W, Palmdale, CA 93551 |
| Home2 Suites | 38750 5th St W, Palmdale, CA 93551 |
| Knights Inn Motel | 130 E Palmdale Blvd, Palmdale, CA 93550 |
| Motel 6 | 407 West Palmdale Blvd, Palmdale, CA, 93551 |
| OYO Hotel | 217 E Palmdale Blvd, Palmdale, CA 93550 |
| Palm Motel | 38535 6th St E, Palmdale, CA 93550 |
| Red Roof Inn | 200 W Palmdale Blvd, Palmdale, CA 93551 |
| Residence Inn by Marriot | 514 West Avenue P, Rancho Vista Blvd, Palmdale, CA 93551 |
| Sherwood Motel | 1331 E Palmdale Blvd, Palmdale, CA 93550 |
| Staybridge Suites Palmdale | 420 W Park Dr, Palmdale, CA 93551 |

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION**

**DISTRICT:** **ALL**

**SUBJECT:** **AWARD REQUEST FOR PROPOSAL 23-001-2100 FOR TEMPORARY PLANNING STAFF SERVICES TO INTERWEST CONSULTING GROUP AND APPROVE AGREEMENT NO. A-8518 WITH INTERWEST CONSULTING GROUP TO PROVIDE TEMPORARY PLANNING STAFF SERVICES IN AN AMOUNT NOT TO EXCEED $400,000 FOR A TERM OF 3 YEARS, THROUGH 2026.**

## ISSUE

Award Request for Proposal (RFP) 23-001-2100 for temporary Planning staff services to Interwest Consulting Group and approve Agreement No. A-8518 with Interwest Consulting Group to provide temporary Planning staff services in an amount not to exceed $400,000 for a term of 3 years, through 2026.

## RECOMMENDATION

Staff recommends that the City Council:

1. Award RFP 23-001-2100 to Interwest Consulting Group (Interwest);
2. Approve Agreement No. A-8518 with Interwest to provide temporary Planning staff services in an amount not to exceed $400,000; and,
3. Authorize the City Manager or her designee to execute Agreement, including minimal and/or non-substantiative changes.

## BACKGROUND

On June 14, 2023, the City entered into an agreement with Interwest for Planning staff services with a not to exceed amount of $40,000. The intent of this short-term agreement was to assist the Planning Division with projects while the City completed an RFP for a longer-term agreement. Historically, the City has utilized outside consultants for Planning related services to provide shorter turnaround times on time sensitive projects and to have access to an array of planning specialists for more complex projects. The amount of funds spent on outside planning consultants will vary year to year depending on the number and type of projects that are submitted to the City.

## DISCUSSION

The City released an RFP on July 10, 2023, and closed on August 14, 2023. A total of 224 vendors were notified. The City received seven proposals, none of which were local to Palmdale or the Antelope Valley. The seven proposals were then reviewed by an evaluation committee consisting of three members. Qualified firms were rated based on the following scoring methodology:

| Criteria | Maximum Score |
|---|---|
| **Proof of Successful Past Performance and Experience**:<br>• Demonstrated present and past work record performance of Temporary Planning Staff Services.<br>• Reference Responses (Comments from references regarding Respondent's responsiveness to customer requirements, compliance with the contract terms, conditions, and products and work quality)**.** | 20 Points Maximum |
| **Ability to Perform the Services**<br>Proposer's ability to perform general and specific experience in providing the required services, and the qualifications and abilities of personnel proposed to be assigned to perform the services. Project timeline and associated milestones are fair and reasonable.<br>• **Key Personnel Resumes** – experience of key staff on comparable projects, or in performing comparable services. | 20 Points Maximum |
| **Cost Proposal.**<br>Mathematically calculated based upon the reasonableness of the cost or price proposed for services. Competitiveness of the price with the other proposals received and least amount of risk. Completeness and adequacy of data in support of the figures quoted, and the basis on which prices are quoted. | 20 Points Maximum |
| **Technical, Plan, & Scheduled Approach.**<br>• Demonstrate the company's ability to deliver the requirements of this RFP. The overall quality of the proposed plan for performing the required services and the demonstration of a clear understanding of the project.<br>• Quality of RFP response is based on the overall quality and presentation of the proposer's response documents. Responses that are complete and organized and provide all relevant materials to properly evaluate the response and the company. | 40 Points Maximum |
| **TOTAL POINTS** | 100 |

Bidders were required to submit responses to the RFP, including, but not limited to, a detailed breakdown of past performances, comparable work, and qualifications of available staff.

The following firms submitted statements of qualifications and proposal packages:

| Bidder | Location |
|---|---|
| 1. BuzzClan | Dallas, California |
| 2. FasTemps | Los Angeles, California |
| 3. Interwest | Irvine, California |
| 4. Lancesoft | Herndon, Virginia |
| 5. Noor Staffing Group | New York City, New York |
| 6. Sign-In Solutions | Oak Brook, Illinois |
| 7. VCA Code Group | Orange, California |

The evaluation team identified Interwest as the bidder with exceptional qualifications, best value for the City, and familiarity with City projects and processes.

Interwest has high-level industry knowledge, which will provide flexibility to City staff in project assignments. Interwest currently assists with high-level complex projects such as Ritter Ranch, Antelope Valley Commerce Center, Anaverde Nuevo and Falcon Glen. Continued use of Interwest for Planning staff services would ensure projects continue to be processed expeditiously while the City continues the search for permanent Planning staff. Interwest's services will be utilized on an as-needed basis.

## FISCAL IMPACT

Not to exceed $400,000 over three years. $135,000 is currently budgeted and available in Contractor Services – Professional Services accounts in the Economic and Community Development Department budget for FY 23-24. $132,500 will be requested in each of the remaining two budget years. Due to ongoing vacancies within the Planning Division, there will be savings accumulated in Salaries and Benefits to offset the cost of this contract. In addition, application and permit fees are collected to offset the cost to the City.

## STRATEGIC PLAN

Goal III: Invest in infrastructure to improve community livability.

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

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

| | |
|---|---|
| Prepared by: | Zach Glynn, Management Analyst I |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

**ATTACHMENT**

Agreement No. A-8518

**AGREEMENT NO. A-8518**
**CONTRACT FOR SERVICES**
**BETWEEN THE CITY OF PALMDALE AND INTERWEST CONSULTING GROUP**

**This CONTRACT for services** ("Contract" herein) is made and entered into by and between the City of Palmdale, a public body corporate and politic, (hereinafter called "CITY"), and INTERWEST CONSULTING GROUP, a corporation of the state of California, (hereinafter called "CONTRACTOR"). This Contract shall become effective on the date of the last signatory.

**RECITALS**

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in this Contract.

NOW THEREFORE, CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

## 1 CITY PROJECT MANAGER

To provide the services required by this Contract, CONTRACTOR shall act under the authority and approval of Brenda Magana Director/designee, who shall oversee this Contract, the work performed by CONTRACTOR, assist CONTRACTOR with any necessary information, audit billings, and approve payments. The CONTRACTOR shall channel all contacts and requests through the City project manager.

## 2 DESCRIPTION OF WORK

2.1 CONTRACTOR shall provide the following services in a manner satisfactory to CITY:

Planning Aide Shall:
To provide information at the public counter and answer inquiries; Intake both ministerial and discretionary applications; Process ministerial applications; Perform technical level work in the support of current or advanced planning; Analyze and prepare correspondence related to administrative approvals; Assist in processing and filing of planning cases; and provide general staff assistance to higher level planning personnel.

Planning Aide Shall (Duties may include, but are not limited to, the following):

• To provide information, approve ministerial applications and other plans at the Planning Division public counter; and provide information over the phone and via email.
• Analyze and approve minor discretionary applications, research, and prepare correspondence related to such applications.
• Research and process zone verification requests.

• Assists in intake, processing and filing of current planning cases by checking for completeness of applicant submittal documents and notifying applicants when additional information is required.
• Complete follow-up on planning case review by identifying appropriate agencies needed for technical review and comment, identifying studies that may be required.
• Conduct follow-up field work inspection and review, as assigned.
• Compile data for planning studies and environmental reports, as assigned.
• Transport planning or other documents to County offices, Planning Commissioners or other agencies, as required.
• Perform related duties as assigned.

Principal/Senior Planner:

The Senior Planner shall perform professional level work in the field of current or advanced planning; conduct special projects and research as assigned; and prepare reports and recommendations relative to the assigned area of responsibility.

This is the advanced journey level classification in the professional planning series. Positions at this level perform more complex duties and possess specialized professional, technical or functional expertise and are regarded as seasoned and experienced professionals. They typically are assigned significant responsibilities above the journey level; possess specialized knowledge, abilities, skills, and experience; and exercise independent judgment in the performance of their duties.

Principal/Senior Planner Shall (Duties may include, but are not limited to, the following):

• Perform the most complex professional level work in the field of current or advanced planning.
• Gather and maintain demographic data and other related statistics.
• Research, analyze, and interpret complex social, economic, population and land use data and trends.
• Compile information and make recommendations on special studies; prepare technical and complex reports.
• Make presentations to the Planning Commission, developers, community groups and outside agencies.
• Review development proposals and other requests made to the Planning Department for conformance with appropriate regulations; prepare reports of recommendations.
• Check commercial, industrial, and residential development plans for issuance of zone clearance; process permit applications.
• Act as project or program leader for general plan elements, environmental impact reports, comprehensive plans and other special planning studies involving utilization of planning disciplines such as transportation, urban design, capital facilities,

environmental analysis, growth management, zoning and land use regulation.
• Interpret and apply environmental quality laws and regulations to ensure that development proposals, City projects and municipal code amendments are in compliance with State and Federal laws.
• Prepare general plan elements and amendments; make recommendations concerning long-range planning projects, including annexations, specific plans, specific plan amendments, precise plans, or complex subdivisions.
• Perform extensive research regarding implementation of policies established by the general plan, zoning ordinance, or other land use and development ordinances.
• Confer with and advise architects, builders, attorneys, contractors, engineers, and the public regarding City development policies and standards.
• Prepare staff reports and graphic displays.
• Research and draft ordinances for review.
• Perform related duties as assigned.

Assistant Planner:

The Assistant Planner performs professional level work in the field of current or advanced planning; conducts special projects and research as assigned; and prepares reports and recommendations relative to the assigned area of responsibility.

This is the entry-level class in the professional planner series. Incumbents perform planning assignments of a less complex nature in the fields of current and advanced planning under immediate to general supervision. Incumbents are expected to demonstrate increased proficiency and to promote to the Associate Planner level.

Assistant Planner (Duties may include, but are not limited to, the following):

• Perform professional level work in the field of current or advanced planning.
• Review and make recommendations on environmental documents and other special studies.
• Prepare and make presentations to the City Council, Planning Commission, developers, community groups, and outside agencies.
• Review development proposals and other requests made to the Planning Division for conformance with appropriate regulations and development standards; prepare reports, resolutions, ordinances and make recommendations to the appropriate decision-making body.
• Review commercial, industrial, and residential development plans for conformance with Conditions of Approval, Mitigation Measures, etc.
• Review and process ministerial applications, such as Zone Clearances, and administrative approvals, such as Minor Modifications, Minor Site Plan Reviews, etc.
• Confer with and advise architects, builders, attorneys, contractors, engineers, and the general public regarding City development policies and standards.
• Perform related duties as assigned.

Associate Planner:

The Associate Planner performs professional level work in the field of current or advanced planning; conducts special projects and research as assigned; and prepares reports and recommendations relative to assigned area of responsibility.

This is the journey level classification in the professional planning series. Positions at this level perform the full range of planner duties and tasks. The Associate Planner class is distinguished from the Assistant Planner by the performance of the full range of duties as assigned with only occasional instruction or assistance as new or unusual situations arise. Incumbents work independently under direction. Incumbents typically perform the more complex duties and tasks.

Associate Planner (Duties may include, but are not limited to, the following):

• Perform professional level work in the field of current or advanced planning.
• Review and make recommendations on environmental documents and other special studies.
• Prepare and make presentations to the City Council, Planning Commission, developers, community groups, and outside agencies.
• Review development proposals and other requests made to the Planning Division for conformance with appropriate regulations and development standards; prepare technical and complex reports, resolutions, ordinances and make recommendations to the appropriate decision-making body.
• Review commercial, industrial, and residential development plans for conformance with Conditions of Approval, Mitigation Measures, etc.
• Act as a steward for the City's General Plan, comprehensive development plans, and other special planning studies involving utilization of planning disciplines such as transportation, urban design, capital facilities, environmental analysis, growth management, zoning, and land use regulation.
• Interpret and apply environmental quality laws and regulations to ensure that development proposals are in compliance with local guidelines, State and Federal laws.
• Process a variety of planning applications; analyze, prepare staff reports and make recommendations to decision-makers concerning a variety of planning projects including, but not limited to, General Plan and Zoning Ordinance Amendments, Zone Changes, Comprehensive Development Plans, Annexations, Conditional Use Permits, etc.
• Perform research regarding implementation of policies established by the General Plan, Zoning Ordinance, or other land use and development ordinances.
• Confer with and advise architects, builders, attorneys, contractors, engineers, and the general public regarding City development policies and standards.

• Perform related duties as assigned.

Vetting of Provided Staff

The Consultant will carefully pre-screen all temporary personnel prior to referral to the City to assure that they possess all of the required skills and abilities to perform the assigned tasks. The temporary personnel provided shall meet the minimum qualifications, minimum education and experience required for the requested services.

The Consultant shall conduct fingerprint-based background checks and employment reference checks for selected temporary personnel within a reasonable time frame prior to start date of assignment. The Consultant shall adhere to federal, state and privacy protection laws when conducting background checks and provide the required waivers, authorizations, notices, disclosures and releases. If the Consultant uses an outside company to conduct background checks, the Consultant shall only use registered, licensed investigators.

The Consultant shall strictly adhere to all state and federal laws with respect to discrimination in employment and shall not discriminate against any individual on the basis of race, color, religion, gender, sexual orientation, marital status, national origin, age or disability. The Consultant must conform to the provisions of the Immigration Reform and Control Act of 1986 by verifying the employment eligibility of each person referred to the City. If applicable, the Consultant must also conform to the provisions of the Patient Protection and Affordable Care Act (ACA) of 2010.

Procedure for Requesting Temporary Personnel

The Planning Division will contact the Consultant to request temporary Planning staffing services. The Planning Division shall be responsible for providing the Consultant with all necessary job information in order for the Consultant to place the most qualified competent temporary personnel with the City.

Depending upon the category and skill level required of the temporary personnel, the City may (1) ask the Consultant to provide resumes and other related information from which the City will select the appropriate individual(s), possibly after interviewing one or more candidates, or (2) ask the Consultant to select an individual with the appropriate skills and experience and arrange for that person to report to a designated work site on a specified date. Ideally, the Consultant will designate a qualified employee acceptable to the City at least two (2) working days prior to the date the temporary personnel is required to requested to work. Should the Consultant be unable to provide acceptable temporary personnel in a timely manner, the City may cancel its request with the Consultant.

Placement of Temporary Personnel with Appointing Authority

The Consultant shall make all necessary arrangements with the City for the Consultant's employees to report and commence work for the City as temporary personnel. Should the City find that within the first four (4) hours of employment, the assigned temporary personnel fails to meet the minimum qualifications for the position or the work performance of the temporary personnel is unsatisfactory, the Consultant shall not charge the City for that person’s time. Upon notification, the Consultant shall then remove the temporary personnel from the City work site and, if requested by the City, provide a qualified replacement worker within 24 hours of removal.

Time Sheets and Invoices

The Consultant shall be responsible for communicating the Consultant’s safety practices, benefits, timecards, and safety practices to the City and to its employees. The Consultant shall provide weekly time sheets, which may include a 9/80 work week to the City that shall be designed to accurately reflect actual hours worked per week by each temporary personnel.

The Consultant shall submit itemized invoices for payment directly to the City. The invoice shall indicate the full name of the temporary personnel, the hourly rate of pay received by the temporary personnel for each assignment (as indicated in the Consultant's original proposal), the agreed-upon hourly rate paid to the Consultant, including markup percentage (as indicated in the Consultant's original proposal), and the subsequent total bill hourly rate for each assignment. The Consultant shall be responsible for all payroll withholding requirements and shall provide any and all benefits required by law to each temporary personnel. Temporary personnel shall remain the employee of the Consultant and shall not receive City benefits.

The Consultant shall provide the City with detailed temporary personnel reports that include data such as: name of employee, classification specification title, start and end dates (or anticipated end date), etc.

The City of Palmdale is a member of the California Public Employees Retirement System, CalPERS. The City follows CalPERS rules regarding retired annuitants working after retirement. If you are a CalPERS retiree, all hours worked at the City must be reported to CalPERS. Per CalPERS, the hours you work cannot exceed 960 hours in a fiscal year (July 1 through June 30) for employment with all CalPERS employers combined. In addition, the City must enroll and report your hours to CalPERS. It is the responsibility of the CONTRACTOR to provide cumulative hourly usage for each employee providing services on a monthly invoice throughout the year.

2.2 CONTRACTOR shall have no claim for compensation for any services or work, which has not been authorized by CITY's Authorization to Proceed.

2.3 CONTRACTOR shall not accept any change of scope, or change in contract provisions, to this Contract unless issued in writing, as a contract change order or amendment and signed by CITY. Any extensions of time must be mutually agreed upon in writing and executed by both parties.

2.4 CONTRACTOR shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.

2.5 All work supplied under this Contract shall be fully guaranteed by CONTRACTOR for a minimum period of 365 days from the date of acceptance by CITY. Any defects of design, workmanship, or materials that would result in non-compliance with the Contract specifications shall be fully corrected by CONTRACTOR (including parts and labor) without cost to CITY. The written warranty shall be included with the delivered products to the using Department.

2.6 CITY shall provide to CONTRACTOR, without charge, all data, program information, including reports, records, maps, and other information, now in CITY's possession, which may facilitate the timely performance of the work.

## 3 CONTRACTOR'S KEY PERSONNEL

3.1 **Key Staff.** CITY reserves the right to review and approve CONTRACTOR'S staff including all subcontractors to be assigned to any project by CONTRACTOR during the term of this Contract.

This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.

CONTRACTOR's Team and Key Personnel are as follows:

Paul Meschino - President
Eric Norris - Planning Lead
Nick Pergakes, AICP - Urban Design Lead
Eunice Ban, AICP - Senior Planner
Jennifer Williams, AICP - Senior Planner
Chantal Power, AICP - Senior Planner
Reina Schaetzl - Associate Planner
Malinda Lim - Associate Planner
Daisy Diep - Assistant Planner

Josh Valdez - Assistant Planner
Adrain Andujo - Planning Technician

This Services Contract has been awarded to CONTRACTOR based on its representation that those personnel and subcontractors submitted as part of its bid and listed above will perform the portions of the work listed above.

CONTRACTOR shall not deviate nor substitute any of these team members without prior written approval by CITY.

3.2 **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.

CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

3.3 **Direct Responsibility.** All services required under this Contract shall be performed by CONTRACTOR, or under CONTRACTOR's direct supervision, and all personnel shall possess the qualifications, permits and licenses required by State and local law to perform such services.

3.3.1 CONTRACTOR shall be solely responsible for the satisfactory work performance of all personnel engaged in performing services required by this Contract, and compliance with all reasonable performance standards established by CITY.

3.3.2 CONTRACTOR shall be responsible for payment of all CONTRACTOR's employees' and subcontractor's wages and benefits and shall comply with all requirements pertaining to the employer's liability, workers' compensation, unemployment insurance, and Social Security.

3.3.3 CONTRACTOR shall indemnify and hold harmless CITY, and its respective officers, agents and employees from and against all claims, demands, damages or costs to the extent arising from CONTRACTOR's negligent acts or omissions with respect to any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices.

## 4 CONTRACT TERM

The term of this Contract is THREE (3) YEARS, commencing on the effective date, with CITY reserving the option to extend the agreement for TWO additional terms of one year each.

## 5 ACCEPTANCE AND DOCUMENTATION

Each task shall be reviewed and approved by the Contract Project Manager to determine acceptable completion.

5.1 **Records**. The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

5.2 **Property of CITY.** All materials, including reports, computer programs and other deliverables, supplied or created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

5.3 **Products.** All equipment, materials, parts, and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.

## 6 PRICE

CITY shall pay to CONTRACTOR an amount not to exceed Four-Hundred Thousand dollars ($400000.00) for the completion of all the work and services described in Section 2, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as follows:

| Classification | Hourly Billing Rate |
|---|---|
| **Planning Services** | |
| Community Development Director | 215 |
| Planning Manager | 190 |
| Principal Planner | 175 |
| Senior Planner | 160 |
| Associate Planner | 130 |
| Assistant Planner | 105 |
| Planning Technician | 85 |

6.1 An application for payment form must be submitted to CITY which shall include the following: a clear, detailed invoice reflecting work being billed for, a summary sheet showing percentage of work completed to date, amount/percent billed to date and current status of all tasks within a project; any/all backup documentation supporting the above items. Work schedule updates must also be included with the payment requests.

6.2 CONTRACTOR shall maintain adequate records and shall permit inspection and audit by CITY of CONTRACTOR's charges under this Contract. CONTRACTOR shall make such records available to CITY during normal business hours upon

reasonable notice. Nothing herein shall convert such records into public records, and they will be available only to CITY and any specified public agencies. Such records shall be maintained by CONTRACTOR for one (1) year following completion of the work under this Contract unless a longer period of time is required by state or federal law, in which event CONTRACTOR shall retain its records for the time required by such laws.

6.3 **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.

## 7 TAXES

7.1 CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by CONTRACTOR in accordance with state and local laws.

7.2 CONTRACTOR is an independent contractor and shall have no power or authority to incur any debt, obligation, or liability on behalf of CITY. No person employed by CONTRACTOR or acting on its behalf, in connection with this Contract shall be considered the Agent or employee of CITY.

7.3 CONTRACTOR shall be required to obtain a current City of Palmdale business license, as required by the Palmdale Municipal Code, before an Authorization to Proceed is issued.

7.4 When equipment, materials or supplies generally taxable to CONTRACTOR are eligible for a tax exemption due to the nature of the work, CONTRACTOR shall assist the City in applying for and obtaining such tax credits and exemptions, which shall be paid or credited to the City.

## 8 PATENT FEES AND ROYALTIES

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use, in the performance of the work or the incorporation in the work of any invention, design, process, program, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, program, product or device is specified in the contract documents for use in the performance of the work and if, to the actual knowledge of CITY, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by CITY in the contract documents. CONTRACTOR shall indemnify and hold harmless CITY and anyone directly or indirectly employed by CITY from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work, or resulting from the incorporation in the work of any invention, design, process, program, product or device not specified in the contract documents, and shall defend all such claims in connection with any alleged infringement of such rights. CONTRACTOR shall have

no liability arising from the use of such documents for any purpose or on any project other than that for which it was produced.

## 9 INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR and any subcontractors working on its behalf agree to indemnify CITY, its officers, employees, agents and elected and appointed boards (hereinafter "Indemnified Parties") for any third party loss, claim, demand, cause of action, cost, expense, damage, obligation or liability to the extent that arises out of or is connected with the negligent performance of any work under this agreement, including any negligent acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of CONTRACTOR, or its subcontractors, and regardless of any negligent acts, omissions or negligence (passive) of any person or entity indemnified hereunder. At their own expense, CONTRACTOR and, as applicable, any subcontractors working on its behalf, shall defend any third party suit, claim or action against the Indemnified Parties founded upon such loss, claim, demand, cause of action, cost, expense, damage, obligation or liability. CONTRACTOR shall ensure that the contract of any subcontractor working under this agreement contain an indemnity agreement, requiring the subcontractor to indemnify and defend the Indemnified Parties pursuant the terms set forth above. CONTRACTOR shall indemnify the Indemnified Parties, and save it harmless from any and all third party loss, damage, costs, expenses and attorney's fees suffered or incurred on account of any breach of the aforesaid obligations and covenants, and any other provision or covenant of this agreement. CONTRACTOR's obligations under this Agreement are contingent upon timely receipt of notice of the claim for which indemnification is sought, such that defense of the claim is not prejudiced, and the reasonable assistance of the indemnitee in connection with the defense of the claim.

## 10 INSURANCE

10.1 CONTRACTOR, at its expense, shall maintain in effect at all times during the performance of work under this Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers listed "A" or better in the Best's Insurance Guide and authorized to do business in the State of California. **Proof of Insurance, as identified in Section 10.8, must be reviewed and accepted by the City Attorney**.

10.1.1 Workers' Compensation and Employer's Liability

- Workers' Compensation -- coverage as required by the State of California
- Employer's Liability -- $1,000,000.00 each accident
  $1,000,000.00 policy limit bodily injury
  $1,000,000.00 each employee bodily injury by disease

10.1.2 Commercial General Liability

- $1,000,000.00 limit on a per occurrence basis
- $2,000,000.00 general aggregate limit

10.1.3 Commercial Automobile Liability

- $1,000,000.00 combined single limit including owned, non-owned and hired automobile coverage

10.1.4 Professional Liability (Errors & Omissions) Insurance*
- $2,000,000 limit on a per occurrence basis

10.1.4 Cyber Liability Insurance*
- $1,000,000 limit on a per occurrence basis

10.2 All of CONTRACTOR's policies shall contain an endorsement providing that written notice shall be given to CITY at least thirty (30) calendar days prior to termination, cancellation, or reduction of coverage in the policy.

10.3 Policies providing for bodily injury and property damage coverage shall contain the following:

A. An endorsement extending coverage to the City as an additional insured, as respects liability arising out of the performance of any work under the Contract. Such insurance shall be primary insurance, as respects the interest of the City, and any other insurance maintained by the City shall be considered excess coverage and not contributing insurance with the insurance required hereunder. The certificates shall state: "The City of Palmdale, Successor Agency to the Community Redevelopment Agency of the City of Palmdale, Palmdale Civic Authority, Housing Authority, Industrial Development Authority, Airport Authority, their officers, agents, employees and volunteers are named as additional insured".

B. "Severability of Interest" Clause.

10.4 Promptly upon execution of this Contract, and prior to commencement of any work, CONTRACTOR shall deliver to CITY certificates of insurance and endorsements to all required policies demonstrating that CONTRACTOR has the required coverage and showing the required named insured. Within five (5) days of written request from CITY, CONTRACTOR shall deliver to CITY full and complete copies of all insurance policies required by this Contract.

10.5 The requirements as to the types and limits of insurance to be maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify CONTRACTOR's liabilities and obligations under this Contract.

10.6 Any policy or policies of insurance that CONTRACTOR elects to carry as insurance against loss or damage to its equipment and tools or other personal property used in the performance of this Contract shall include a provision waiving the insurer's right of subrogation against CITY.

10.7 All insurance coverage must be maintained throughout the duration of this Contract.

10.8 Acceptable Proof of Insurance:

10.8.1 ACORD Certificate of Insurance listing all coverage, limits, deductibles and insured; and endorsements for all applicable coverage if agent has authority to issue it; or additional insured Form CG20100704 and CG20370704 or equivalent must be provided for general liability coverage. Additional insured form CA0001 must be provided for automobile liability coverage.

10.8.2 Binders of insurance for all coverage. Agents must confirm that policy endorsements have been ordered from the respective insurance companies. Upon issuance, policy endorsements and a corresponding Certificate of Insurance listing all insurers and coverage must be submitted to the City Attorney.

10.8.3 *When professional (E&O) liability and/or cyber liability coverage is provided on a “claims made basis”, CONTRACTOR will continue to renew the insurance for a period of five (5) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONTRACTOR, or its officers, employees or agents during the time this Agreement was in effect.

10.9 Notwithstanding any other provision of this Contract, CITY may immediately terminate this Contract if, at any time CONTRACTOR fails to maintain the required insurance for any period of time or fails to comply with any of the insurance requirements listed above.

10.10 CONTRACTOR shall require any and all subcontractors working on its behalf to provide insurance coverages and limits that are based on the scope of work and nature of risk being performed by the subcontractor. Any and all subcontractors working on behalf of CONTRACTOR shall be subject to all other insurance requirements that are stated herein.

Any deviation in this requirement will be CONTRACTOR's sole risk. CONTRACTOR's insurance requirements in Section 10 will not be impacted and/or limited by such deviation.

## 11 TERMINATION WITHOUT CAUSE

City reserves the right to terminate this Contract or any part thereof for its sole convenience with fifteen (15) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. CONTRACTOR shall also surrender to CITY all finished or unfinished documents, processes, programs and other supplies and materials, which shall be City’s property. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive an amount equal to the value of the work completed as of the termination date in accordance with the fee schedule or as negotiated between

the parties. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Contract.

## 12 TERMINATION FOR CAUSE

If CITY determines that CONTRACTOR has failed to supply an adequate working force, or to provide services of proper quality, or has failed in any other respect to satisfactorily perform the services specified in this Contract, CITY shall give written notice to CONTRACTOR specifying all defaults to be remedied within thirty (30) days. Such notice shall set forth the basis for CITY's dissatisfaction and suggest corrective measures. If, after thirty days, CONTRACTOR has failed to implement appropriate corrective measures, CITY may elect to terminate this Contract in whole or in part.

12.1 In the event CITY terminates this Contract, in whole or in part, for cause, CITY may procure, upon such terms and in such manner, as it may deem appropriate, services similar to those terminated.

12.2 CONTRACTOR shall provide all finished or unfinished documents, data, studies, software, drawings, programs, processes, maps, photographs, reports, etc., prepared by CONTRACTOR within fifteen (15) working days after notice of termination. Upon such termination, CONTRACTOR shall be paid an amount equal to the value of the services provided and work performed as of the date of termination, taking into consideration the costs associated with hiring another CONTRACTOR to complete the services. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to both completed work and work in progress, to complete and incomplete documents when such are delivered to CITY, and to authorized reimbursement expenses. The above is in addition to any other remedies available by law or equity to CITY.

12.3 If, after notice of termination of the Contract under the provisions of this Section 12, it is determined, for any reason, that CONTRACTOR was not in default, or that the default was excusable, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 11.

## 13 DISPUTE RESOLUTION

All claims, disputes, and other matters in question between CITY and CONTRACTOR arising out of or relating to this Contract or the breach thereof shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

## 14 OWNERSHIP OF PRODUCT

All product, data, documents, programs and software including, but not limited to, research, field notes, investigations, analysis, studies, processes, software, instructions for use and other manuals, whether complete or incomplete, which are prepared or produced in the performance of this Contract are to be, and remain the property of CITY and shall be delivered to or left with CITY upon the completion or

termination of this Agreement. CONTRACTOR shall furnish CITY, upon its request, originals and reproducible and electronic copies of product, data reports, studies and of all other documents listed above. Electronic copies shall be provided in an unprotected format which allows CITY to copy, reproduce and makes changes as CITY deems necessary. For the avoidance of doubt, nothing in this Agreement shall be understood to grant CITY rights to pre-existing intellectual property of CONTRACTOR, including CONTRACTOR software and licensed software, or to any improvements thereto. CONTRACTOR shall have no liability arising from the use of such documents for any purpose or on any project other than that for which it was produced

## 15 DELEGATION AND ASSIGNMENT

15.1 CONTRACTOR shall not delegate or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY, which shall not be unreasonably delayed or withheld; provided, however, that claims for money due or to become due to CONTRACTOR from CITY under this Contract may be assigned to a bank, trust company or other financial institution without such approval.

15.2 Any assignment, delegation or subcontract shall be made in the name of CONTRACTOR and shall not bind or purport to bind CITY and shall not release CONTRACTOR from any obligations under this Contract including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegates and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to CONTRACTOR under this Contract.

## 16 NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

16.1 In performance of this Contract, CONTRACTOR shall not discriminate against any employee, subcontractor, or applicant for employment because of sex, color, race, religion, ancestry, national origin, disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sexual orientation, age, gender, gender identity, gender expression, genetic information, or military and veteran status. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, color, race, religion, ancestry, national origin, disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sexual orientation, age, gender, gender identity, gender expression, genetic information, or military and veteran status . Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

16.2 The provisions of subsection 16.1 above shall be included in all solicitations or advertisements placed by or on behalf of CONTRACTOR for personnel to perform any services under this Contract. CITY shall have access to all documents, data and records of CONTRACTOR and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section, and all applicable provisions of Executive Order No. 11246 which is incorporated herein by this reference. A copy of Executive Order No. 11246 is available for inspection at, and on file with, the Palmdale City Clerk's Office.

## 17 FINANCIAL INTEREST CERTIFICATION

17.1 CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no officer or employee of the CITY has any interest, financially or otherwise, in CONTRACTOR's firm.

17.2 For breach or violation of this warranty, CITY shall have the right to annul this Contract without liability or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

## 18 CONFLICT OF INTEREST

18.1 CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract or which would cause CONTRACTOR to be "financial interested" (as provided in California Government Code Section 1090 et seq. or 87100 et seq.) in any contract or decision made by CITY on any matter.

18.2 CONTRACTOR shall not employ any City official or employee to perform any work required pursuant to this Contract.

18.3 To the extent required by the City Manager or his designee, CONTRACTOR shall complete and file with the City Clerk a Form 700 Statement of Economic Interests disclosing any reportable property interests, income, gifts, investments, or business positions.

## 19 COMPLIANCE WITH LAW

19.1 CONTRACTOR shall comply with all state and federal laws, including but not limited to, the requirement to hire only those persons authorized by federal law to work in the United States. If CONTRACTOR uses any subcontractors to complete this Contract, this same requirement shall be included in all subcontracts and strictly enforced by CONTRACTOR.

19.2 The law of the state of California shall govern this Contract. The venue of any legal action, either formal or informal, shall be the County of Los Angeles.

## 20 NOTICES

Any notice required under this Contract shall be in writing, addressed to the appropriate party at its address on the signature page and given personally or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## 21 ENTIRE AGREEMENT AND AMENDMENTS

21.1 This Contract is the complete Agreement between the parties and supersedes all prior proposals, agreements, and understandings between the parties and may not be modified or terminated orally.

21.2 No attempted waiver of any of the provisions hereof, nor any modification in the nature, extent or duration of the work to be performed by CONTRACTOR hereunder, shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

21.3 The failure of any party to enforce against another party any provision of this Contract shall not constitute a waiver of that party’s right to enforce such a provision at a later time, and shall not serve to vary the terms of this Contract.

## 22 ATTORNEY'S FEES

If any action at law or in equity is brought to enforce or interpret any provisions of this Contract, 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.

**In Witness Whereof,** the parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized.

CITY OF PALMDALE:

SIGNATURE AREA

Ronda Perez
City Manager

SIGNATURE AREA

ADDRESS FOR NOTICE:
CITY OF PALMDALE
38250 Sierra Highway
Palmdale, CA 93550

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
Interim City Attorney

ATTEST:

SIGNATURE AREA

Roxanne Faber
Acting City Clerk

INTERWEST CONSULTING GROUP:

SIGNATURE AREA

Paul Meschino
President of Operations

ADDRESS FOR NOTICE:
INTERWEST CONSULTING GROUP
1 Jenner Suite 160
Irvine, CA 92618

---------- INTERNAL USE ONLY ----------

■Certificate(s) and Endorsement(s) attached
■Confirmed business name on contract with certificate(s)
■Attached Agreement Checklist and met all requirements

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT PLANNING DIVISION**

**DISTRICT:** **ALL**

**SUBJECT:** **APPROVE AMENDMENT NO. 1 TO AGREEMENT WITH INTERWEST CONSULTING GROUP TO INCREASE THE CONTRACT PRICE BY $150,000 FOR AN AMOUNT NOT TO EXCEED $250,000 FOR RITTER RANCH PLANNING SERVICES.**

## ISSUE

Approve Amendment No. 1 to Agreement with Interwest Consulting Group to increase the contract price by $150,000 for an amount not to exceed $250,000 for Ritter Ranch Planning services.

## RECOMMENDATION

Staff recommends that the City Council:

1. Approve Amendment No. 1 to Agreement No. A-7581 with Interwest Consulting Group (Interwest) in an amount not to exceed $250,000 for Ritter Ranch Planning services; and
2. Authorize the City Manager or her designee to execute Amendment No. 1 to Agreement No. A-7581, including minimal and/or non-substantiative changes.

## BACKGROUND

On August 1, 2021, the City entered into an agreement with Interwest with a not to exceed amount of $100,000 for Ritter Ranch Planning services. The intent of this agreement was to provide a series of project phases with specialized services geared toward the development of Ritter Ranch. Due to the complexity of the Ritter Ranch project and lack of senior-level Planning staff due to ongoing staffing vacancies, we determined that utilizing Interwest as the project manager for Ritter Ranch would be the most expeditious and business-friendly approach. Interwest has assigned a Project Manager who reviews all plans, drafts letters, staff reports, and resolutions, attends meetings, and facilitates communication among City divisions and external agencies to ensure quick response times.

On September 1, 2020, the City and Preston Hollow Capital, LLC entered into Agreement No. A-7107, which states that the City will be reimbursed for costs associated with Ritter Ranch development, including existing Ritter Ranch Agreements, new Ritter Ranch Agreements, any Bonds, land use approvals, City staff time, and usage of third-party consultants to handle such workload. Preston Hollow Capital, LLC completes the reimbursement by providing deposit advances to the City to offset qualifying expenses at the discretion of the Director of Finance.

## DISCUSSION

As the Ritter Ranch development progresses, Interwest remains heavily involved due to the complex, time-consuming nature of the project. Interwest provides high-level specialized Planning services that continue to assist with expediting reviews and communication among City divisions and external agencies. Interwest's experience and knowledge of the Ritter Ranch project has proven to be invaluable. The City is requesting an Amendment to Agreement No. A-7581 to increase the project term by three (3) years, expiring on August 1, 2027, and increase the agreement amount by $150,000 for a total compensation not to exceed $250,000.

## FISCAL IMPACT

No fiscal impact to the City. Ritter Ranch Planning expenses are reimbursed by Preston Hollow Capital, LLC as indicated in Agreement No. A-7107.

## STRATEGIC PLAN

Goal III: Invest in infrastructure to improve community livability.

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

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

| | |
|---|---|
| Prepared by: | Zach Glynn, Management Analyst I |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENT

1. Agreement No. A-7581 Amendment No. 1
2. Agreement No. A-7581

**1st AMENDMENT TO AGREEMENT A-7581**
**BETWEEN THE CITY OF PALMDALE AND INTERWEST CONSULTING GROUP**

This 1st Amendment to Agreement No. A-7581 (“Agreement”) is made and entered into by and between the City of Palmdale (hereinafter called “CITY”) and INTERWEST CONSULTING GROUP (hereinafter called "CONSULTANT"). This Contract shall become effective on the date of the last signatory.

WHEREAS, on August 1, 2021 ("Original Agreement") the CITY and CONSULTANT entered into an agreement to provide:

Consultant services to assist with processing entitlements associated with the Ritter Ranch Specific Plan.

WHEREAS, the parties desire to amend the Original Agreement to:

Increase agreement amount, modifications to form language, term of contract and update the fee schedule to reflect current billing rates.

NOW THEREFORE, the parties agree as follows:

1. The contract term identified in Section 4 is amended to increase the term of the original agreement by three (3) years expiring on August 1, 2027.

2. The 1st paragraph of Section 6 Patent Fees and Royalties, shall be amended to read as follows:

CONSULTANT shall pay all license fees and royalties and assume all costs incident to the use, in the performance of the work of the incorporation in the work of any invention, design, process, product or device which is the subject of patent right of copyrights held by others. If a particular invention, design, process , product or device is specified by the CITY for use in the performance of the work and if, to the actual knowledge of the CITY, its use is subject to patent right or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by CITY in the contract documents. CONSULTANT shall indemnify and hold harmless CITY and anyone directly or indirectly employed by CITY from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work, or resulting from the incorporation in the work of any invention, design, process, product or device not specified by CITY, and shall defend all such claims in connection with any alleged infringement of such rights. CONSULTANT shall have no liability arising from the use of such documents for any purpose or on any project other than that for which it was produced.

3. The 4th paragraph of Section 8 Consultant's Personnel, shall be amended to read as follows:

8.4 CONSULTANT shall indemnify and hold harmless CITY, and its respective officers, agents and employees from and against all third party claims, demands, damages or costs to the extent arising from CONSULTANT'S negligent acts or omissions with respect to any liability, damages, claims, costs and expenses of any arising from alleged violations of personnel practices.

4. The compensation identified in Section 9.1 is amended to increase the total price of the Agreement by One-Hundred and Fifty Thousand Dollars ($150,000), not to exceed the amount of Two-Hundred and Fifty Thousand Dollars ($250,000).

5. Section 9.1 Fee Schedule shall be amended to read as follows: *Insert Billing Rates Chart*

6. The 1st paragraph in Section 10 Indemnification shall be amended to read as follows:

To the fullest extent permitted by law, CONSULTANT and any contractors or subcontractors working in its behalf agree to indemnify, defend CITY, its officers, employees, agents and elected and appointed boards (hereinafter "Indemnified Parties") for any third party loss, claim, demand, cause of action, cost, expense, damage, obligation or liability to the extent that they arises out of or connected with the negligent performance of any work under this agreement, including any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of CONSULTANT, its contractors or subcontractors, and regardless of any negligent acts, omissions or negligence of any person or entity indemnified hereunder. At their own expense, CONSULTANT and, as applicable, any contractors or subcontractors working on its behalf, shall defend any third party suit, claim or action against the Indemnified Parties founded upon such loss, claim, demand, cause of action, cost, expense, damage, obligation or liability. CONSULTANT shall ensure that the contract of any contractor or subcontractor to indemnify and defend the Indemnified Parties pursuant the terms set forth above. CONSULTANT shall indemnify the Indemnified Parties, and save it harmless from any and all third party loss, damage, costs, expenses and attorneys fees suffered or incurred on account of any breach of the aforesaid obligations and covenants, and any other provision or covenant of this agreement. CONSULTANT's obligations under this Agreement are contingent upon timely receipt of notice of the claim for which indemnification is sought, such that defense of the claim is not prejudiced, and the reasonable assistance of the indemnitee in connection with the defense of the claim.

7. The 1st paragraph in Section 15 Ownership of Documents shall be amended to read as follows:

All documents, including, but not limited to, research, field notes, investigations,

analysis, and studies which are prepared in the performance of this Contract are to be, and remain the property of CITY. CONSULTANT shall furnish CITY, upon its request, originals or reproducible or electronic copies of reports, studies and of all other documents listed above. For the avoidance of doubt, nothing in this Agreement shall be understood to grant CITY rights to pre-existing intellectual property of CONSULTANT, including CONSULTANT software and licensed software, or to any improvements thereto. CONSULTANT shall have no liability arising from the use of such documents for any purpose or on any project other than that for which it was produced.

8. The 1st paragraph in Section 16 Subcontracting, Delegation and Assignment shall be amended to read as follows:

CONSULTANT shall not delegate, subcontract or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY, which shall not be unreasonably delayed or withheld provided, however, that claims for money due or to become due to CONSULTANT from CITY under this Contract may be assigned to a bank, trust company or other financial institution without such approval. Any proposed delegation, assignment or subcontract shall provide a description of the services covered, indemnification or the proposed assignee, delegates or subcontractor, and an explanation of why and how the same was selected, including the degree of completion involved. Any proposed agreement with an assignee, delegates or subcontractor shall include the following:

A. The amount involved, together with CONSULTANT's analysis of such cost or price; and
B. A provision requiring that any subsequent modification of amendment shall be subject to the prior written consent of CITY; and
C. The requirement to hire only those persons authorized by federal law to work in the United States.

All other terms and conditions of the Original Agreement not amended herein, remain in full force and effect.

**In Witness Whereof,** the parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized.

CITY OF PALMDALE:

SIGNATURE AREA

Ronda Perez
City Manager

SIGNATURE AREA

ADDRESS FOR NOTICE:
CITY OF PALMDALE
38250 Sierra Highway
Palmdale, CA 93550

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
Interim City Attorney

ATTEST:

SIGNATURE AREA

Roxanne Faber
Acting City Clerk

INTERWEST CONSULTING GROUP:

SIGNATURE AREA

Paul Meschino
President of Operations

ADDRESS FOR NOTICE:
INTERWEST CONSULTING GROUP
1 Jenner Suite 160
Irvine, CA 92618

---------- INTERNAL USE ONLY ----------

- ■Certificate(s) and Endorsement(s) attached
- ■Confirmed business name on contract with certificate(s)
- ■Original contract and previous amendment(s) (if any) are attached
- ■Attached Agreement Checklist and met all requirements

ORIGINAL

**AGREEMENT NO. A-7581**
**CONTRACT FOR CONSULTANT SERVICES**
**BETWEEN THE CITY OF PALMDALE AND INTERWEST CONSULTING GROUP**

**THIS CONTRACT FOR CONSULTANT SERVICES** ("Contract" herein) is made and entered into this 1st day of August, 2021 by and between the City of Palmdale a public body corporate and politic, (hereinafter called "CITY") and INTERWEST CONSULTING GROUP (hereinafter called "CONSULTANT").

**RECITALS**

WHEREAS, City desires to engage CONSULTANT to provide certain consultant services; and

WHEREAS, CONSULTANT represents that CONSULTANT has the expertise and is qualified to perform the services described in this Contract. And, if required, is duly registered under the laws of the State of California; and

WHEREAS, CONSULTANT desires to accept such engagement.

**NOW, THEREFORE,** the parties agree as follows:

## 1 DESCRIPTION OF WORK

1.1 The City hereby engages CONSULTANT, and CONSULTANT accepts such engagement, to provide the following services:

**Phase 1:**

Task 1 - Project Initiation. Upon authorization to proceed by the City, Interwest will begin reviewing project materials, including original and subsequent project approvals. This task will involve virtual meetings with City staff and possibly with the applicant team. The prior project conditions of approval (COAs) will be a significant focus of this review.

Interwest's review will include:

- Consistency of proposed maps with previously approved maps and the Specific Plan.
- Project COAs, including the source of the original COAs and the applicants requests for COA modifications.
- Initial review of CEQA options and initial identification of what might require further analysis.
- Interview of key City staff and outside Counsel.

Interwest will request contact information for key City staff and contacts at affected agencies, including schools, the Los Angeles County Fire Department and tribal governments. Initial coordination with these individuals will commence with this task.

Task 2 - Project Kick-Off Meeting and Site Visit. Within two weeks of Project Initiation, Interwest will conduct a Kick-Off meeting to discuss our initial findings and to identify any issues that must be resolved. This meeting will include City staff, outside City Counsel, the applicant team and any representative of outside agencies that the City determines appropriate.

This meeting will begin the discussion of previously approved COAs and amendments to the COAs that the applicant team will request.

Interwest will also be available for a site visit during the first month of their work. Interwest recommends holding the kick-off meeting virtually, followed by the site visit.

Task 3 - Application Routing. Interwest assumes the Project application for Phase 1 has been routed for first review and that a letter of incomplete application will be prepared by the City. Interwest staff will assume responsibility for ensuring future project submittals are routed and for determining when the application is complete.

Task 4 – Refine Scope. Within no more than three weeks of Project Initiation, Interwest will complete an initial review of the project materials, clarify the entitlements and approvals Interwest believes are required, and refine their estimate of processing costs and schedule to complete the review as needed.

Task 5 - Application Completeness Review. Once the applicant has submitted revised application materials, Interwest will review the resubmittal and prepare a draft completeness letter for review by the City within 20 days of submittal. Interwest will be responsible for responding to peer comments, obtaining comments from other divisions and agencies, and ensuring all completeness letters are provided to the applicant within 30 days of submittal.

Task 6 - Coordination and Communication. Interwest will coordinate the review of entitlement applications with City staff, City consultants and the applicant team. This will include the scheduling of meetings to review project materials, the circulation of work products to appropriate parties and other efforts as required. Interwest will be available to attend at least one (1) weekly virtual team meeting as needed and be available for team calls during the week.

Task 7 - Project Conditions of Approval. Updating the Project COAs and developer obligations will be one of the more significant efforts in Phase 1. Interwest will review the applicant's matrix: 1) to ensure that all appropriate conditions are included; and, 2) to provide recommendations to the City on the applicant's proposed changes. Working in coordination with City staff and the applicant team, Interwest will:

- Identify COAs that are required for consistency with adopted City policies and standards (General Plan, Specific Plan and possibly Zoning Code);
- Coordinate with outside agencies to determine required obligations; and,

- Identify obligations not specifically required, but previously accepted by Project applicants – Interwest will facilitate discussions on these obligations.

Task 8 - Development Agreement. Interwest understands it is likely that a new Development Agreement (DA) will be submitted in conjunction with Phase 1 approvals. Interwest will serve as a coordinator for this effort and will work with the City Attorney, outside City Counsel and the applicant team to determine the obligations included in the DA. Interwest assumes the City Attorney and Project applicant will be responsible for preparing the DA and ensuring that the form and content of the DA are legally correct.

Task 9 - CEQA Review. Interwest will conduct a peer review of the CEQA analysis/determination for the Phase 1 approvals. It is anticipated this will be a streamlined CEQA review and will rely on previously complete analysis to the extent feasible and appropriate. Interwest will consult with the City Attorney's office to ensure CEQA determinations are legally defensible. Interwest's goal will be to identify the most appropriate CEQA document as well as alternative approaches, and to ensure that the City is aware of the potential associated risks. Interwest understands that the City will make a decision on the CEQA process to be followed; Interwest will work to implement that direction.

Task 10 - Planning Commission / City Council Review. Interwest will prepare complete packets for Planning Commission and City Council hearings that include, but may not be limited to: staff report, conditions of approval, CEQA determination, resolution(s) and/or ordinance, associated project exhibits, hearing notice and meeting presentation. These materials will be organized and presented in a form and format consistent with City practices and shall be submitted consistent with the City schedule. Interwest staff will be available to consult with City staff prior to public hearings and will present the project to decision makers for consideration.

Task 11 - Closeout of Application. Following action by the City, Interwest will ensure that all required notices of decision are properly filed and will ensure all Project files are organized and all key documents are in place as part of the closeout procedure. Files will be maintained consistent with the City's record retention policy.

Task 12 - Post Approval Reviews. Interwest will be responsible for facilitating and processing post approval reviews for Phase 1, which include, but are not limited to: processing of individual plot plans (Subdivision Development Plans) and temporary use permits for construction facilities and model homes.

**Phase 2:**

Interwest understands that the City may require services beyond the planner services described in the above scope of services. Such services could be related to Phase 1 plan reviews or engineering services related to Phase 2 efforts. Interwest staff is available to provide the following supplemental services under this Scope of Services. Efforts described below would only commence following written authorization to proceed from the City. Such services include:

- Land surveying
- Hydrologic study/plan review
- Civil plan review
- Landscape plan review
- Other Engineering plan reviews as assigned

CONSULTANT shall perform and complete all such work and services in a manner satisfactory to CITY.

1.2 Project deliverables shall be reviewed and approved by CITY to determine acceptable completion. CITY shall have the right to review and inspect the work during the course of its performance at such times as may be specified by CITY.

1.3 CONSULTANT shall not accept any change of scope, or change in contract provisions, unless issued in writing, as a contract change order or amendment and signed by CITY. Any extensions of time must be mutually agreed upon in writing and executed by both parties.

1.4 CITY shall provide to CONSULTANT, without charge, all data, program information, including reports, records, maps, and other information, now in CITY's possession, which may facilitate the timely performance of the work.

## 2 CITY PROJECT MANAGER

To provide the services required by this Contract, CONSULTANT shall act under the authority and approval of a Project Manager appointed by CITY. The City Project Manager will oversee the work under this Contract, assist CONSULTANT with any necessary information, audit billings, and approve payments. CONSULTANT shall channel reports, deliverables, and special requests through the City Project Manager.

## 3 CONSULTANT'S KEY PERSONNEL

CONSULTANT's Team and Key Personnel are as follows:

Eric Norris, Project Manager - Paul Junker, Project Resource - Interwest Public Works Department

This Consultant Services Contract has been awarded to CONSULTANT based on its representation that those personnel and subcontractors listed above will perform the portions of the work listed herein. CONSULTANT shall not deviate nor substitute any of these team members without prior written approval by CITY.

## 4 CONTRACT TERM

The term of this contract is three (3) years, commencing on August 1, 2021.

## 5 TAXES AND INDEPENDENT CONTRACTOR

5.1 CONSULTANT shall pay all sales, consumer, use, and other similar taxes required to be paid by CONSULTANT in accordance with state and local laws.

5.2 CONSULTANT is an independent contractor and shall have no power or authority to incur any debt, obligation, or liability on behalf of CITY. No person employed by CONSULTANT or acting on its behalf, in connection with this Contract shall be considered the Agent or employee of CITY. CONSULTANT shall have complete control over the means and methods of completing the assigned services and shall provide all supervision, training and equipment for its employees. CONSULTANT shall be responsible for payment of compensation to its employees, including any employment benefits. CONSULTANT and its employees shall not represent themselves as employees or agents of CITY.

5.3 CONSULTANT shall be required to obtain a current City of Palmdale business license, as required by the Palmdale Municipal Code, before an Authorization to Proceed is issued.

## 6 PATENT FEES AND ROYALTIES

CONSULTANT shall pay all license fees and royalties and assume all costs incident to the use, in the performance of the work or the incorporation in the work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified by CITY for use in the performance of the work and if, to the actual knowledge of CITY, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by CITY in the contract documents. CONSULTANT shall indemnify and hold harmless CITY and anyone directly or indirectly employed by CITY from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work, or resulting from the incorporation in the work of any invention, design, process, product or device not specified by CITY, and shall defend all such claims in connection with any alleged infringement of such rights.

## 7 STANDARDS OF PERFORMANCE

CONSULTANT shall be responsible for the completeness and accuracy of its services and work and documents resulting there from, and CITY shall not be responsible for discovering deficiencies therein. CONSULTANT shall correct any such deficiencies or errors without additional compensation and without cost to CITY, except to the extent any such deficiency is directly attributable to deficiencies in CITY -furnished information.

## 8 CONSULTANT'S PERSONNEL

8.1 All services required under this Contract shall be performed by CONSULTANT, or under CONSULTANT'S direct supervision, and all personnel shall possess the qualifications, permits and licenses required by State and local law to perform such services.

8.2 CONSULTANT shall be solely responsible for the satisfactory work performance of all personnel engaged in performing services required by this Contract, and compliance with all reasonable performance standards established by CITY.

8.3 CONSULTANT shall be responsible for payment of all CONSULTANT's employees' and subcontractor's wages and benefits and shall comply with all requirements pertaining to the employer's liability, workers' compensation, unemployment insurance, and Social Security.

8.4 CONSULTANT shall indemnify and hold harmless CITY, and its respective officers, agents and employees from and against all claims, demands, damages or costs arising from CONSULTANT's acts or omissions with respect to any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices.

## 9 COMPENSATION

9.1 For all of work and services including the various phases of tasks as described in Section 1, CITY shall pay to CONSULTANT an amount not to exceed the sum of one hundred thousand dollars ($100000.00), payable as follows:

The rates displayed in the fee schedule below reflect Interwest's current fees. Hourly rates are typically reviewed yearly on July 1 and may be subject to revision unless under specific contract obligations.

| Classification | Hourly Billing Rate |
|---|---|
| **Planning Staff** | |
| Project Manager (Eric Norris and Paul Junker) | 185 |
| Senior Planner (TBD) | 150 |
| Associate Project Planner (TBD) | 125 |
| Assistant Planner (TBD) | 80 |
| **Engineering Staff** | |
| PrincipalEngineer | 205 |
| Project Manager | 185 |
| Traffic Engineer | 175 |
| Supervising Engineer | 175 |
| Senior Engineer | 165 |
| Licensed Land Surveyor | 175 |
| Engineering Associate III | 135 |
| Engineering Associate II | 125 |

Engineering Associate I ..... 115
Senior Engineering Technician ..... 115
Engineering Technician III ..... 105
Engineering Technician II ..... 95
Engineering Technician I ..... 85

- *No charges for shipping, supply, or material costs.*
- *Direct costs and time associated with travel to and from Palmdale for meetings, site visits, public hearings, etc. will be billed.*

The Contract Price is CONSULTANT'S estimate of its charges for all of the services, including all labor, equipment, material, subcontractor and reimbursable costs, to be provided under this Agreement. Progress payments shall be made on a time and material basis. Final payment shall be made upon completion of all services and City acceptance of all deliverables, not-to-exceed the Contract Price.

9.2 CONSULTANT shall perform no work in excess of the total contract price without prior written approval of CITY. Total contract price includes expenses related to travel to and from CITY to meet with City and to appear, if so required, before City Council or any other board or commission of CITY.

9.3 CONSULTANT shall maintain adequate records and shall permit inspection and audit by CITY of CONSULTANT's charges under this Contract. CONSULTANT shall make such records available to CITY during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records, and they will be available only to CITY and any specified public agencies. Such records shall be maintained by CONSULTANT for one (1) year following completion of the work under this Contract unless a longer period of time is required by state or federal law, in which event CONSULTANT shall retain its records for the time required by such laws.

9.4 No payment made hereunder by CITY to CONSULTANT, shall be construed as an acceptance by CITY of any work or materials, nor as evidence of satisfactory performance by CONSULTANT of its obligations under this Contract.

**10 INDEMNIFICATION**

To the fullest extent permitted by law, CONSULTANT and any contractors or subcontractors working on its behalf agree to indemnify CITY, its officers, employees, agents and elected and appointed boards (hereinafter "Indemnified Parties") for any loss, claim, demand, cause of action, cost, expense, damage, obligation or liability which arises out of or is in any way connected with the performance of any work under this agreement, including any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of CONSULTANT, its contractors or subcontractors, and regardless of any acts, omissions or negligence (whether active

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or passive) of any person or entity indemnified hereunder. At their own expense, CONSULTANT and, as applicable, any contractors or subcontractors working on its behalf, shall defend any suit, claim or action against the Indemnified Parties founded upon such loss, claim, demand, cause of action, cost, expense, damage, obligation or liability. CONSULTANT shall ensure that the contract of any contractor or subcontractor working under this agreement contain an indemnity agreement, requiring the contractor or subcontractor to indemnify and defend the Indemnified Parties pursuant the terms set forth above. CONSULTANT shall indemnify the Indemnified Parties, and save it harmless from any and all loss, damage, costs, expenses and attorney's fees suffered or incurred on account of any breach of the aforesaid obligations and covenants, and any other provision or covenant of this agreement.

## 11 INSURANCE

11.1 CONSULTANT, at its expense, shall maintain in effect at all times during the performance of work under this Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers listed "A" or better in the Best's Insurance Guide and authorized to do business in the State of California. **Proof of Insurance, as identified in Section 11.8, must be reviewed and accepted by the City Attorney.**

11.1.1 Workers' Compensation and Employer's Liability

- Workers' Compensation—coverage as required by the State of California
- Employer's Liability:
  $1,000,000.00 each accident
  $1,000,000.00 policy limit bodily injury
  $1,000,000.00 each employee bodily injury by disease

11.1.2 Professional Liability Insurance*

- $1,000,000.00 with no deductible, or;
- Comparable alternative as determined by the City Attorney; and
- Policy form on a claims-made basis

11.1.3 Commercial General Liability

- $1,000,000.00 limit on a per occurrence basis
- $2,000,000.00 general aggregate limit

11.1.4 Commercial Automobile Liability

- $1,000,000.00 combined single limit including owned, non-owned and hired automobile coverage

11.2 All of CONSULTANT's policies shall contain an endorsement providing that written notice shall be given to CITY at least thirty- (30) calendar days prior to termination, cancellation or reduction of coverage in the policy.

11.3 Policies providing for bodily injury and property damage coverage shall contain the following:

A. An endorsement extending coverage to the City as an additional insured, in the same manner as the named insured, as respects liability arising out of the performance of any work under the Contract by CONSULTANT. Such insurance shall be primary insurance, as respects the interest of the City, and any other insurance maintained by the City shall be considered excess coverage and not contributing insurance with the insurance required hereunder. The certificate and endorsements shall state: "The City of Palmdale, the Successor Agency of the Community Redevelopment Agency of the City of Palmdale, Palmdale Civic Authority, Industrial Development Authority of the City of Palmdale, Palmdale Airport Authority, their officers, agents, employees and volunteers are named as additional insured's."

B. "Severability of Interest" clause.

11.4 Promptly on execution of this Contract, and prior to commencement of any work, CONSULTANT shall deliver to CITY certificates of insurance and endorsements to all required policies demonstrating that CONSULTANT has the required coverage and showing the required named insureds. Within five (5) days of written request from CITY, CONSULTANT shall deliver to CITY full and complete copies of all insurance policies required by this Contract.

11.5 The requirements as to the types and limits of insurance to be maintained by CONSULTANT are not intended to and shall not in any manner limit or qualify CONSULTANT's liabilities and obligations under this Contract.

11.6 Any policy or policies of insurance that CONSULTANT elects to carry as insurance against loss or damage to its equipment and tools or other personal property used in the performance of this Contract shall include a provision waiving the insurer's right of subrogation against CITY.

11.7 All insurance coverage must be maintained throughout the duration of this Contract.

11.8 Acceptable Proof of Insurance:

11.8.1 ACORD Certificate of Insurance listing all coverages, limits, deductibles and insureds; and endorsements for all applicable coverages if agent has authority to issue it; Additional insured Form CG20101185 or CG20100707 and CG20370704 or equivalent must be provided for general liability coverage. Additional insured form CA0001 must be provided for automobile liability coverage.

11.8.2 Agents must confirm that policy endorsements have been ordered from the respective insurance companies. Upon issuance, policy endorsements listing all insurers must be submitted to the City Attorney.

11.8.3 *When coverage is provided on a "claims made basis", CONTRACTOR will continue to renew the insurance for a period of five (5) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONTRACTOR for all claims made by CITY arising out of any acts or omissions of CONTRACTOR, or its officers, employees or agents during the time this Agreement was in effect.

11.9 Notwithstanding any other provision of this Contract, CITY may immediately terminate this Contract if, at any time CONSULTANT fails to maintain the required insurance for any period of time or fails to comply with any of the insurance requirements listed above.

## 12 TERMINATION WITHOUT CAUSE

CITY reserves the right to terminate this Contract or any part thereof for its sole convenience with fifteen (15) days written notice. In the event of such termination, CONSULTANT shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and sub-consultants to cease such work. CONSULTANT shall also surrender to CITY all finished or unfinished documents or programs and other materials, which shall be City's property. As compensation in full for services performed to the date of such termination, the CONSULTANT shall receive an amount equal to the value of the work completed as of the termination date in accordance with the fee schedule or as negotiated between the parties. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Contract.

CONSULTANT may terminate the Contract upon thirty (30) days' written notice. Upon receipt of such notice, the Contractor shall not incur any additional costs under the Contract. The City will be liable for costs incurred by the Contractor prior to notice of termination.

## 13 TERMINATION FOR CAUSE

13.1 If the City determines that the CONSULTANT has failed to supply an adequate working force, or to provide services of proper quality, or has failed in any other respect to satisfactorily perform the services specified in this Contract, the City shall give written notice to the CONSULTANT specifying all defaults to be remedied within thirty (30) days. Such notice shall set forth the basis for the City's dissatisfaction and suggest corrective measures. If, after thirty days, the CONSULTANT has failed to implement the corrective measures, the City may elect to terminate this Contract, in whole or in part.

13.2 In the event the City terminates this Contract in whole or in part as provided herein above, the City may procure, upon such terms and in such manner, as it may deem appropriate, services similar to those terminated.

13.3 If this Contract is terminated as provided above, the City may require the CONSULTANT to provide all finished or unfinished documents, data, studies, software, drawings, maps, photographs, reports, etc., prepared by the CONSULTANT. Upon such termination, the CONSULTANT shall be paid an amount equal to the value of the services provided and work performed as of the date of termination. Such payment by the City may take into consideration the costs associated with hiring another CONSULTANT to complete the services. In the event no new CONSULTANT is employed, the CONSULTANT shall be paid an amount equal to the value of the work performed. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to both completed work and work in progress, to complete and incomplete documents when such are delivered to CITY, and to authorized reimbursement expenses.

The above is in addition to any other remedies available by law or equity to the City.

13.4 If, after notice of termination of the Contract under the provisions of this Section 13, it is determined, for any reason, that CONSULTANT was not in default, or that the default was excusable, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 12.

## 14 DISPUTE RESOLUTION

All claims, disputes, and other matters in question between CITY and CONSULTANT arising out of, or relating to this Contract, or the breach thereof shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

## 15 OWNERSHIP OF DOCUMENTS

All documents, including, but not limited to, research, field notes, investigations, analysis, and studies which are prepared in the performance of this Contract are to be, and remain the property of CITY. CONSULTANT shall furnish CITY, upon its request, originals or reproducible or electronic copies of reports, studies and of all other documents listed above.

## 16 SUBCONTRACTING, DELEGATION AND ASSIGNMENT

16.1 CONSULTANT shall not delegate, subcontract or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY; provided, however, that claims for money due or to become due to CONSULTANT from CITY under this Contract may be assigned to a bank, trust company or other financial institution without such approval. Any proposed delegation, assignment or subcontract shall provide a description of the services covered, identification of the proposed assignee, delegates or subcontractor, and an explanation of why and how

the same was selected, including the degree of competition involved. Any proposed agreement with an assignee, delegates or subcontractor shall include the following:

A. The amount involved, together with CONSULTANT's analysis of such cost or price; and

B. A provision requiring that any subsequent modification or amendment shall be subject to the prior written consent of CITY.

C. The requirement to hire only those persons authorized by federal law to work in the United States.

16.2 Any assignment, delegation or subcontract shall be made in the name of CONSULTANT and shall not bind or purport to bind CITY and shall not release CONSULTANT from any obligations under this Contract including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegates and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to CONSULTANT under this Contract.

## 17 NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

17.1 In performance of this Contract, CONSULTANT shall not discriminate against any employee, subcontractor, or applicant for employment because of sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, or age. CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation or age. Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

17.2 The provisions of subsection 17.1 above shall be included in all solicitations or advertisements placed by or on behalf of CONSULTANT for personnel to perform any services under this Contract. CITY shall have access to all documents, data and records of CONSULTANT and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section, and all applicable provisions of Executive Order No. 11246 which is incorporated herein by this reference. A copy of Executive Order No. 11246 is available for inspection at, and on file with, the Palmdale City Clerk's Office.

## 18 FINANCIAL INTEREST CERTIFICATION

18.1 CONSULTANT warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission,

percentage, brokerage or contingent fee; and that no officer or employee of the CITY has any interest, financially or otherwise, in CONSULTANT's firm.

18.2 For breach or violation of this warranty, CITY shall have the right to annul this Contract without liability, or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

**19 CONFLICT OF INTEREST**

19.1 CONSULTANT stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract or which would cause CONSULTANT to be "financial interested" (as provided in California Government Code Section 1090 et seq. or 87100 et seq.) in any contract or decision made by CITY on any matter.

19.2 CONSULTANT shall not employ any City official or employee to perform any work required pursuant to this Contract.

19.3 If CONSULTANT is a registered professional engineer or licensed land surveyor and the scope of work requires CONSULTANT'S recommendation of the actual formula to spread the costs of an assessment district's improvements, then CONSULTANT shall not participate in making that recommendation if the additional elements set forth in Government Code section 87100.1(c) apply. Those additional elements are: (1) CONSULTANT has received income of $250 or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district; and (2) the district includes other parcels in addition to those parcels for which CONSULTANT received the income. In the event a conflict of interest does arise in that context, City shall select a different CONSULTANT to recommend the actual formula to spread the costs of the assessment district's improvements and the costs of such services shall be deducted from the compensation to be paid to CONSULTANT.

19.4 To the extent required by the City Manager/designee, CONSULTANT shall complete and file with the City Clerk a Form 700 Statement of Economic Interests disclosing any reportable property interests, income, gifts, investments, or business positions.

**20 COMPLIANCE WITH LAW**

20.1 CONSULTANT shall comply with all state and federal laws, including but not limited to, the requirement to hire only those persons authorized by federal law to work in the United States. If CONSULTANT uses any subcontractors to complete this

Contract, this same requirement shall be included in all subcontracts and strictly enforced by CONSULTANT.

20.2 The law of the state of California shall govern this Contract. The venue of any legal action, either formal or informal, shall be the County of Los Angeles.

**21 NOTICES**

Any notice required under this Contract shall be in writing, addressed to the appropriate party at its address on the signature page and given personally or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

**22 ENTIRE CONTRACT AND AMENDMENTS**

22.1 This Contract is the complete agreement between the parties and supersedes all prior proposals, agreements, and understandings between the parties and may not be modified or terminated orally.

22.2 No attempted waiver of any of the provisions hereof, nor any modification in the nature, extent or duration of the work to be performed by CONSULTANT hereunder, shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

22.3 The failure of any party to enforce against another party any provision of this Contract shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Contract.

**23 ATTORNEY'S FEES**

If any action at law or in equity is brought to enforce or interpret any provisions of this Contract, 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.

**In Witness Whereof,** the parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized.

CITY OF PALMDALE:

4 Dec 21

J.J. Murphy, ICMA-CM Date
City Manager

INTERWEST CONSULTING GROUP:

11/15/21

Paul Meschino Date
Vice President of Operations

ADDRESS FOR NOTICE:
CITY OF PALMDALE
38300 Sierra Highway
Palmdale, CA 93550

ADDRESS FOR NOTICE:
INTERWEST CONSULTING GROUP
1613 Santa Clara Drive, Suite 100
Roseville, C 95661

APPROVE AS TO FORM:

Christopher L. Beck
City Attorney

ATTEST:

Shanae S. Smith
City Clerk

ATTEST: If Corporation

Secretary

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 9/28/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

**PRODUCER**
RBN Insurance Services
303 E Wacker Dr Ste 650
Chicago IL 60601

**CONTACT NAME:** Symone White
**PHONE (A/C, No, Ext):** 312-856-9400 **FAX (A/C, No):** 312-856-9425
**E-MAIL ADDRESS:** swhite@rbninsurance.com

| INSURER(S) AFFORDING COVERAGE | NAIC # |
|---|---|
| INSURER A : Hartford Fire Insurance Co. | 19682 |
| INSURER B : Hartford Casualty Insurance Co | 29424 |
| INSURER C : Great American E&S Ins. Co. | 37532 |
| INSURER D : Twin City Fire Insurance Co. | 29459 |
| INSURER E : Bridgeway Insurance Company | 12489 |
| INSURER F : Navigators Specialty Ins. Co. | 36056 |

**INSURED** SAFELLC-01
Interwest Consulting Group
P.O. Box 18330
Boulder CO 80308

**COVERAGES** **CERTIFICATE NUMBER:** 1871472436 **REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS | |
|---|---|---|---|---|---|---|---|---|
| A | X COMMERCIAL GENERAL LIABILITY | Y | | 83UENZV3951 | 10/3/2021 | 10/3/2022 | EACH OCCURRENCE | $ 1,000,000 |
| | CLAIMS-MADE X OCCUR | | | | | | DAMAGE TO RENTED PREMISES (Ea occurrence) | $ 300,000 |
| | | | | | | | MED EXP (Any one person) | $ 10,000 |
| | | | | | | | PERSONAL & ADV INJURY | $ 1,000,000 |
| | GEN'L AGGREGATE LIMIT APPLIES PER: | | | | | | GENERAL AGGREGATE | $ 2,000,000 |
| | X POLICY PRO-JECT LOC | | | | | | PRODUCTS - COMP/OP AGG | $ 2,000,000 |
| | OTHER: | | | | | | | $ |
| B | AUTOMOBILE LIABILITY | Y | | 83UENPY9100 | 10/3/2021 | 10/3/2022 | COMBINED SINGLE LIMIT (Ea accident) | $ 1,000,000 |
| | X ANY AUTO | | | | | | BODILY INJURY (Per person) | $ |
| | OWNED AUTOS ONLY / SCHEDULED AUTOS | | | | | | BODILY INJURY (Per accident) | $ |
| | X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY | | | | | | PROPERTY DAMAGE (Per accident) | $ |
| | | | | | | | | $ |
| F | UMBRELLA LIAB X OCCUR | | | CH21EXC885600IC | 10/3/2021 | 10/3/2022 | EACH OCCURRENCE | $ 5,000,000 |
| | X EXCESS LIAB CLAIMS-MADE | | | | | | AGGREGATE | $ 5,000,000 |
| | DED X RETENTION $ 0 | | | | | | | $ |
| D | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY Y/N | N/A | | 83WECE0623 | 5/12/2021 | 5/12/2022 | X PER STATUTE OTH-ER | |
| | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? N (Mandatory in NH) | | | | | | E.L. EACH ACCIDENT | $ 1,000,000 |
| | If yes, describe under DESCRIPTION OF OPERATIONS below | | | | | | E.L. DISEASE - EA EMPLOYEE | $ 1,000,000 |
| | | | | | | | E.L. DISEASE - POLICY LIMIT | $ 1,000,000 |
| C<br>E | Professional Liability<br>Excess Liab (2nd) Layer | | | TER 2861558<br>8E-A7-XL-0002079-00 | 10/3/2021<br>10/3/2021 | 10/3/2022<br>10/3/2022 | Each Claim/Aggregate<br>Each Occ/Aggregate | 10,000,000<br>5,000,000 |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)**
City of Palmdale are additional insured as respects the General Liability and Auto Liability as required by written contract.

**CERTIFICATE HOLDER**

City of Palmdale
38300 Sierra Highway
Palmdale CA 93550

**CANCELLATION**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

**AUTHORIZED REPRESENTATIVE**

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# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS DEPARTMENT**
**CAPITAL IMPROVEMENT PROGRAM DIVISION**

**DISTRICT:** **1 & 5**

**SUBJECT:** **APPROVE AGREEMENT WITH PARSONS TRANSPORATION GROUP FOR ENVIRONMENTAL AND DESIGN SERVICES FOR PN 860, AVENUE R AT SIERRA HIGHWAY RAILROAD CROSSING IMPROVEMENT PROJECT, IN THE AMOUNT OF $706,404 FOR A TERM OF 600 DAYS**

## ISSUE

Approve Agreement with Parsons Transportation Group for Environmental and Design Services for PN 860, Avenue R at Sierra Highway Railroad Crossing Improvement Project, in the amount of $706,404 for a term of 600 days.

## RECOMMENDATION

Staff recommends that the City Council:

1. Approve Agreement with Parsons Transportation Group for Environmental and Design Services for PN 860, Avenue R at Sierra Highway Railroad Crossing Improvement Project, in the amount of $706,404.

2. Authorize the City Manager or her designee to execute Agreement No. A-8339 with Parsons Transportation Group, including making non-substantive changes.

## BACKGROUND

This project will provide for the upgrade of the existing railway system at the intersection of Avenue R and Sierra Highway. The California Public Utilities Commission (CPUC) Rail Crossings and Engineering Branch has proposed safety improvements to the existing railway system that will be funded under the Railroad-Highway Grade Crossing Program (RHGCP), Section 130 funds. The improvements will be contracted by both railroad agencies, Union Pacific Railroad (UPRR) and Southern California Regional Rail Authority (SCRRA/Metrolink) along with the City of Palmdale and will be managed by the Caltrans Divisions of Local Assistance.

## DISCUSSION

On May 9, 2023, the City released a Request for Qualifications and Proposals for environmental study and engineering design services for this project. Notification of this package was sent electronically to 427 registered vendors in the City's PlanetBids vendor database.

On June 6, 2023, three (3) responses were received: Parsons Transportation Group, Dokken Engineering, and TKDA. Staff evaluated the packages and determined Parsons Transportation Group to be the most qualified firm. The following criteria were used to rank the consultants.

| Category | Maximum Value |
|---|---|
| Project Understanding and Approach | 35 |
| Relevant Consultant Experience | 30 |
| Familiarity with State and Railroad procedures | 20 |
| Quality of Consultant Staff | 10 |
| General Conformance to RFP | 5 |
| **Total Earned Value** | **100** |

Parsons Transportation Group has extensive knowledge of the design of railroad crossings. Parsons Transportation Group is currently providing similar design services on the Rancho Vista Boulevard at Sierra Highway Railroad Safety along with Palmdale Boulevard and Sierra Highway street improvement projects.

## FISCAL IMPACT

This project is funded with California Public Utilities Commission Funds which have been allocated in Account No. S0075240-724525, with a current balance of $3,749,700.

| SCOPE OF WORK | | COST |
|---|---|---|
| A-8339 Parsons Transportation Group | | $706,404 |
| | | |
| **Account Number** | **Starting Balance** | **Remaining Balance** |
| S0075240-724525 | $3,749,700 | $3,043,296 |

## 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: | Lynn Glidden, P.E., Public Works Director |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

1. Agreement No. A-8339

**AGREEMENT NO. A-8339**
**CONTRACT FOR DESIGN PROFESSIONAL SERVICES**
**BETWEEN THE CITY OF PALMDALE AND PARSONS TRANSPORTATION GROUP**

**THIS CONTRACT FOR DESIGN PROFESSIONAL SERVICES** ("Contract" herein) is made and entered into by and between the City of Palmdale a public body corporate and politic, (hereinafter called "CITY") and PARSONS TRANSPORTATION GROUP (hereinafter called "PROJECT DESIGNER"). This Contract shall become effective on the date of the last signatory.

**RECITALS**

WHEREAS**,** City desires to engage PROJECT DESIGNER to perform certain technical and professional services, as provided herein, in connection with that certain project identified as PN 860, Avenue R Railroad-Highway Grade Crossing Program.

WHEREAS, PROJECT DESIGNER represents that PROJECT DESIGNER has the expertise and is qualified to perform the services described in this Contract and is duly registered under the laws of the State of California.

WHEREAS, PROJECT DESIGNER desires to accept such engagement.

**NOW, THEREFORE,** the parties agree as follows:

## 1 DESCRIPTION OF WORK

1.1 The City hereby engages PROJECT DESIGNER, and PROJECT DESIGNER accepts such engagement, to perform the following design professional services in a manner satisfactory to CITY:

PROJECT DESIGNER shall prepare engineering studies, construction documents with details plans, specifications, and estimates (PS&E), sufficient for a competitively bid, federal-aid construction project for a Railway-Highway Crossings Safety Project developed through the Diagnostic Study Method.

PROJECT DESIGNER shall analyze/accomplish the following engineering inputs and design requirements:

- Prepare Preliminary Environmental Study Form to provide CEQA Clearance.
- Attend field meetings with parties involved during design process.
- Conduct traffic queuing study for adjacent intersection.
- Install pre-signal or queue-cutter, as recommended by traffic study/diagnostic team.
- Review and modify traffic signal operation, including railroad preemption operation.
- Reconstruct, widen, and/or extend raised medians east and west of the crossing.
- Conduct a pedestrian study, including counts/video studies identifying:

- Daily pedestrian/bicycle counts for seven consecutive days
- Routes of users including origination and destination
- Pedestrians and bicycle users crossing Avenue R
- Evaluate the feasibility of extended sidewalks and pedestrian warning devices.
- Reconstruct sidewalk at the north side of the crossing
- Install pedestrian channelization, tactile strips, and egress gates.
- Install additional street lighting near the crossing.
- Lead for CPUC General Order 88-B request submittal.

PROJECT DESIGNER shall obtain Topographic Survey of the Project Area as outlined below:
a. Survey limits shall include the intersection of Avenue R and Sierra Highway and extend 1,000 feet beyond the intersection lines at Avenue R and Sierra Highway, and 1,000 feet beyond the railroad grade crossing at Avenue R.
b. Survey points shall be spaced at a maximum of 10 feet within the intersection limits, and a maximum of 50 feet beyond the intersection lines. The surveyed points shall include enough information to design roadway cross-sections, including drainage improvements and slope easements, as necessary.
c. Survey information shall include non-physical features such as right of way lines, property lines, and roadway center lines, as well as all above ground visible features, such as roadway edge lines, striping, signage, pavements, curbs, gutters, sidewalks, drainage features, manholes, light poles, and both overhead and underground utilities.

PROJECT DESIGNER shall perform Utility Research and Potholing as outlined below:
a. Perform a field review and research available public records for both public and franchise utilities to determine their locations and plot the location of known existing utilities, including but not limited to water, wastewater, storm drain, electric, gas, telecommunication, cable TV and fiber optic cable.
b. Research relationship between existing right-of-way and utilities to establish prior rights regarding necessary utility relocations.
c. Pothole at location of proposed traffic signal poles to the depth of signal foundation design, as well as at the location of underground utilities at potential conflict locations to determine their horizontal and vertical location for clearance and connection points. Work within right of way will require an encroachment permit (no fee), as well as a traffic control plan per the California Manual on Uniform Traffic Control Devices (CA MUTCD).

PROJECT DESIGNER shall prepare Plans, Specifications, and Estimates (PS&E) as outlined below:
a. Review as-built plans (Street Improvement, Signing and Striping, Traffic Signal, etc. in the vicinity of the area.

b. Prepare 30%, 60%, 90%, 100%, and Final Plans, Specifications, and Estimates (PS&E) for Street Improvement, Signing and Striping, and Traffic Signal Improvements.
c. Plans shall show plan, profile, and cross section of intersection improvements, median improvements, widening of Avenue R, sidewalk, curb ramps, lighting, fencing, swing gates, and any other items as required by Caltrans agreement.
d. Signage, Striping, and Traffic Signal modification plans shall extend 500 to 1,000 beyond the intersection, or as determined by the design of the roadway improvements.

PROJECT DESIGNER shall provide General Coordination and Project Management services as outlined below:
a. Coordinate with City for plan review, submittal, and approval.
b. Coordinate with utility agencies as needed for service, relocation, etc.
c. Correlate project specifications with construction plan notes and material specifications.

1.2 Project deliverables shall be reviewed and approved by CITY to determine acceptable completion. CITY shall have the right to review and inspect the work during the course of its performance at such times as may be specified by CITY.

1.3 PROJECT DESIGNER shall not accept any change of scope, or change in contract provisions, unless issued in writing, as a contract change order or amendment and signed by CITY. Any extensions of time must be mutually agreed upon in writing and executed by both parties.

1.4 CITY shall provide to PROJECT DESIGNER, without charge, all data, program information, including reports, records, maps, and other information, now in CITY's possession, which may facilitate the timely performance of the work.

## 2 CITY PROJECT MANAGER

To provide the design professional services required by this Contract, PROJECT DESIGNER shall act under the authority and approval of a Project Manager appointed by the Director of Public Works/designee. The City Project Manager will oversee the work under this Contract, assist PROJECT DESIGNER with any necessary information, audit billings, and approve payments. PROJECT DESIGNER shall channel reports, deliverables and special requests through the City Project Manager.

## 3 PROJECT DESIGNER'S KEY PERSONNEL

PROJECT DESIGNER's Team and Key Personnel are as follows:

Nicole DePuy, PE
Matt Brash, PE
Daniel Kachi, PE

Anne Kochaon, QEP
Matt Brash, PE
Jeff Sparks, PE
Greta Aiken, PE
Justin Purcell, EIT
Osmar Rodriguez, PE

This Design Professional Services Contract has been awarded to PROJECT DESIGNER based on its representation that those personnel and subcontractors listed above will perform the portions of the work listed above. PROJECT DESIGNER shall not deviate nor substitute any of these team members without prior written approval by CITY.

## 4 COMMENCEMENT AND COMPLETION OF WORK

The services for the Project shall commence when CITY, acting by and through its Project Manager, issues a written authorization to proceed. PROJECT DESIGNER shall complete all work described in the Description of Work and submit final deliverables within six hundred (600) calendar days of said authorization. PROJECT DESIGNER shall have no claim for compensation for any services or work, which has not been authorized by CITY's authorization to proceed.

## 5 TAXES

5.1 PROJECT DESIGNER shall pay all sales, consumer, use, and other similar taxes required to be paid by PROJECT DESIGNER in accordance with state and local laws.

5.2 PROJECT DESIGNER is an independent contractor and shall have no power or authority to incur any debt, obligation, or liability on behalf of CITY. No person employed by PROJECT DESIGNER or acting on its behalf, in connection with this Contract shall be considered the Agent or employee of CITY.

5.3 PROJECT DESIGNER shall be required to obtain a current City of Palmdale business license, as required by the Palmdale Municipal Code, before an Authorization to Proceed is issued.

## 6 PATENT FEES AND ROYALTIES

PROJECT DESIGNER shall pay all license fees and royalties and assume all costs incident to the use, in the performance of the work or the incorporation in the work of any invention, design, process, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, product or device is specified by CITY for use in the performance of the work and if, to the actual knowledge of CITY, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by CITY in the contract documents. PROJECT DESIGNER shall indemnify

and hold harmless CITY and anyone directly or indirectly employed by CITY from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work, or resulting from the incorporation in the work of any invention, design, process, product or device not specified by CITY, and shall defend all such claims in connection with any alleged infringement of such rights.

## 7 STANDARDS OF PERFORMANCE

7.1 PROJECT DESIGNER shall be responsible for the completeness and accuracy of its services and work and documents resulting there from, and CITY shall not be responsible for discovering deficiencies therein. PROJECT DESIGNER shall correct any such deficiencies or errors without additional compensation and without cost to CITY, except to the extent any such deficiency is directly attributable to deficiencies in CITY-furnished information.

7.2 PROJECT DESIGNER shall be familiar with CITY's Standard Details and Specifications and other relevant CITY regulations. PROJECT DESIGNER shall ensure there are no conflicts among the Contract Documents including, but not limited to, the CITY's Standard Specifications and Special Provisions for Construction Contracts, the plans and specifications prepared by PROJECT DESIGNER, any standard details or specifications incorporated therein by reference, and the Construction Contract.

## 8 PROJECT DESIGNER'S PERSONNEL

8.1 All services required under this Contract shall be performed by PROJECT DESIGNER, or under PROJECT DESIGNER's direct supervision, and all personnel shall possess the qualifications, permits and licenses required by State and local law to perform such services.

8.2 PROJECT DESIGNER shall be solely responsible for the satisfactory work performance of all personnel engaged in performing services required by this Contract, and compliance with all reasonable performance standards established by CITY.

8.3 PROJECT DESIGNER shall be responsible for payment of all PROJECT DESIGNER's employees' and subcontractor's wages and benefits and shall comply with all requirements pertaining to the employer's liability, workers' compensation, unemployment insurance, and Social Security.

8.4 PROJECT DESIGNER shall indemnify and hold harmless CITY, and its respective officers, agents and employees from and against all claims, demands, damages or costs arising from PROJECT DESIGNER's acts or omissions with respect to any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices.

8.5 PROJECT DESIGNER shall pay, if required by applicable law, not less than the general prevailing hourly wage rates, as determined by the Director of the Department of Industrial Relations pursuant to the California Labor Code, for each craft, classification, or type of worker needed to perform the Contract. Copies of the prevailing rate of per diem wages are on file in the office of the Director of Public Works.

## 9 COMPENSATION

9.1 For all of work and services including the various phases of tasks as described in Section 1, Scope of Services, CITY shall pay to PROJECT DESIGNER an amount not to exceed the sum of SEVEN HUNDERED SIX THOUSAND FOUR HUNDRED THREE AND THIRTY FIVE CENTS dollars ($706403.35), as follows:

Fee Schedule is shown in detail in Exhibit B

PROJECT DESIGNER shall perform no work in excess of the total contract price without prior approval of CITY. Total contract price includes expenses related to travel to and from CITY to meet with City and to appear before City Council or any other board or commission of CITY.

9.2 An application and certification for payment form must be submitted to CITY which shall include the following: a clear, detailed invoice reflecting hours being billed for, a summary sheet showing percentage of work completed to date, amount/percent billed to date and current status of all tasks within the project; any/all backup documentation supporting the above items. Work schedule updates must also be included in the monthly progress payment requests.

9.3 PROJECT DESIGNER shall maintain adequate records and shall permit inspection and audit by CITY of PROJECT DESIGNER’s charges under this Contract. PROJECT DESIGNER shall make such records available to CITY during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records, and they will be available only to CITY and any specified public agencies. Such records shall be maintained by PROJECT DESIGNER for one (1) year following completion of the work under this Contract unless a longer period of time is required by state or federal law, in which event PROJECT DESIGNER shall retain its records for the time required by such laws.

9.4 No payment made hereunder by CITY to PROJECT DESIGNER, shall be construed as an acceptance by CITY of any work or materials, nor as evidence of satisfactory performance by PROJECT DESIGNER of its obligations under this Contract.

## 10 INDEMNIFICATION

To the fullest extent of the law, and consistent with Civil Code section 2782.8, PROJECT DESIGNER agrees to defend, indemnify, hold free and harmless the

CITY, its elected and appointed officials, officers, agents and employees, at PROJECT DESIGNER's sole expense, from and against any and all claims, demands, actions, suits or other legal proceedings brought against CITY, its elected and appointed officials, officers, agents, and employees to the extent arising out of, pertaining to, or relating to the negligence, recklessness, or willful misconduct of the PROJECT DESIGNER, its employees, and/or authorized subcontractors, in performing design professional services pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence, recklessness or willful misconduct of the PROJECT DESIGNER, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, recklessness, or willful misconduct of PROJECT DESIGNER, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the CITY, its elected and appointed officials, officers, agents, and employees based upon such negligence, recklessness, or willful misconduct, whether or not the PROJECT DESIGNER, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the PROJECT DESIGNER shall not be liable for the defense or indemnification of the CITY for claims, actions, complaints or suits arising out of the sole or active negligence or willful misconduct of the CITY. Further, in no event shall the cost to defend charged to the design professional exceed the design professional's proportionate percentage of fault, unless otherwise specified in Civil Code section 2782.8. This provision shall supersede and replace all other indemnity provisions contained either in the CITY's specifications or PROJECT DESIGNER's Proposal, which shall be of no force and effect.

## 11 INSURANCE

11.1 PROJECT DESIGNER, at its expense, shall maintain in effect at all times during the performance of work under this Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers listed "A" or better in the Best's Insurance Guide and authorized to do business in the State of California. **Proof of Insurance, as identified in Section 11.8, must be reviewed, and accepted by the City Attorney**.

11.1.1 Workers' Compensation and Employer's Liability

- Workers' Compensation -- coverage as required by the State of California
- Employer's Liability -- $1,000,000.00 each accident
  $1,000,000.00 policy limit bodily injury
  $1,000,000.00 each employee bodily injury by disease

11.1.2 Professional Liability (Errors & Omissions) Insurance*

- $5,000,000 limit on a per occurrence basis

11.1.3 Commercial General Liability

- $2,000,000.00 limit on per occurrence basis

- $4,000,000.00 general aggregate limit

11.1.4 Commercial Automobile Liability

- $2,000,000.00 combined single limit including owned, non-owned and hired automobile coverage

11.2 All of PROJECT DESIGNER's policies shall contain an endorsement providing that written notice shall be given to CITY at least thirty (30) calendar days prior to termination, cancellation or reduction of coverage in the policy.

11.3 Policies providing for bodily injury and property damage coverage shall contain the following:

A. An endorsement extending coverage to the City as an additional insured, in the same manner as the named insured, as respects liability arising out of the performance of any work under the Contract. Such insurance shall be primary insurance, as respects the interest of the City, and any other insurance maintained by the City shall be considered excess coverage and not contributing insurance with the insurance required hereunder. The Certificate and endorsements shall state that: "The City of Palmdale, City of Palmdale in its capacity as the Successor Agency to the CRA, Palmdale Civic Authority, Housing Authority, Industrial Development Authority, Airport Authority, their officers, agents, employees and volunteers are named as additional insured".

B. "Severability of Interest" clause.

11.4 Promptly on execution of this Contract, and prior to commencement of any work, PROJECT DESIGNER shall deliver to CITY certificates of insurance and endorsements to all required policies demonstrating that PROJECT DESIGNER has the required coverage and showing the required named insureds. Within five (5) days of written request from CITY, PROJECT DESIGNER shall deliver to CITY full and complete copies of all insurance policies required by this Contract.

11.5 The requirements as to the types and limits of insurance to be maintained by PROJECT DESIGNER are not intended to and shall not in any manner limit or qualify PROJECT DESIGNER's liabilities and obligations under this Contract.

11.6 Any policy or policies of insurance that PROJECT DESIGNER elects to carry as insurance against loss or damage to its equipment and tools or other personal property used in the performance of this Contract shall include a provision waiving the insurer's right of subrogation against CITY.

11.7 All insurance coverages must be maintained throughout the duration of this Contract.

11.8 Acceptable Proof of Insurance:

11.8.1 ACORD Certificate of Insurance listing all coverages, limits, deductibles and insureds; and endorsements for all applicable coverages if agent has authority to issue it; Additional insured Form CG20101185 or CG20100707 and CG20370704 or equivalent must be provided for general liability coverage. Additional insured form CA0001 must be provided for automobile liability coverage.

11.8.2 Agents must confirm that policy endorsements have been ordered from the respective insurance companies. Upon issuance, policy endorsements listing all insurers must be submitted to the City Attorney.

11.8.3 *When professional (E&O) liability coverage is provided on a “claims made basis”, PROJECT DESIGNER will continue to renew the insurance for a period of five (5) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover PROJECT DESIGNER, or its officers, employees, or agents during the time this Agreement was in effect.

11.9 Notwithstanding any other provision of this Contract, CITY may immediately terminate this Contract if, at any time PROJECT DESIGNER fails to maintain the required insurance for any period of time or fails to comply with any of the insurance requirements listed above.

11.10 PROJECT DESIGNER shall require any and all subcontractor's working on its behalf to provide insurance coverages and limits that are based on the scope of work and nature of risk being performed by the subcontractor. Any and all subcontractors working on behalf of PROJECT DESIGNER shall be subject to all other insurance requirements that are stated herein.

Any deviation in this requirement will be PROJECT DESIGNER's sole risk. PROJECT DESIGNER's insurance requirements in Section 11 will not be impacted and/or limited by such deviation.

## 12 TERMINATION WITHOUT CAUSE

City reserves the right to terminate this Contract or any part thereof for its sole convenience with fifteen (15) days written notice. In the event of such termination, PROJECT DESIGNER shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and sub-consultants to cease such work. PROJECT DESIGNER shall also surrender to CITY all finished or unfinished documents or programs and other materials, which shall be City’s property. As compensation in full for services performed to the date of such termination, the PROJECT DESIGNER shall receive an amount equal to the value of the work completed as of the termination date in accordance with the fee schedule or as negotiated between the parties. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Contract.

## 13 TERMINATION FOR CAUSE

13.1 If the City determines that the PROJECT DESIGNER has failed to supply an adequate working force, or to provide services of proper quality, or has failed in any other respect to satisfactorily perform the services specified in this Contract, the City shall give written notice to the PROJECT DESIGNER specifying all defaults to be remedied within thirty (30) days. Such notice shall set forth the basis for the City's dissatisfaction and suggest corrective measures. If, after thirty days, the PROJECT DESIGNER has failed to implement the corrective measures, the City may elect to terminate this Contract, in whole or in part.

13.2 In the event the City terminates this Contract in whole or in part as provided herein above, the City may procure, upon such terms and in such manner, as it may deem appropriate, services similar to those terminated.

13.3 If this Contract is terminated as provided above, the City may require the PROJECT DESIGNER to provide all finished or unfinished documents, data, studies, software, drawings, maps, photographs, reports, etc., prepared by the PROJECT DESIGNER. Upon such termination, the PROJECT DESIGNER shall be paid an amount equal to the value of the services provided and work performed as of the date of termination. Such payment by the City may take into consideration the costs associated with hiring another PROJECT DESIGNER to complete the services. In the event no new PROJECT DESIGNER is employed, the PROJECT DESIGNER shall be paid an amount equal to the value of the work performed. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents when such are delivered to CITY, and to authorized reimbursement expenses.

The above is in addition to any other remedies available by law or equity to the City.

13.4 If, after notice of termination of the Contract under the provisions of this Section 13, it is determined, for any reason, that the PROJECT DESIGNER was not in default, or that the default was excusable, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 12.

## 14 DISPUTE RESOLUTION

All claims, disputes, and other matters in question between CITY and PROJECT DESIGNER arising out of, or relating to this Contract, or the breach thereof shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

## 15 OWNERSHIP OF DOCUMENTS

All documents, including, but not limited to, tracings, drawings, plans, specifications, original mylars, estimates, field notes, investigations, design analysis and studies which are prepared in the performance of this Contract are to be, and remain the

property of, CITY. PROJECT DESIGNER shall furnish CITY, upon its request, originals or reproducible or electronic copies of technical specifications and of all other documents listed above. PROJECT DESIGNER shall endorse, by his professional seal, all plans and data furnished by him.

## 16 RE-USE OF DOCUMENTS

The parties agree the documents, drawings, specifications, and designs, although the property of CITY, are prepared for a specific project and are not intended nor represented by PROJECT DESIGNER to be suitable for re-use for any other project. Any reuse without written verification or adaptation by PROJECT DESIGNER for the specific purpose intended will be at CITY's sole risk and without liability or legal exposure to PROJECT DESIGNER.

## 17 SUBCONTRACTING, DELEGATION AND ASSIGNMENT

17.1 PROJECT DESIGNER shall not delegate, subcontract or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY; provided, however, that claims for money due or to become due to PROJECT DESIGNER from CITY under this Contract may be assigned to a bank, trust company or other financial institution without such approval. Any proposed delegation, assignment or subcontract shall provide a description of the services covered, identification of the proposed assignee, delegee or subcontractor, and an explanation of why and how the same was selected, including the degree of competition involved. Any proposed agreement with an assignee, delegee or subcontractor shall include the following:

A. The amount involved, together with PROJECT DESIGNER's analysis of such cost or price; and

B. A provision requiring that any subsequent modification or amendment shall be subject to the prior written consent of CITY.

C. The requirement to hire only those persons authorized by federal law to work in the United States.

17.2 Any assignment, delegation or subcontract shall be made in the name of PROJECT DESIGNER and shall not bind or purport to bind CITY and shall not release PROJECT DESIGNER from any obligations under this Contract including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegees and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to PROJECT DESIGNER under this Contract.

## 18 NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

18.1 In performance of this Contract, PROJECT DESIGNER shall not discriminate against any employee, subcontractor, or applicant for employment because of sex,

color, race, religion, ancestry, national origin, disability, medical condition, marital status, sexual orientation, or age. PROJECT DESIGNER will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, ancestry, sex, national origin, handicap, or age. Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

18.2 The provisions of subsection 18.1 above shall be included in all solicitations or advertisements placed by or on behalf of PROJECT DESIGNER for personnel to perform any services under this Contract. CITY shall have access to all documents, data and records of PROJECT DESIGNER and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section, and all applicable provisions of Executive Order No. 11246 which is incorporated herein by this reference. A copy of Executive Order No. 11246 is available for inspection at, and on file with, the Palmdale City Clerk's Office.

## 19 FINANCIAL INTEREST CERTIFICATION

19.1 PROJECT DESIGNER warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no officer or employee of the CITY has any interest, financially or otherwise, in PROJECT DESIGNER's firm.

19.2 For breach or violation of this warranty, CITY shall have the right to annul this Contract without liability, or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

## 20 CONFLICT OF INTEREST

20.1 PROJECT DESIGNER stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract or which would cause PROJECT DESIGNER to be "financial interested" (as provided in California Government Code Section 1090 et seq. or 87100 et seq.) in any contract or decision made by CITY on any matter.

20.2 PROJECT DESIGNER shall not employ any City official or employee to perform any work required pursuant to this Contract.

20.3 If PROJECT DESIGNER is a registered professional engineer or licensed land surveyor and the scope of work requires PROJECT DESIGNER's recommendation of the actual formula to spread the costs of an assessment district's improvements, then PROJECT DESIGNER shall not participate in making that recommendation if the additional elements set forth in Government Code section 87100.1(c) apply. Those additional elements are: (1) PROJECT DESIGNER has received income of $250 or more for professional services in connection with any parcel included in the benefit assessment district within 12 months prior to the creation of the district; and (2) the district includes other parcels in addition to those parcels for which PROJECT DESIGNER received the income. In the event a conflict of interest does arise in that context, City shall select a different PROJECT DESIGNER to recommend the actual formula to spread the costs of the assessment district's improvements and the costs of such services shall be deducted from the compensation to be paid to PROJECT DESIGNER.

20.4 To the extent required by the City Manager/designee, PROJECT DESIGNER shall complete and file with the City Clerk a Form 700 Statement of Economic Interests disclosing any reportable property interests, income, gifts, investments, or business positions.

## 21 COMPLIANCE WITH LAW

21.1 PROJECT DESIGNER shall comply with all state and federal laws, including but not limited to, the requirement to hire only those persons authorized by federal law to work in the United States. If PROJECT DESIGNER uses any subcontractors to complete this Contract, this same requirement shall be included in all subcontracts and strictly enforced by PROJECT DESIGNER.

21.2 The law of the state of California shall govern this Contract. The venue of any legal action, either formal or informal, shall be the County of Los Angeles.

## 22 NOTICES

Any notice required under this Contract shall be in writing, addressed to the appropriate party at its address on the signature page and given personally or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## 23 ENTIRE CONTRACT AND AMENDMENTS

23.1 This Contract is the complete agreement between the parties and supersedes all prior proposals, agreements, and understandings between the parties and may not be modified or terminated orally.

23.2 No attempted waiver of any of the provisions hereof, nor any modification in the nature, extent or duration of the work to be performed by PROJECT DESIGNER

hereunder, shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

23.3 The failure of any party to enforce against another party any provision of this Contract shall not constitute a waiver of that party's right to enforce such a provision at a later time, and shall not serve to vary the terms of this Contract.

## 24 ATTORNEY'S FEES

If any action at law or in equity is brought to enforce or interpret any provisions of this Contract, 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.

**In Witness Whereof,** the parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized.

CITY OF PALMDALE:

SIGNATURE AREA

Ronda Perez
City Manager

SIGNATURE AREA

ADDRESS FOR NOTICE:
CITY OF PALMDALE
38250 Sierra Highway
Palmdale, CA 93550

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
Interim City Attorney

ATTEST:

SIGNATURE AREA

Roxanne Faber
Acting City Clerk

PARSONS TRANSPORTATION GROUP:

SIGNATURE AREA

Chris A. Johnson, PE
Vice President

ADDRESS FOR NOTICE:
PARSONS TRANSPORTATION GROUP
525 B Street, Suite 1600 San Diego, CA 92101

---------- INTERNAL USE ONLY ----------

□Certificate(s) and Endorsement(s) attached
□Confirmed business name on contract with certificate(s)
□Attached Agreement Checklist and met all requirements

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS DEPARTMENT**
**CAPITAL IMPROVEMENT PROGRAM DIVISION**

**DISTRICT:** **1**

**SUBJECT:** **ADOPT RESOLUTION NO. CC 2023-054, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE AUTHORIZING THE APPLICATION FOR GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM FOR THE BARREL SPRINGS TRAIL IMPROVEMENT PROJECT**

## ISSUE

Adopt Resolution No. CC 2023-054, a Resolution of the City Council of the City of Palmdale authorizing the application for grant funds from the Recreational Trails Program for the Barrel Springs Trail Improvement Project.

## RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. CC 2023-054 authorizing the application for grant funds from the Recreational Trails Program (RTP) for the Barrel Springs Trail Improvement Project.

2. Authorize the City Manager or their designee to negotiate and finalize the Agreement for grant funds, if awarded, including non-substantive changes.

## BACKGROUND

The Recreational Trails Programs (RTP) is a state-administered local assistance program of the U.S. Department of Transportation's Federal Highway Administration (FHWA) that provides annual funds to develop and maintain recreational trails and trail-related facilities for both non-motorized and motorized uses. The State Department of Parks and Recreation is authorized to administer the program. Available funds for the 2023 Grant Cycle is approximately $5.7 million and will be divided between the motorized and non-motorized programs, with approximately $1.7 million allocated to the non-motorized component.

## DISCUSSION

The grant application to the State of California was submitted in June 2023 with a draft resolution. As part of the federal grant fund application requirements, an adopted resolution is required. Grant application results will be announced in early 2024.

If awarded, the proposed improvements to the trail would include:

- Signage, including restoration of trail monument signs, educational signage, and trail markers
- Repair of broken and/or missing fence rails and posts
- Additional trash receptacles and pet waste stations
- Trail and parking lot erosion control improvements
- Installation of swing gates

## FISCAL IMPACT

The Recreational Trails Program (RTP) does not establish a maximum grant request amount but does require that the grant requests not exceed 88% of the total project cost. This means the application requires a match of at least 12% of the total project cost. Eligible match sources include state funds, local funds, private funds, donated materials and services, and other federal funds. If awarded, funds are available in the Measure A Maintenance Services fund balance and can be allocated to this project to cover the required City match funding. Total project costs are estimated in the table below:

| Description of Work | RTP Grant Funding | City Match Funding | Total |
|---|---|---|---|
| Signage | $39,600 | $5,400 | $45,000 |
| Fence Repair | $17,600 | $2,400 | $20,000 |
| Trash Receptacles/Pet Waste Stations | $6,160 | $840 | $7,000 |
| Trail & Parking Lot Erosion Control Imp | $35,200 | $4,800 | $40,000 |
| Swing Gates | $9,680 | $1,320 | $11,000 |
| Labor Compliance | $1,320 | $180 | $1,500 |
| City Administration | $5,280 | $720 | $6,000 |
| **Subtotal:** | **$114,840** | **$15,660** | **$130,500** |

Note: This table is intended as an estimate; changes to these figures may and are expected to occur before and during construction.

## 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: | Lynn Glidden, P.E., Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

Resolution No. CC 2023-054

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2023-054

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE APPROVING THE APPLICATION FOR GRANT FUNDS FROM THE RECREATIONAL TRAILS PROGRAM.

**WHEREAS**, the Fixing America's Surface Transportation Act (FAST-ACT) provides funds to the State of California for Grants to federal, state, local, and non-profit organizations to acquire, develop, and/or maintain motorized and non-motorized trail projects; and

**WHEREAS,** the State Department of Parks and Recreation has been delegated the responsibility for the administration of the program within the State, setting up necessary procedures governing Project Application under the program; and

**WHEREAS,** said procedures established by the State Department of Parks and Recreation require the Applicant to certify, by resolution, the approval of Application(s) of said Application(s) to the State; and

**WHEREAS,** the Applicant will enter into a Contract with the State of California to complete the Project is awarded.

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

**SECTION 1**. Approves the filing of an Application for the Recreational Trails Program.

**SECTION 2**. Certifies that the Project is consistent with the Applicant's general plan or the equivalent planning document.

**SECTION 3**. Certifies that said Applicant has or will have available before the commencement of any work on the Project included in this Application, sufficient funds to operate and maintain the Project.

**SECTION 4**. Certifies that the Applicant has reviewed, understands, and agrees to the General Provisions contained in the Contract shown in the Procedural Guide.

**SECTION 5**. Appoints the Director of Public Works as an agent to conduct all negotiations, and execute and submit all documents, including, but not limited to Applications, agreements, amendments, payment requests, and so on, which may be necessary for the completion of the Project.

**SECTION 6**. Agrees to comply with all applicable federal, state, and local laws, ordinances, rules, regulations, and guidelines.

**SECTION 7.** The City Clerk shall certify the adoption of this resolution.

**PASSED, APPROVED,** and **ADOPTED** this 4th day of October, 2023.

_____
Laura Bettencourt, Mayor

Approved as to form:

ATTEST:

_____
William P. Curley, III
Interim City Attorney

_____
Rochelle Scott, Acting City Clerk

I, Rochelle Scott, Acting City Clerk 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 4th day of October 2023 by the following roll call vote:

AYES: _____

NOES:_____

ABSTAIN:_____ABSENT:_____

Date: _____ _____
Rochelle Scott, Acting City Clerk

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS**

**DISTRICT:** **ALL**

**SUBJECT:** **ACCEPT A GRANT FOR $100,000 FROM ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT (AVAQMD) TO FUND A RESIDENTIAL ELECTRIC VEHICLE CHARGING EQUIPMENT PROGRAM**

## ISSUE

Accept a grant for $100,000 from Antelope Valley Air Quality Management District (AVAQMD) to a fund residential Electric Vehicle (EV) charging equipment program.

## RECOMMENDATION

Staff recommends that the City Council:

1. Accept a $100,000 grant from AVAQMD through Agreement No. A-8541 to fund a residential EV charging equipment program.
2. Authorize the City Manager, or her designee, to negotiate and finalize Agreement No. A-8541 for grant funds from AVAQMD.

## BACKGROUND

In early 2023, the United States Department of Energy (DOE) awarded the City a grant through its Energy Efficiency and Conservation Block Grant (EECBG). Staff has allocated $47,390 to an at-home EV charging program through the Energy for Palmdale's Independent Choice (EPIC) program. Under the "Your Ride is EPIC" program, the City will provide free at-home EV charging units to qualifying residential EPIC customers.

## DISCUSSION

In discussions with AVAQMD, staff learned they could assist with subsidizing wall-mounted EV/PHEV charging units. By accepting the AVAQMD grant and the existing EECBG funding, the City can provide plug-in and wall-mounted units to qualifying residents.

Staff will prepare online information outlining the program on EPIC's website. The information and online application for the program will ensure that all requirements

established by EECBG and AVAQMD are met and addressed. EPIC will distribute the units to qualifying residents and will provide the units until funds have been depleted.

## FISCAL IMPACT

The total funding available for this program is $147,390. The EECBG grant portion is budgeted in Account No. G0165241-724525-2421 and 241310-463000-2421. The AVAQMD grant will be budgeted in Account No. G0165205-724525 and 2053100-462404. The city will purchase the equipment to be distributed to qualifying residents and provide a monthly invoice to AVAQMD to reimburse the grant funds.

## STRATEGIC PLAN

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

D. Pursue alternative financing opportunities for continued infrastructure improvement and quality community programs.

Goal III: Invest in infrastructure to improve community livability.

A. Seek innovative, cost-effective, customer-focused methods of service delivery.
B. Implement and administer environmentally sustainable programs.

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

B. Provide inclusive access to a variety of supportive services that build a resilient and healthy community.

| | |
|---|---|
| Prepared by: | Lynn Glidden, P.E., Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William Curley, Interim City Attorney |

## ATTACHMENTS

1. AVAQMD Draft Agreement No. A-8541

**GRANT AGREEMENT BETWEEN CITY OF PALMDALE AND**

**ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT**

This Grant Agreement AV0823#12 ("Agreement") is made and entered into this 17th day of August, 2023, by and between the Antelope Valley Air Quality Management District (hereinafter "AVAQMD") and City of Palmdale (hereinafter "Grantee and/or the City"). Grantee and AVAQMD are hereafter collectively referred to as "the Parties" and individually as "Party".

**WITNESSETH:**

WHEREAS, on April 19, 2005 the AVAQMD established the Mobile Source Emission Reductions Program pursuant to the authority granted by the Legislature to air pollution control districts and air quality management districts ("Districts") under the California Health & Safety Code Sections 44223 and 44225, which authorize the Districts to collect a registration surcharge fee on vehicles registered within the Districts; and

WHEREAS, pursuant to the Health & Safety Code, Section 44229, the surcharge may be used towards eligible clean air mobile source emission reduction projects such as alternative fuel and electric vehicle infrastructure projects; and

WHEREAS, Grantee submitted a proposal for grant funding to establish a residential electric vehicle charging program to offer, through their Community Choice Aggregation Program called Energy for Palmdale's Independent Choice (EPIC) customers, free (or significantly discounted), residential electric vehicle charging equipment (hereinafter "Program and/or the Program); and

WHEREAS, Grantee will utilize the funding toward the purchase of Level-2 Wall-Mounted EV Chargers to be installed by licensed electricians; and

WHEREAS, AVAQMD staff has evaluated the Project based on the Mobile Source Emission Reductions Program criteria and found the Project to be eligible for grant funding; and

WHEREAS, the AVAQMD Governing Board approved the proposed Program by Grantee; and

WHEREAS, Grantee is qualified and experienced in its professional field and is able to perform the activities described in the proposal also described in Exhibit A (also referred to as Scope of Work) attached hereto and incorporated herein by this reference.

//

NOW THEREFORE, in consideration of the mutual covenants and conditions listed below, the Parties agree as follows:

**GRANT TERMS AND CONDITIONS**

1. Due Diligence: Upon the commencement of the Term of this Agreement, Grantee agrees to proceed with due diligence to perform the Scope of Work.

2. Purpose: The purpose of this Agreement is to provide grant funding toward the purchase and installation of Level-2 Wall-Mounted EV Chargers for EPIC customers. Grantee shall implement the Program as proposed and pursuant to the Scope of Work.

3. Schedule: Grantee shall follow the general schedule specified in the Scope of Work

4. Term: This Agreement shall commence on the date it is fully executed and shall terminate one (1) year after program funds are depleted or later if approved in writing by the AVAQMD. During the Term, either the AVAQMD or the California Air Resources Board ("CARB") or their designee has, upon adequate notice as provided in Paragraph 9, the right to inspect the Project, enforce the provisions of this Agreement, conduct a fiscal audit, and seek any remedies available under the law for non-compliance with the terms and conditions of this Agreement.

5. Project Award: The total payment to Grantee shall not exceed One Hundred Thousand Dollars ($100,000), also described in the Scope of Work, to be used towards the purchase and installation of Level-2 Wall-Mounted EV Chargers.

a. Payments.

i. AVAQMD shall not make any advance payment under this Agreement. Grantee will submit a monthly invoice along with a list that includes each participant's name and address along with a copy of receipt(s) for purchased Level-2 Wall-Mounted EV Chargers and proof of installation performed by a licensed electrician. Invoices may be submitted to AVAQMD, Attention: Julie McKeehan via electronic mail, personally delivered, courier service or united states postal service.

b. Close-out Period.

i. All final invoices shall be submitted by Grantee within sixty (60) days following the completion of the Program. AVAQMD shall have no obligation to pay or take any

action on an invoice submitted after the 60-day close-out period.

6. Independent Contractor:

a. The relationship of Grantee to AVAQMD under this Agreement is that of an independent contractor. Grantee is to exercise its own discretion as to the method and manner of performing its duties. AVAQMD will not exercise control over Grantee, its employees, agents, or subcontractors, except regarding the result to be obtained and to verify compliance with the terms of this Agreement. Grantee and AVAQMD shall comply with all applicable provisions of law and the rules and regulations, if any, of governmental authorities having jurisdiction over matters the subject thereof.

b. Grantee understands that this Agreement does not preclude Grantee from performing services for other projects under the jurisdiction of the AVAQMD as long as such services are not in conflict with this Agreement and as long as such services do not create conflict of interest under applicable laws.

c. The Parties further agree that since the status of Grantee is that of an independent contractor, Grantee shall not become entitled to any employment rights or benefits that are available to the employees of AVAQMD. The Parties further agree that Grantee shall be solely responsible for providing to itself, and on behalf of itself, all legally required employment benefits.

7. Termination:

a. Breach of Agreement: AVAQMD may immediately suspend or terminate this Agreement, in whole or in part, where in the reasonable determination of AVAQMD there is:

i. An illegal or improper use of the Grant;

ii. A breach by Grantee of any material term of this Agreement and failure to cure such breach within thirty (30) days following written notice from AVAQMD; or

iii. A substantially incorrect or incomplete report submitted to AVAQMD that is not corrected within thirty (30) days following written notice by the AVAQMD of the report deficiencies.

b. In no event shall any reimbursement by AVAQMD constitute a waiver by AVAQMD of any breach of this Agreement or any default which may then exist on the part of Grantee. Neither

shall such reimbursement impair or prejudice any remedy available to AVAQMD with respect to the breach or default. AVAQMD shall have the right to demand of Grantee Repayment to AVAQMD of any funds disbursed to Grantee under this Agreement which in the judgment of AVAQMD were not expended in accordance with the terms of this Agreement. Grantee shall promptly submit repayment of any funds issued upon written demand by AVAQMD.

c. In addition to immediate suspension or termination, AVAQMD may seek any other remedies available at law, in equity, or otherwise specified in this Agreement.

d. Termination Without Cause: In the event of unavailability of funds because of fault or no fault of either Party, such Party may terminate this Agreement upon giving written notice to the other Party at least thirty (30) days before the effective date of such termination.

e. Termination For Cause: AVAQMD may terminate this Agreement upon the conviction for any criminal act by Grantee, its agents, officers and employees if such criminal act directly relates to the Project that is the subject of this Agreement.

8. Indemnification: Grantee agrees to indemnify, defend and hold harmless AVAQMD and its authorized agents, officers, volunteers and employees against any and all claims or actions arising from Grantee's acts, errors or omissions in performing services pursuant to this Agreement. Grantee agrees to indemnify, defend, and hold harmless AVAQMD, its authorized agents, officers, volunteers and employees against any and all losses sustained by a third party due to the third party's use of the Project equipment pursuant to this Agreement. AVAQMD agrees to indemnify, defend and hold harmless Grantee and its authorized agents, officers, volunteers and employees against any and all claims or actions arising from AVAQMD's acts, errors or omissions in performing services pursuant to this Agreement.

9. Audits, Inspections and Reports:

a. During the Term, either or both the AVAQMD and CARB or their designee shall have the right to inspect the Project, enforce the terms of this Agreement, and pursue recapture of funds for any noncompliance with the terms and conditions of this Agreement. Grantee shall make available to AVAQMD at any time during regular business hours following a three (3) day notice from the AVAQMD, and as often as AVAQMD may deem necessary, all of its records and data for examination related to the Project. Grantee shall allow AVAQMD upon a three (3) day advance

request, at AVAQMD's cost, to audit and inspect all such records and data necessary to ensure Grantee's compliance with the terms of this Agreement. In the event it becomes necessary, Grantee shall be subject to an audit by AVAQMD to determine if the funds received by Grantee were spent for the Project in accordance with this Agreement. If after said audit AVAQMD makes a determination that the Grant was not spent in conformance with this Agreement, and following resolution of any appeal of such determination by Grantee to the Board of the AVAQMD, Grantee agrees to immediately reimburse AVAQMD all funds determined to have been expended not in conformance with said provisions.

b. Grantee shall retain all records and data for activities performed under this Agreement for at least three (3) years after the termination or expiration of this Agreement or until all state and federal audits are completed, whichever is later.

10. Notices: The persons and their addresses having authority to give and receive notices under this Agreement are as follows:

| | | |
|---|---|---|
| City of Palmdale | AVAQMD | AVAQMD |
| Rhonda Perez | Julie McKeehan | Barbara Lods |
| Acting City Manager | Grants Analyst | Executive Director |
| 38300 Sierra Highway | 2551 West Avenue H, Ste. 102 | 2551 West Avenue H, Ste. 102 |
| Palmdale, CA 93550 | Lancaster, CA 93536 | Lancaster, CA 93536 |

Any and all notices to AVAQMD and Grantee provided for or permitted under this Agreement or by law shall be in writing and shall be deemed duly served via electronic mail, personally delivered, courier service or united states postal service addressed to such party.

11. Political Activity Prohibited: None of the funds, materials, property, or services provided under this Agreement shall be used for any political activity, or to further the election or defeat of any candidate for public office contrary to federal or state laws, statutes, regulations, rules, or guidelines.

12. Lobbying Prohibited: None of the funds provided under this Agreement shall be used for publicity, lobbying, or propaganda purposes designed to support or defeat legislation before the Congress of the United States of America or the Legislature of the State of California.

13. Conflict Of Interest: No officer, employee or agent of AVAQMD who exercises any function or responsibility for planning and carrying out the services provided under this Agreement shall have any direct or indirect personal financial interest in this Agreement. Grantee shall comply with all federal, state and local conflict of interest laws, statutes, and regulations.

14. Succession:

a. Each Party and its respective partners, successors, and legal representatives, and to the extent permitted herein the assigns, are hereby bound to the other Party and its partners, successors, legal representatives and assigns, with respect to all covenants and obligations under this Agreement.

b. Neither Party shall assign, sublet or transfer any rights or obligations under this Agreement without the prior written consent of the other. However, Grantee is authorized to use employees of or assign this Agreement to an affiliate as it may deem appropriate to assist in the completion of the Project or as a result of an internal reorganization.

d. Grantee shall not sell or otherwise modify the Project, during the Term of the Agreement without prior written authorization from the AVAQMD.

15. Time is of Essence: Time is of the essence in completion of the services in this Agreement.

16. Benefit to Parties: Nothing contained in this Agreement shall be construed to give any rights or benefits to any person other than the Parties, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole and exclusive benefit of the Parties and not for the benefit of any other person.

17. Change in Scope of Work: Changes or amendments to the Project proposal as it exists at the time the AVAQMD Governing Board awards the Grant, including any increase or decrease in the Grant amount, and any changes in a material term of this Agreement, shall only be effective upon the written agreement of AVAQMD and Grantee, and shall only be effective by a duly-executed written amendment to this Agreement.

18. Severability: In the event that any word, phrase, clause, sentence, paragraph, section, article or provision contained in this Agreement is held to be unenforceable for any reason by a court of competent

jurisdiction, such holding shall not affect the remaining portions of this Agreement, and the Agreement shall then be construed as if such unenforceable provisions are not a part hereof.

19. Captions: The Paragraph captions of this Agreement are for convenience only and shall have no effect on its construction or interpretation.

20. Entire Agreement: This Agreement, together with the Project proposal and Exhibit A, constitutes the entire Agreement between the Parties and supersede all prior written or oral understandings. This Agreement and its Exhibits may only be amended, supplemented, modified or canceled by a duly-executed written instrument signed by the Parties.

21. Rights to Emission Reductions: Grant funded projects cannot generate Emission Reduction Credits (ERCs) pursuant to AVAQMD Regulation XIV or be used for emission offsets pursuant to AVAQMD Regulation XIII. Additionally, Grantee shall disclose during the term of this Agreement any federal or State claims to emission reductions and/or carbon credits.

22. Governing Law: This Agreement shall be interpreted under the laws of the State of California. Venue for any action arising out of this Agreement shall only be in Los Angeles County, California.

This Agreement was entered into in Lancaster, California.

| | |
|---|---|
| ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT | CITY OF PALMDALE |
| _____ | _____ |
| BARBARA LODS<br>Executive Director | RHONDA PEREZ<br>City Manager |
| Dated: _____ | Dated: _____ |

*Approved as to Legal Form:*

_____
WILLIAM P. CURLEY, III
Interim City Attorney

Dated: _____

Attest:

ROXANNE FABER
Acting City Clerk

END OF CONTRACT

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS DEPARTMENT**
**ENGINEERING DIVISION**

**DISTRICT:** **4**

**SUBJECT:** **NOTICE OF COMPLETION – ACCEPT PUBLIC IMPROVEMENTS FOR TRACT 60028 LOCATED BETWEEN 67TH STREET EAST AND 70TH STREET EAST AT AVENUE R-4**

## ISSUE

Notice of Completion – Accept Public Improvements for Tract 60028 located between 67th Street East and 70th Street East at Avenue R-4.

## RECOMMENDATION

Staff recommends that the City Council:

1. Accept the completed public improvements for Tract 60028 located between 67th Street East and 70th Street East at Avenue R-4.

2. Authorize the City Manager or her designee to file a Notice of Completion and release the security for the completed public improvements.

## BACKGROUND

This project constructed street improvements, including curbs, gutters, sidewalks, streetlights, pavement, and landscape on 70th Street East and within Tract 60028. The public improvements have been installed per the approved construction plan, inspected, and approved by City Public Works inspection staff.

## DISCUSSION

The required public improvements for the project listed in Exhibit “A” and shown in Exhibit “B” have been completed to the satisfaction of the City Engineer as required in the Subdivision/Development Improvement Agreement between the developer and the City. This Council action will accept the public improvements as complete and will begin a one-year period, thereafter transferring maintenance responsibility of these improvements from the developer to the City of Palmdale. This Council action will also initiate the City’s release of applicable securities posted for this project in accordance

with the City's subdivision regulations. This action is being taken pursuant to Section 16.110.060 of the City's Municipal Code.

## FISCAL IMPACT

The City's maintenance costs will incrementally increase as a result of acceptance of these improvements.

## 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: | Lynn Glidden, P.E., Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

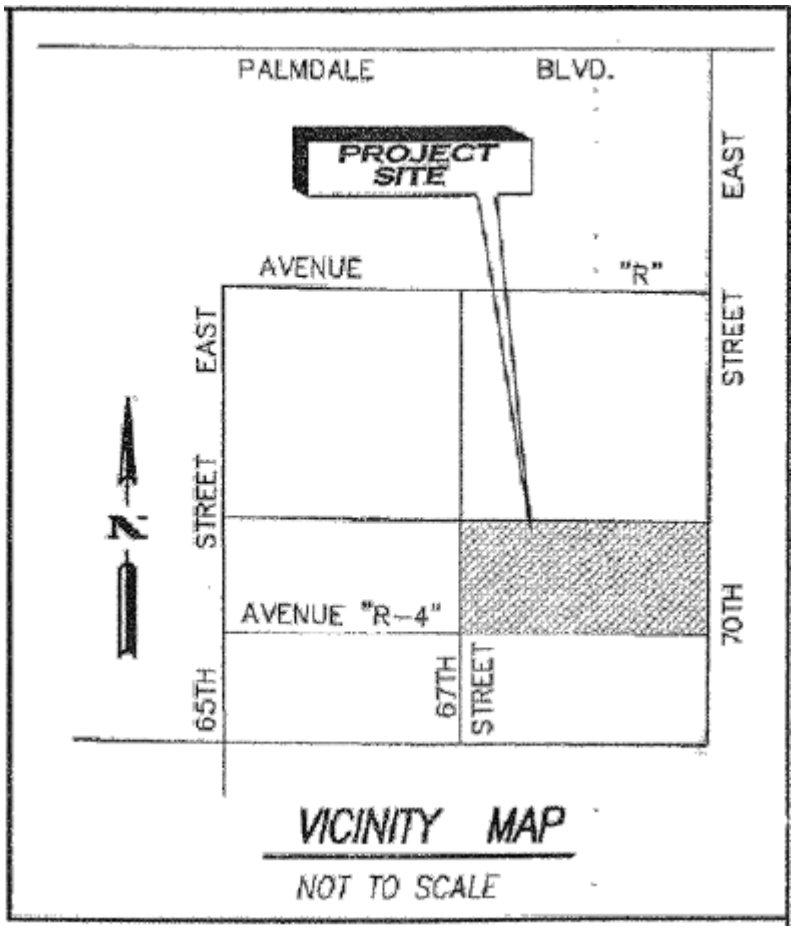
## ATTACHMENTS

1. Exhibit A – List of Completed Public Improvements
2. Exhibit B – Site Map Location
3. Notice of Completion – Tract 60028 Street Improvements

**EXHIBIT A**
**LIST OF COMPLETED PUBLIC IMPROVEMENTS**

| Tract/Project | Plan # | Quantity | Security |
|---|---|---|---|
| Tract 60028 | ST 19-20 | 124,505 SF | $210,500 |

EXHIBIT B
SITE MAP



RECORDING REQUESTED BY:

**CITY OF PALMDALE**

WHEN RECORDED MAIL TO:

**CITY OF PALMDALE**
**OFFICE OF THE CITY CLERK**
**38300 SIERRA HIGHWAY, SUITE C**
**PALMDALE, CA 93550**

Space above this line is for Recorder's Use

## NOTICE OF COMPLETION

Notice pursuant to Civil Code Section 3093, is hereby given that:

1. The undersigned is owner or corporate officer of the interest or estate stated below in the property hereinafter described.
2. The full name of the owner is City of Palmdale, a Municipal Corporation.
3. The full address of the owner is 38300 Sierra Highway, Palmdale, CA 93550.
4. The nature of interest or estate of the owner is: **Street Improvements-Tract 60028.**
5. A work of improvement on the property hereinafter described was completed on **August 01, 2023**
6. The work done was: "**Street Improvements-Tract 60028**",
7. The name of the Contractor for such work of improvement: **Richmond American Homes of MD, Inc.**
8. The property on which said work of improvement was completed is in the City of Palmdale, County of Los Angeles, State of California, and is described as follows: **located between 67th East and 70th East @ Avenue R-4.**
9. The address of said property is: **Tract 60028.**

Dated: **October 04, 2023**

CITY OF PALMDALE

Guillermo I. Padilla, City Engineer

## VERIFICATION

I, the undersigned, say: I am the City Engineer, the declarant of the foregoing notice of completion; I have read the said notice of completion and know the contents thereof; the same is true of my own knowledge. I declare under penalty of perjury that the foregoing is true and correct.

Executed on **October 04, 2023,** in the City of Palmdale, California.

Guillermo I. Padilla, City Engineer

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS DEPARTMENT**
**ENGINEERING DIVISION**

**DISTRICT:** **4**

**SUBJECT:** **NOTICE OF COMPLETION – ACCEPT PUBLIC IMPROVEMENTS FOR TRACT 60028-1 LOCATED AT THE SOUTHEAST CORNER OF AVENUE R & 65TH STREET EAST.**

## ISSUE

Notice of Completion – Accept Public Improvements for Tract 60028-1 located at the southeast corner of Avenue R and 65th Street East.

## RECOMMENDATION

Staff recommends that the City Council:

1. Accept the completed public improvements for Tract 60028-1 located at the southeast corner of Avenue R and 65th Street East.

2. Authorize the City Manager or her designee to file a Notice of Completion and release the security for the completed public improvements.

## BACKGROUND

This project constructed street improvements, including curb, gutter, sidewalk, streetlights, pavement, and landscaping on Avenue R and 65th Street East and within Tract 60028-1. The public improvements have been installed per the approved construction plan, inspected, and approved by City Public Works inspection staff.

## DISCUSSION

The required public improvements for the project listed in Exhibit “A” and shown in Exhibit “B” have been completed to the satisfaction of the City Engineer as required in the Subdivision/Development Improvement Agreement between the developer and the City. This Council action will accept the public improvements as complete and will begin a one-year period, thereafter transferring maintenance responsibility of these improvements from the developer to the City of Palmdale. This Council action will also initiate the City’s release of applicable securities posted for this project in accordance

with the City's subdivision regulations. This action is being taken pursuant to Section 16.110.060 of the City's Municipal Code.

## FISCAL IMPACT

The City's maintenance costs will incrementally increase as a result of acceptance of these improvements.

## 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: | Lynn Glidden, P.E., Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

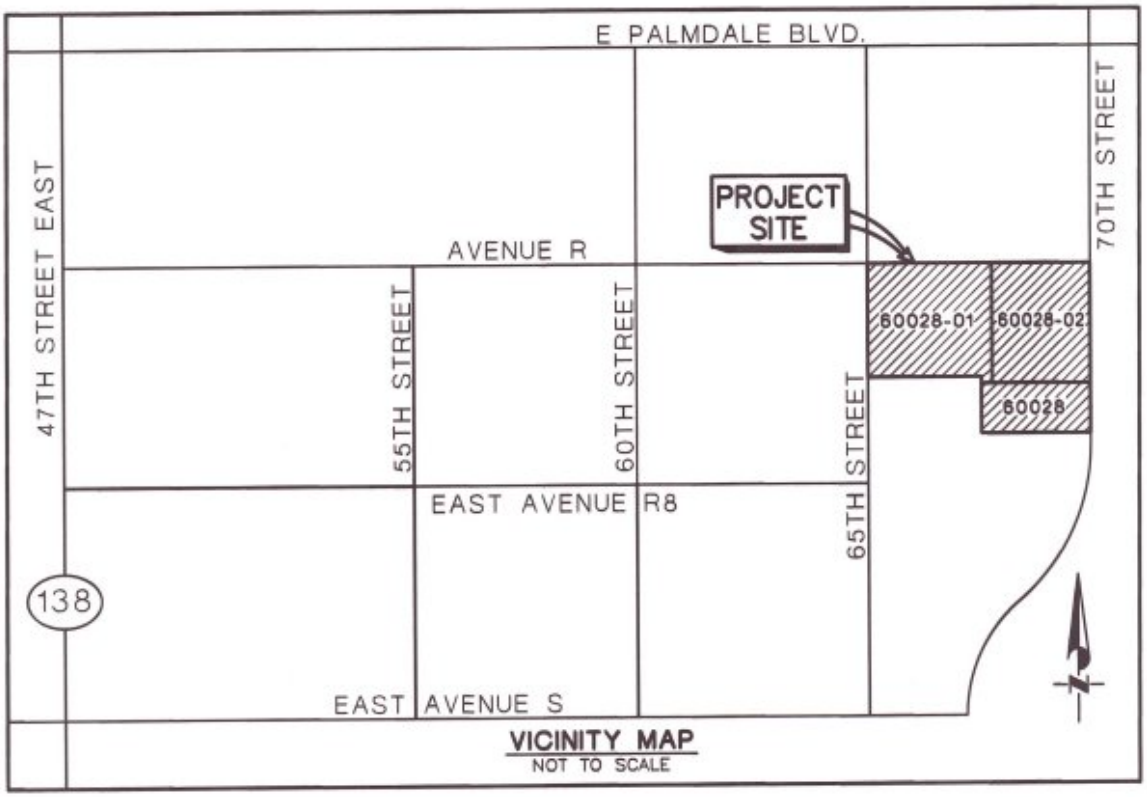
## ATTACHMENTS

1. Exhibit A – List of Completed Public Improvements
2. Exhibit B – Site Map Location
3. Notice of Completion – Tract 60028-1 Street Improvements

**EXHIBIT A**
**LIST OF COMPLETED PUBLIC IMPROVEMENTS**

| Tract/Project | Plan # | Quantity | Security |
|---|---|---|---|
| Tract 60028-1 | ST 18 -33 | 66,431 SF | $292,900 |

EXHIBIT B
SITE MAP



RECORDING REQUESTED BY:

**CITY OF PALMDALE**

WHEN RECORDED MAIL TO:

**CITY OF PALMDALE**
**OFFICE OF THE CITY CLERK**
**38300 SIERRA HIGHWAY, SUITE C**
**PALMDALE, CA 93550**

Space above this line is for Recorder's Use

## NOTICE OF COMPLETION

Notice pursuant to Civil Code Section 3093, is hereby given that:

1. The undersigned is owner or corporate officer of the interest or estate stated below in the property hereinafter described.
2. The full name of the owner is City of Palmdale, a Municipal Corporation.
3. The full address of the owner is 38300 Sierra Highway, Palmdale, CA 93550.
4. The nature of interest or estate of the owner is: **Street Improvements-Tract 60028-1.**
5. A work of improvement on the property hereinafter described was completed on **August 01, 2023**
6. The work done was: "**Street Improvements-Tract 60028-1**",
7. The name of the Contractor for such work of improvement: **Richmond American Homes of MD, Inc.**
8. The property on which said work of improvement was completed is in the City of Palmdale, County of Los Angeles, State of California, and is described as follows: **Southeast corner of Avenue R and 65th Street East.**
9. The address of said property is: **Tract 60028-1.**

Dated: **October 4, 2023**

CITY OF PALMDALE

Guillermo I. Padilla, City Engineer

## VERIFICATION

I, the undersigned, say: I am the City Engineer, the declarant of the foregoing notice of completion; I have read the said notice of completion and know the contents thereof; the same is true of my own knowledge. I declare under penalty of perjury that the foregoing is true and correct.

Executed on **October 4, 2023,** in the City of Palmdale, California.

Guillermo I. Padilla, City Engineer

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS DEPARTMENT**
**ENGINEERING DIVISION**

**DISTRICT:** **4**

**SUBJECT:** **NOTICE OF COMPLETION – ACCEPT PUBLIC IMPROVEMENTS FOR TRACT 60028-2 LOCATED AT THE SOUTHWEST CORNER OF AVENUE R & 70TH STREET EAST.**

## ISSUE

Notice of Completion – Accept Public Improvements for Tract 60028-2 located at the southwest corner of Avenue R and 70th Street East.

## RECOMMENDATION

Staff recommends that the City Council:

1. Accept the completed public improvements for Tract 60028-2 located at the southwest corner of Avenue R and 70th Street East.

2. Authorize the City Manager or her designee to file a Notice of Completion and release the security for the completed public improvements.

## BACKGROUND

This project constructed street improvements, including curb, gutter, sidewalk, streetlights, pavement, and landscaping on Avenue R and 70th Street East and within Tract 60028-2. The public improvements have been installed per the approved construction plan, inspected, and approved by City Public Works inspection staff.

## DISCUSSION

The required public improvements for the project listed in Exhibit “A” and shown in Exhibit “B” have been completed to the satisfaction of the City Engineer as required in the Subdivision/Development Improvement Agreement between the developer and the City. This Council action will accept the public improvements as complete and will begin a one-year period, thereafter transferring maintenance responsibility of these improvements from the developer to the City of Palmdale. This Council action will also initiate the City’s release of applicable securities posted for this project in accordance

with the City's subdivision regulations. This action is being taken pursuant to Section 16.110.060 of the City's Municipal Code.

## FISCAL IMPACT

The City's maintenance costs will incrementally increase as a result of acceptance of these improvements.

## 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: | Lynn Glidden, P.E., Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

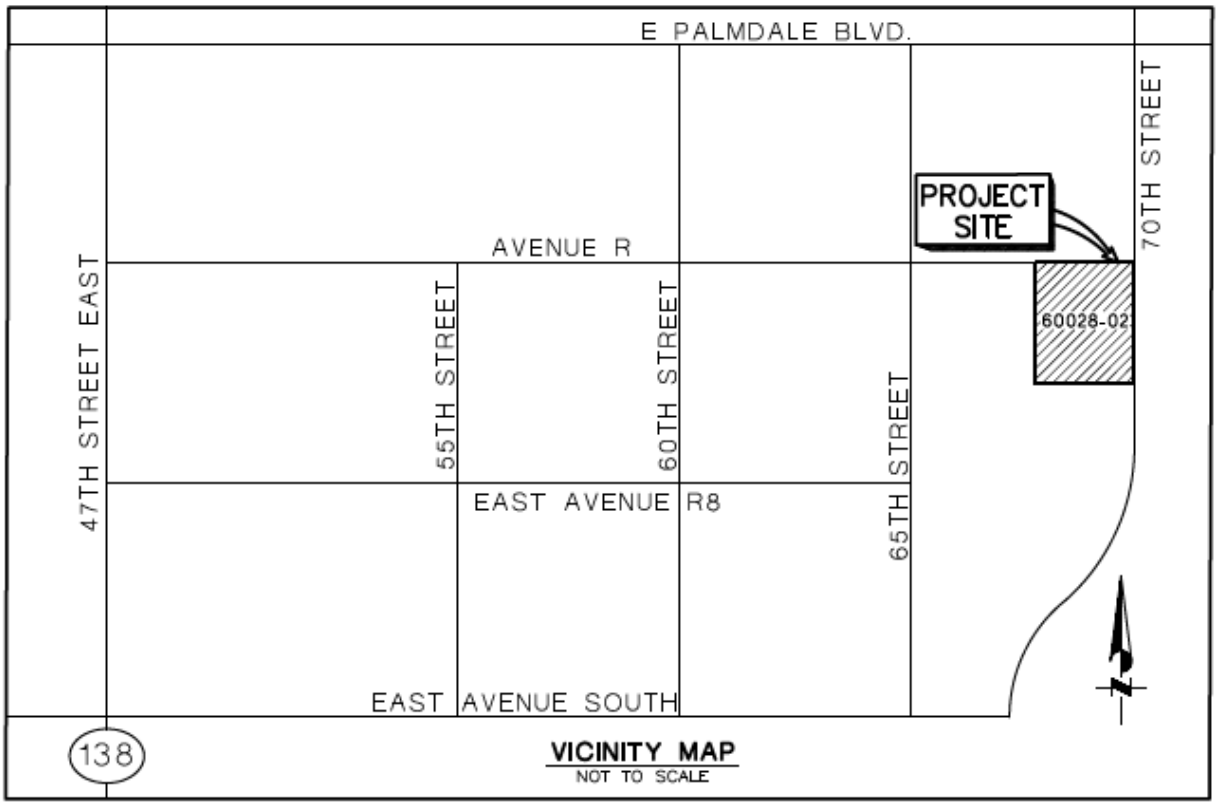
## ATTACHMENTS

1. Exhibit A – List of Completed Public Improvements
2. Exhibit B – Site Map Location
3. Notice of Completion – Tract 60028-2 Street Improvements

**EXHIBIT A**
**LIST OF COMPLETED PUBLIC IMPROVEMENTS**

| Tract/Project | Plan # | Quantity | Security |
|---|---|---|---|
| Tract 60028-2 | ST 19 - 16 | 70,980 SF | $115,800 |

EXHIBIT B
SITE MAP



RECORDING REQUESTED BY:

**CITY OF PALMDALE**

WHEN RECORDED MAIL TO:

**CITY OF PALMDALE**
**OFFICE OF THE CITY CLERK**
**38300 SIERRA HIGHWAY, SUITE C**
**PALMDALE, CA 93550**

Space above this line is for Recorder's Use

## NOTICE OF COMPLETION

Notice pursuant to Civil Code Section 3093, is hereby given that:

1. The undersigned is owner or corporate officer of the interest or estate stated below in the property hereinafter described.
2. The full name of the owner is City of Palmdale, a Municipal Corporation.
3. The full address of the owner is 38300 Sierra Highway, Palmdale, CA 93550.
4. The nature of interest or estate of the owner is: **Street Improvements-Tract 60028-2.**
5. A work of improvement on the property hereinafter described was completed on **August 01, 2023**
6. The work done was: "**Street Improvements-Tract 60028-2**",
7. The name of the Contractor for such work of improvement: **Richmond American Homes of MD, Inc.**
8. The property on which said work of improvement was completed is in the City of Palmdale, County of Los Angeles, State of California, and is described as follows: **Southwest corner of Avenue R and 70th Street East.**
9. The address of said property is: **Tract 60028-2.**

Dated: **October 04, 2023**

CITY OF PALMDALE

Guillermo I. Padilla, City Engineer

## VERIFICATION

I, the undersigned, say: I am the City Engineer, the declarant of the foregoing notice of completion; I have read the said notice of completion and know the contents thereof; the same is true of my own knowledge. I declare under penalty of perjury that the foregoing is true and correct.

Executed on **October 04, 2023,** in the City of Palmdale, California.

Guillermo I. Padilla, City Engineer

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS DEPARTMENT**
**MAINTENANCE DIVISION**

**DISTRICT:** **ALL**

**SUBJECT:** **AWARD IFB NO. 23-001-3610 PROFESSIONAL ARBORICULTURAL SERVICES AND APPROVE AGREEMENT WITH TIP TOP ARBORISTS, INC. IN AN AMOUNT NOT TO EXCEED $2,750,000 OVER A FIVE-YEAR TERM.**

## ISSUE

Award IFB No. 23-001-3610 Professional Arboricultural Services and Approve Agreement with Tip Top Arborists, Inc. in an amount not to exceed $2,750,000 over a five-year term.

## RECOMMENDATION

Staff recommends that the City Council:

1. Award IFB No. 23-001-3610 for Professional Arboricultural Services to Tip Top Arborists, Inc.

2. Approve Agreement No. A-8507 with Tip Top Arborists, Inc. in an amount not to exceed $2,750,000 over a five-year term.

3. Authorize the City Manager, or her designee, to execute Agreement No. A-8507 with Tip Top Arborists, Inc., including non-substantive changes.

## BACKGROUND

The City administers service agreements with contractors specializing in various professional disciplines to assist with department operations, such as arboricultural services.

The professional arboricultural service contract is utilized to support the City's Urban Forestry Programs in Parks and Facility Grounds, General Benefit Landscapes (including landscaped medians), Fairway Business Park, Park and Rides, Palmdale Transportation Center, Landscape Assessment Districts, and street right of ways. The contractor will also provide select services and/or ornamental abatement for the Housing Division, Housing

Authority, and private property and/or vacant parcels as deemed necessary by the Community Compliance Division.

These arboricultural services include as-requested tree pruning, tree removals, stump grinding, tree inventory data collection, required work zone temporary traffic control, and tree hazard risk assessments.

The services provided by the arboricultural contractor are used in conjunction with work performed by City staff to meet increasing service demands, address deferred maintenance, and further the efficiency of operations to maintain safe and attractive facilities, public spaces, and infrastructure for the community.

## DISCUSSION

The City released Invitation for Bid (IFB) No. 23-001-3610 for Professional Arboricultural Services on April 26, 2023. Notification of the IFB release was sent electronically to 48 registered vendors on PlanetBids. The solicitation was also posted on the City's website and published in the Antelope Valley Press.

Five (5) responses were received on June 7, 2023 as shown below:

| BIDDER | LOCATION |
|---|---|
| 1. Mariposa Landscape, Inc. | Irwindale, CA |
| 2. Tip Top Arborists, Inc. | Lancaster, CA |
| 3. West Coast Arborists, Inc. | Santa Clarita, CA |
| 4. Green Valley Tree Care, Inc. | Granada Hills, CA |
| 5. Thrifty Tree Service, Inc. | Tarzana, CA |

Each prospective bidder demonstrated that they met and/or exceeded the required qualifications and abilities to perform the requested services outlined in the Invitation for Bids. As a bid requirement, the bidders were to provide itemized unit pricing for landscape work. It was determined that Mariposa Landscape and Tip Top Arborists, Inc. had the lowest responsive pricing.

Maintenance and Purchasing staff determined it would be in the best interest of the City to split the contract equally between the top two bidders. This would allow for operations flexibility and provide citywide scheduling and mobilization benefits.

On June 26, 2023, a Notice of Intent to Multiple Award was issued to Mariposa Landscape, Inc. and Tip Top Arborists, Inc. However, Mariposa Landscape, Inc. withdrew its bid, resulting in the full award to Tip Top Arborists, Inc.

## FISCAL IMPACT

The total contract cost for Professional Arboricultural Services is for an amount not to exceed $2,750,000, over a five-year term, with an estimated cost of $550,000 each fiscal year. This contract estimate was determined based on the IFB's service item costs and anticipated program needs.

Sufficient funds are budgeted and available in fiscal year 2023-24, and funds for future years will be incorporated in the annual operating budget. Funds are budgeted under Contract Services lines in the following accounts: Park Maintenance (10133002); General Benefit Landscape Areas (10133003); Landscape Assessment Districts (25133003); Palmdale Transportation Center and Park-N-Rides (20333005); Street Maintenance (20733001); Housing Authority; and Community Compliance.

## STRATEGIC PLAN

Goal III: Invest in infrastructure to improve community livability.

B. 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: | Lynn Glidden, P.E., Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley III, Interim City Attorney |

## ATTACHMENTS

1. IFB No. 23-001-3610 Professional Arboricultural Services Bid Tabulation
2. Agreement No. A-8507 Tip Top Arborists, Inc.

**RFP 23-001-3610 Professional Arboricultural Services**
**Bid Tabulation**

**Mariposa Landscape, Inc.**
**DIR Labor Classifications**

| **DIR Labor Classifications:** Please indicate the Contractor Craft Classification. Labor Rate table may be duplicated for additional Contractor Craft Classifications if needed. | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** |
|---|---|---|---|---|---|---|
| Supervisor | Hourly Rate | $ 125.00 | $ 128.00 | $ 131.00 | $ 134.00 | $ 137.00 |
| Journeyman | Hourly Rate | $ 200.00 | $ 203.00 | $ 206.00 | $ 209.00 | $ 212.00 |
| Apprentice Journeyman | Hourly Rate | $ 125.00 | $ 128.00 | $ 131.00 | $ 134.00 | $ 137.00 |
| Classification = Tree Maintenance Laberor | Hourly Rate | | | | | |
| Senior Trimmer | Hourly Rate | $ 97.00 | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 |
| Trimmer | Hourly Rate | $ 91.00 | $ 94.00 | $ 97.00 | $ 100.00 | $ 103.00 |
| Grounds Person | Hourly Rate | $ 86.00 | $ 89.00 | $ 92.00 | $ 95.00 | $ 98.00 |

| | **SERVICE** | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** | **TERM TOTAL** |
|---|---|---|---|---|---|---|---|---|
| **A.** | **TREE PRUNING SERVICES** | | | | | | | |
| 1 | Maintenance Prune 1" - 12" DBH | per tree | $ 146.00 | $ 150.00 | $ 155.00 | $ 160.00 | $ 165.00 | **$ 776.00** |
| 2 | Maintenance Prune 13" - 24" DBH | per tree | $ 290.00 | $ 295.00 | $ 300.00 | $ 305.00 | $ 310.00 | **$ 1,500.00** |
| 3 | Maintenance Prune 25"+ DBH | per tree | $ 320.00 | $ 325.00 | $ 330.00 | $ 335.00 | $ 340.00 | **$ 1,650.00** |
| 4 | Maintenance Prune with Crown Reduction 1" - 12" DBH | per tree | $ 146.00 | $ 150.00 | $ 155.00 | $ 160.00 | $ 165.00 | **$ 776.00** |
| 5 | Maintenance Prune with Crown Reduction 13" - 24" DBH | per tree | $ 290.00 | $ 295.00 | $ 300.00 | $ 305.00 | $ 310.00 | **$ 1,500.00** |
| 6 | Maintenance Prune with Crown Reduction 25"+ DBH | per tree | $ 320.00 | $ 325.00 | $ 330.00 | $ 335.00 | $ 340.00 | **$ 1,650.00** |
| 7 | Palm Tree Prune 1" - 30" DBH | per palm | $ 135.00 | $ 135.00 | $ 135.00 | $ 135.00 | $ 135.00 | **$ 675.00** |
| 8 | Palm Tree Prune 31" - 55" DBH | per palm | $ 65.00 | $ 65.00 | $ 65.00 | $ 65.00 | $ 65.00 | **$ 325.00** |
| 9 | Palm Tree Prune 56"+ DBH | per palm | $ 10.00 | $ 10.00 | $ 10.00 | $ 10.00 | $ 10.00 | **$ 50.00** |
| | | **TOTALS:** | **$ 1,722.00** | **$ 1,750.00** | **$ 1,780.00** | **$ 1,810.00** | **$ 1,840.00** | **$ 8,902.00** |
| **B.** | **TREE REMOVAL & STUMP GRINDING SERVICES** | | | | | | | |
| 1 | Tree Removal 1" - 12" DBH | per tree | $ 200.00 | $ 210.00 | $ 220.00 | $ 230.00 | $ 240.00 | **$ 1,100.00** |
| 2 | Tree Removal 13" - 24" DBH | per tree | $ 535.00 | $ 550.00 | $ 565.00 | $ 580.00 | $ 595.00 | **$ 2,825.00** |
| 3 | Tree Removal 25"+ DBH | per tree | $ 900.00 | $ 930.00 | $ 960.00 | $ 990.00 | $ 1,020.00 | **$ 4,800.00** |
| 4 | Stump Grinding 1" - 12" | per stump | $ 125.00 | $ 130.00 | $ 135.00 | $ 140.00 | $ 145.00 | **$ 675.00** |
| 5 | Stump Grinding 13" - 24" | per stump | $ 165.00 | $ 180.00 | $ 195.00 | $ 210.00 | $ 215.00 | **$ 965.00** |
| 6 | Stump Grinding 25"+ | per stump | $ 300.00 | $ 315.00 | $ 330.00 | $ 345.00 | $ 360.00 | **$ 1,650.00** |
| | | **TOTALS:** | **$ 2,225.00** | **$ 2,315.00** | **$ 2,405.00** | **$ 2,495.00** | **$ 2,575.00** | **$ 12,015.00** |
| **C.** | **INVENTORY DATA COLLECTION SERVICES** | | | | | | | |
| 1 | Tree Inventory Data Collection | per tree | $ 13.00 | $ 13.00 | $ 13.00 | $ 13.00 | $ 13.00 | **$ 65.00** |
| 2 | Tree Inventory Data Collection | per hour | $ 100.00 | $ 102.00 | $ 104.00 | $ 106.00 | $ 108.00 | **$ 520.00** |
| | | **TOTALS:** | **$ 113.00** | **$ 115.00** | **$ 117.00** | **$ 119.00** | **$ 121.00** | **$ 585.00** |
| **D.** | **TREE RISK ASSESSMENTS SERVICES** | | | | | | | |
| 1 | Level 2: Basic Tree Hazard Risk Assessment | per tree | $ 100.00 | $ 100.00 | $ 100.00 | $ 100.00 | $ 100.00 | **$ 500.00** |
| 2 | Level 3: Advanced Tree Risk Assessment *Decay Detection Climbing Inspection w/ Resistograph Resistance Drilling* | per hour | $ 142.00 | $ 144.00 | $ 146.00 | $ 148.00 | $ 150.00 | **$ 730.00** |
| 3 | Level 3: Advanced Tree Risk Assessment *Decay Detection w/ 2 Trunk Sonic Tomography Scans* | per hour | $ 142.00 | $ 144.00 | $ 146.00 | $ 148.00 | $ 149.00 | **$ 729.00** |
| 4 | Level 3: Advanced Tree Risk Assessment *Air Spade Root Inspection and Evaluation* | per hour | $ 90.00 | $ 93.00 | $ 96.00 | $ 99.00 | $ 102.00 | **$ 480.00** |
| | | **TOTALS:** | **$ 474.00** | **$ 481.00** | **$ 488.00** | **$ 495.00** | **$ 501.00** | **$ 2,439.00** |
| **E.** | **EMERGENCY RESPONSE** *Emergency Response includes 1 Aerial Lift Forestry Truck w/ Chipper and 3-Man Crew (4 hour minimum)* | | | | | | | |
| 1 | Emergency call out: Weekdays 7:00 a.m. to 5:00 p.m. (Operating Hours) | per hour | $ 260.00 | $ 265.00 | $ 270.00 | $ 275.00 | $ 280.00 | **$ 1,350.00** |
| 2 | Emergency call out: Weekdays 5:00 p.m. to 7:00 a.m. (After-Hours) | per hour | $ 285.00 | $ 290.00 | $ 295.00 | $ 300.00 | $ 305.00 | **$ 1,475.00** |
| 3 | Emergency call out: Weekends Anytime | per hour | $ 285.00 | $ 290.00 | $ 295.00 | $ 300.00 | $ 305.00 | **$ 1,475.00** |
| 4 | Emergency call out: Holidays Anytime | per hour | $ 285.00 | $ 290.00 | $ 295.00 | $ 300.00 | $ 305.00 | **$ 1,475.00** |
| | | **TOTALS:** | **$ 1,115.00** | **$ 1,135.00** | **$ 1,155.00** | **$ 1,175.00** | **$ 1,195.00** | **$ 5,775.00** |
| **F.** | **LABOR RATES** | | | | | | | |
| 1 | Senior Tree Trimmer | per hour | $ 97.00 | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | **$ 515.00** |
| 2 | Tree Trimmer | per hour | $ 91.00 | $ 94.00 | $ 97.00 | $ 100.00 | $ 103.00 | **$ 485.00** |
| 3 | Groundsperson | per hour | $ 86.00 | $ 89.00 | $ 92.00 | $ 95.00 | $ 98.00 | **$ 460.00** |
| 4 | I.S.A. TRAQ Qualified Certified Arborist | per hour | $ 100.00 | $ 103.00 | $ 105.00 | $ 107.00 | $ 109.00 | **$ 524.00** |
| | | **TOTALS:** | **$ 374.00** | **$ 386.00** | **$ 397.00** | **$ 408.00** | **$ 419.00** | **$ 1,984.00** |
| | | | | | | **Sum Total** | | **$31,700.00** |

**RFP 23-001-3610 Professional Arboricultural Services**
**Bid Tabulation**

**Tip Top Arborist**
**DIR Labor Classifications**

| **DIR Labor Classifications:** Please indicate the Contractor Craft Classification. Labor Rate table may be duplicated for additional Contractor Craft Classifications if needed. | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** |
|---|---|---|---|---|---|---|
| Supervisor | Hourly Rate | $ 85.00 | $ 88.00 | $ 91.00 | $ 94.00 | $ 97.00 |
| Journeyman | Hourly Rate | $ 65.00 | $ 82.00 | $ 85.00 | $ 88.00 | $ 92.00 |
| Apprentice Journeyman | Hourly Rate | $ 65.00 | $ 75.00 | $ 80.00 | $ 83.00 | $ 86.00 |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |

| | **SERVICE** | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** | **TERM TOTAL** |
|---|---|---|---|---|---|---|---|---|
| **A.** | **TREE PRUNING SERVICES** | | | | | | | |
| 1 | Maintenance Prune 1" - 12" DBH | per tree | $ 99.00 | $ 105.00 | $ 110.00 | $ 115.00 | $ 120.00 | **$ 549.00** |
| 2 | Maintenance Prune 13" - 24" DBH | per tree | $ 175.00 | $ 180.00 | $ 185.00 | $ 190.00 | $ 195.00 | **$ 925.00** |
| 3 | Maintenance Prune 25"+ DBH | per tree | $ 215.00 | $ 220.00 | $ 225.00 | $ 230.00 | $ 235.00 | **$ 1,125.00** |
| 4 | Maintenance Prune with Crown Reduction 1" - 12" DBH | per tree | $ 99.00 | $ 105.00 | $ 110.00 | $ 115.00 | $ 120.00 | **$ 549.00** |
| 5 | Maintenance Prune with Crown Reduction 13" - 24" DBH | per tree | $ 300.00 | $ 350.00 | $ 400.00 | $ 450.00 | $ 500.00 | **$ 2,000.00** |
| 6 | Maintenance Prune with Crown Reduction 25"+ DBH | per tree | $ 400.00 | $ 450.00 | $ 475.00 | $ 500.00 | $ 550.00 | **$ 2,375.00** |
| 7 | Palm Tree Prune 1" - 30" DBH | per palm | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | **$ 475.00** |
| 8 | Palm Tree Prune 31" - 55" DBH | per palm | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | **$ 475.00** |
| 9 | Palm Tree Prune 56"+ DBH | per palm | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | **$ 475.00** |
| | | **TOTALS:** | **$ 1,573.00** | **$ 1,695.00** | **$ 1,790.00** | **$ 1,885.00** | **$ 2,005.00** | $ 8,948.00 |
| **B.** | **TREE REMOVAL & STUMP GRINDING SERVICES** | | | | | | | |
| 1 | Tree Removal 1" - 12" DBH | per tree | $ 255.00 | $ 260.00 | $ 265.00 | $ 270.00 | $ 275.00 | **$ 1,325.00** |
| 2 | Tree Removal 13" - 24" DBH | per tree | $ 525.00 | $ 530.00 | $ 535.00 | $ 540.00 | $ 545.00 | **$ 2,675.00** |
| 3 | Tree Removal 25"+ DBH | per tree | $ 1,100.00 | $ 1,250.00 | $ 1,350.00 | $ 1,400.00 | $ 1,450.00 | **$ 6,550.00** |
| 4 | Stump Grinding 1" - 12" | per stump | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | **$ 475.00** |
| 5 | Stump Grinding 13" - 24" | per stump | $ 110.00 | $ 110.00 | $ 110.00 | $ 110.00 | $ 110.00 | **$ 550.00** |
| 6 | Stump Grinding 25"+ | per stump | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 | **$ 750.00** |
| | | **TOTALS:** | **$ 2,235.00** | **$ 2,395.00** | **$ 2,505.00** | **$ 2,565.00** | **$ 2,625.00** | $ 12,325.00 |
| **C.** | **INVENTORY DATA COLLECTION SERVICES** | | | | | | | |
| 1 | Tree Inventory Data Collection | per tree | $ 4.50 | $ 4.50 | $ 4.50 | $ 4.50 | $ 4.50 | **$ 22.50** |
| 2 | Tree Inventory Data Collection | per hour | $ 75.00 | $ 75.00 | $ 75.00 | $ 75.00 | $ 75.00 | **$ 375.00** |
| | | **TOTALS:** | **$ 79.50** | **$ 79.50** | **$ 79.50** | **$ 79.50** | **$ 79.50** | $ 397.50 |
| **D.** | **TREE RISK ASSESSMENTS SERVICES** | | | | | | | |
| 1 | Level 2: Basic Tree Hazard Risk Assessment | per tree | $ 85.00 | $ 85.00 | $ 85.00 | $ 85.00 | $ 85.00 | **$ 425.00** |
| 2 | Level 3: Advanced Tree Risk Assessment *Decay Detection Climbing Inspection w/ Resistograph Resistance Drilling* | per hour | $ 125.00 | $ 125.00 | $ 125.00 | $ 125.00 | $ 125.00 | **$ 625.00** |
| 3 | Level 3: Advanced Tree Risk Assessment *Decay Detection w/ 2 Trunk Sonic Tomography Scans* | per hour | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 | **$ 750.00** |
| 4 | Level 3: Advanced Tree Risk Assessment *Air Spade Root Inspection and Evaluation* | per hour | $ 200.00 | $ 200.00 | $ 200.00 | $ 200.00 | $ 200.00 | **$ 1,000.00** |
| | | **TOTALS:** | **$ 560.00** | **$ 560.00** | **$ 560.00** | **$ 560.00** | **$ 560.00** | $ 2,800.00 |
| **E.** | **EMERGENCY RESPONSE** *Emergency Response includes 1 Aerial Lift Forestry Truck w/ Chipper and 3-Man Crew (4 hour minimum)* | | | | | | | |
| 1 | Emergency call out: Weekdays 7:00 a.m. to 5:00 p.m. (Operating Hours) | per hour | $ 250.00 | $ 250.00 | $ 250.00 | $ 250.00 | $ 250.00 | **$ 1,250.00** |
| 2 | Emergency call out: Weekdays 5:00 p.m. to 7:00 a.m. (After-Hours) | per hour | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 | **$ 1,500.00** |
| 3 | Emergency call out: Weekends Anytime | per hour | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 | **$ 1,500.00** |
| 4 | Emergency call out: Holidays Anytime | per hour | $ 325.00 | $ 325.00 | $ 325.00 | $ 325.00 | $ 325.00 | **$ 1,625.00** |
| | | **TOTALS:** | **$ 1,175.00** | **$ 1,175.00** | **$ 1,175.00** | **$ 1,175.00** | **$ 1,175.00** | $ 5,875.00 |
| **F.** | **LABOR RATES** | | | | | | | |
| 1 | Senior Tree Trimmer | per hour | $ 85.00 | $ 88.00 | $ 91.00 | $ 92.00 | $ 95.00 | **$ 451.00** |
| 2 | Tree Trimmer | per hour | $ 80.00 | $ 82.00 | $ 85.00 | $ 87.00 | $ 89.00 | **$ 423.00** |
| 3 | Groundsperson | per hour | $ 75.00 | $ 77.00 | $ 80.00 | $ 82.00 | $ 85.00 | **$ 399.00** |
| 4 | I.S.A. TRAQ Qualified Certified Arborist | per hour | $ 95.00 | $ 100.00 | $ 105.00 | $ 105.00 | $ 105.00 | **$ 510.00** |
| | | **TOTALS:** | **$ 335.00** | **$ 347.00** | **$ 361.00** | **$ 366.00** | **$ 374.00** | $ 1,783.00 |
| | | | | | | **Sum Total** | | **$32,128.50** |

98.66629317

Difference from previous bid: -$428.50

**RFP 23-001-3610 Professional Arboricultural Services**
**Bid Tabulation**

**West Coast Arborists, Inc.**
**DIR Labor Classifications**

| **DIR Labor Classifications:** Please indicate the Contractor Craft Classification. Labor Rate table may be duplicated for additional Contractor Craft Classifications if needed. | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** |
|---|---|---|---|---|---|---|
| Sr. Tree Trimmer | Hourly Rate | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 |
| Tree Trimmer | Hourly Rate | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 |
| Groundsperson | Hourly Rate | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |

| | **SERVICE** | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** | **TERM TOTAL** |
|---|---|---|---|---|---|---|---|---|
| **A.** | **TREE PRUNING SERVICES** | | | | | | | |
| 1 | Maintenance Prune 1" - 12" DBH | per tree | $ 90.00 | $ 93.00 | $ 96.00 | $ 99.00 | $ 102.00 | **$ 480.00** |
| 2 | Maintenance Prune 13" - 24" DBH | per tree | $ 150.00 | $ 155.00 | $ 160.00 | $ 165.00 | $ 170.00 | **$ 800.00** |
| 3 | Maintenance Prune 25"+ DBH | per tree | $ 195.00 | $ 200.00 | $ 205.00 | $ 210.00 | $ 215.00 | **$ 1,025.00** |
| 4 | Maintenance Prune with Crown Reduction 1" - 12" DBH | per tree | $ 90.00 | $ 93.00 | $ 96.00 | $ 99.00 | $ 102.00 | **$ 480.00** |
| 5 | Maintenance Prune with Crown Reduction 13" - 24" DBH | per tree | $ 180.00 | $ 185.00 | $ 190.00 | $ 195.00 | $ 200.00 | **$ 950.00** |
| 6 | Maintenance Prune with Crown Reduction 25"+ DBH | per tree | $ 240.00 | $ 247.00 | $ 255.00 | $ 262.00 | $ 269.00 | **$ 1,273.00** |
| 7 | Palm Tree Prune 1" - 30" DBH | per palm | $ 60.00 | $ 65.00 | $ 70.00 | $ 75.00 | $ 80.00 | **$ 350.00** |
| 8 | Palm Tree Prune 31" - 55" DBH | per palm | $ 90.00 | $ 93.00 | $ 96.00 | $ 99.00 | $ 102.00 | **$ 480.00** |
| 9 | Palm Tree Prune 56"+ DBH | per palm | $ 90.00 | $ 93.00 | $ 96.00 | $ 99.00 | $ 102.00 | **$ 480.00** |
| | | **TOTALS:** | **$ 1,185.00** | **$ 1,224.00** | **$ 1,264.00** | **$ 1,303.00** | **$ 1,342.00** | **$ 6,318.00** |
| **B.** | **TREE REMOVAL & STUMP GRINDING SERVICES** | | | | | | | |
| 1 | Tree Removal 1" - 12" DBH | per tree | $ 225.00 | $ 231.00 | $ 239.00 | $ 245.00 | $ 253.00 | **$ 1,193.00** |
| 2 | Tree Removal 13" - 24" DBH | per tree | $ 500.00 | $ 515.00 | $ 530.00 | $ 545.00 | $ 560.00 | **$ 2,650.00** |
| 3 | Tree Removal 25"+ DBH | per tree | $ 750.00 | $ 770.00 | $ 790.00 | $ 810.00 | $ 830.00 | **$ 3,950.00** |
| 4 | Stump Grinding 1" - 12" | per stump | $ 90.00 | $ 93.00 | $ 96.00 | $ 99.00 | $ 102.00 | **$ 480.00** |
| 5 | Stump Grinding 13" - 24" | per stump | $ 150.00 | $ 155.00 | $ 160.00 | $ 165.00 | $ 170.00 | **$ 800.00** |
| 6 | Stump Grinding 25"+ | per stump | $ 240.00 | $ 247.00 | $ 255.00 | $ 262.00 | $ 269.00 | **$ 1,273.00** |
| | | **TOTALS:** | **$ 1,955.00** | **$ 2,011.00** | **$ 2,070.00** | **$ 2,126.00** | **$ 2,184.00** | **$ 10,346.00** |
| **C.** | **INVENTORY DATA COLLECTION SERVICES** | | | | | | | |
| 1 | Tree Inventory Data Collection | per tree | $ 6.00 | $ 6.00 | $ 7.00 | $ 7.00 | $ 8.00 | **$ 34.00** |
| 2 | Tree Inventory Data Collection | per hour | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 | **$ 530.00** |
| | | **TOTALS:** | **$ 1,560.00** | **$ 1,600.00** | **$ 1,640.00** | **$ 1,680.00** | **$ 1,760.00** | **$ 8,240.00** |
| **D.** | **TREE RISK ASSESSMENTS SERVICES** | | | | | | | |
| 1 | Level 2: Basic Tree Hazard Risk Assessment | per tree | $ 195.00 | $ 200.00 | $ 205.00 | $ 210.00 | $ 220.00 | **$ 1,030.00** |
| 2 | Level 3: Advanced Tree Risk Assessment<br>*Decay Detection Climbing Inspection w/ Resistograph Resistance Drilling* | per hour | $ 195.00 | $ 200.00 | $ 205.00 | $ 210.00 | $ 220.00 | **$ 1,030.00** |
| 3 | Level 3: Advanced Tree Risk Assessment<br>*Decay Detection w/ 2 Trunk Sonic Tomography Scans* | per hour | $ 195.00 | $ 200.00 | $ 205.00 | $ 210.00 | $ 220.00 | **$ 1,030.00** |
| 4 | Level 3: Advanced Tree Risk Assessment<br>*Air Spade Root Inspection and Evaluation* | per hour | $ 195.00 | $ 200.00 | $ 205.00 | $ 210.00 | $ 220.00 | **$ 1,030.00** |
| | | **TOTALS:** | **$ 780.00** | **$ 800.00** | **$ 820.00** | **$ 840.00** | **$ 880.00** | **$ 4,120.00** |
| **E.** | **EMERGENCY RESPONSE** *Emergency Response includes 1 Aerial Lift Forestry Truck w/ Chipper and 3-Man Crew (4 hour minimum)* | | | | | | | |
| 1 | Emergency call out: Weekdays 7:00 a.m. to 5:00 p.m. (Operating Hours) | per hour | $ 300.00 | $ 309.00 | $ 318.00 | $ 327.00 | $ 336.00 | **$ 1,590.00** |
| 2 | Emergency call out: Weekdays 5:00 p.m. to 7:00 a.m. (After-Hours) | per hour | $ 390.00 | $ 399.00 | $ 411.00 | $ 423.00 | $ 435.00 | **$ 2,058.00** |
| 3 | Emergency call out: Weekends Anytime | per hour | $ 390.00 | $ 399.00 | $ 411.00 | $ 423.00 | $ 435.00 | **$ 2,058.00** |
| 4 | Emergency call out: Holidays Anytime | per hour | $ 390.00 | $ 399.00 | $ 411.00 | $ 423.00 | $ 435.00 | **$ 2,058.00** |
| | | **TOTALS:** | **$ 1,470.00** | **$ 1,506.00** | **$ 1,551.00** | **$ 1,596.00** | **$ 1,641.00** | **$ 7,764.00** |
| **F.** | **LABOR RATES** | | | | | | | |
| 1 | Senior Tree Trimmer | per hour | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 | **$ 530.00** |
| 2 | Tree Trimmer | per hour | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 | **$ 530.00** |
| 3 | Groundsperson | per hour | $ 100.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 | **$ 530.00** |
| 4 | I.S.A. TRAQ Qualified Certified Arborist | per hour | $ 175.00 | $ 103.00 | $ 106.00 | $ 109.00 | $ 112.00 | **$ 605.00** |
| | | **TOTALS:** | **$ 475.00** | **$ 412.00** | **$ 424.00** | **$ 436.00** | **$ 448.00** | **$ 2,195.00** |
| | | | | | | **Sum Total** | | **$38,983.00** |

81.31749737

-$6,854.50

**RFP 23-001-3610 Professional Arboricultural Services**
**Bid Tabulation**

**Green Valley Tree Care, Inc.**
**DIR Labor Classifications**

| DIR Labor Classifications: Please indicate the Contractor Craft Classification. Labor Rate table may be duplicated for additional Contractor Craft Classifications if needed. | U/M | YEAR 1 FY 23/24 | YEAR 2 FY 24/25 | YEAR 3 FY 25/26 | YEAR 4 FY 26/27 | YEAR 5 FY 27/28 |
|---|---|---|---|---|---|---|
| Supervisor | Hourly Rate | 140.00 | 145.00 | 150.00 | 155.00 | 160.00 |
| Journeyman | Hourly Rate | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 |
| Apprentice Journeyman | Hourly Rate | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |

| | SERVICE | U/M | YEAR 1 FY 23/24 | YEAR 2 FY 24/25 | YEAR 3 FY 25/26 | YEAR 4 FY 26/27 | YEAR 5 FY 27/28 | TERM TOTAL |
|---|---|---|---|---|---|---|---|---|
| **A.** | **TREE PRUNING SERVICES** | | | | | | | |
| 1 | Maintenance Prune 1" - 12" DBH | per tree | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| 2 | Maintenance Prune 13" - 24" DBH | per tree | 288.00 | 297.00 | 307.00 | 317.00 | 327.00 | **$ 1,536.00** |
| 3 | Maintenance Prune 25"+ DBH | per tree | 432.00 | 446.00 | 460.00 | 475.00 | 490.00 | **$ 2,303.00** |
| 4 | Maintenance Prune with Crown Reduction 1" - 12" DBH | per tree | 120.00 | 124.00 | 128.00 | 132.00 | 137.00 | **$ 641.00** |
| 5 | Maintenance Prune with Crown Reduction 13" - 24" DBH | per tree | 384.00 | 396.00 | 409.00 | 422.00 | 436.00 | **$ 2,047.00** |
| 6 | Maintenance Prune with Crown Reduction 25"+ DBH | per tree | 576.00 | 594.00 | 613.00 | 632.00 | 652.00 | **$ 3,067.00** |
| 7 | Palm Tree Prune 1" - 30" DBH | per palm | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| 8 | Palm Tree Prune 31" - 55" DBH | per palm | 120.00 | 124.00 | 128.00 | 132.00 | 137.00 | **$ 641.00** |
| 9 | Palm Tree Prune 56"+ DBH | per palm | 144.00 | 149.00 | 154.00 | 159.00 | 164.00 | **$ 770.00** |
| | | **TOTALS:** | **$ 2,256.00** | **$ 2,328.00** | **$ 2,405.00** | **$ 2,483.00** | **$ 2,565.00** | **$ 12,037.00** |
| **B.** | **TREE REMOVAL & STUMP GRINDING SERVICES** | | | | | | | |
| 1 | Tree Removal 1" - 12" DBH | per tree | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| 2 | Tree Removal 13" - 24" DBH | per tree | 1,440.00 | 1,485.00 | 1,531.00 | 1,579.00 | 1,628.00 | **$ 7,663.00** |
| 3 | Tree Removal 25"+ DBH | per tree | 2,688.00 | 2,772.00 | 2,858.00 | 2,947.00 | 3,039.00 | **$ 14,304.00** |
| 4 | Stump Grinding 1" - 12" | per stump | 192.00 | 198.00 | 205.00 | 212.00 | 219.00 | **$ 1,026.00** |
| 5 | Stump Grinding 13" - 24" | per stump | 288.00 | 297.00 | 307.00 | 317.00 | 327.00 | **$ 1,536.00** |
| 6 | Stump Grinding 25"+ | per stump | 576.00 | 594.00 | 613.00 | 632.00 | 652.00 | **$ 3,067.00** |
| | | **TOTALS:** | **$ 5,280.00** | **$ 5,445.00** | **$ 5,617.00** | **$ 5,794.00** | **$ 5,976.00** | **$ 28,112.00** |
| **C.** | **INVENTORY DATA COLLECTION SERVICES** | | | | | | | |
| 1 | Tree Inventory Data Collection | per tree | 4.00 | 5.00 | 6.00 | 7.00 | 8.00 | **$ 30.00** |
| 2 | Tree Inventory Data Collection | per hour | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| | | **TOTALS:** | **$ 980.00** | **$ 1,016.00** | **$ 1,052.00** | **$ 1,088.00** | **$ 1,124.00** | **$ 5,260.00** |
| **D.** | **TREE RISK ASSESSMENTS SERVICES** | | | | | | | |
| 1 | Level 2: Basic Tree Hazard Risk Assessment | per tree | 140.00 | 145.00 | 150.00 | 155.00 | 160.00 | **$ 195.00** |
| 2 | Level 3: Advanced Tree Risk Assessment *Decay Detection Climbing Inspection w/ Resistograph Resistance Drilling* | per hour | 200.00 | 205.00 | 215.00 | 220.00 | 230.00 | **$ 750.00** |
| 3 | Level 3: Advanced Tree Risk Assessment *Decay Detection w/ 2 Trunk Sonic Tomography Scans* | per hour | 200.00 | 205.00 | 215.00 | 220.00 | 230.00 | **$ 750.00** |
| 4 | Level 3: Advanced Tree Risk Assessment *Air Spade Root Inspection and Evaluation* | per hour | 200.00 | 205.00 | 215.00 | 220.00 | 230.00 | **$ 935.00** |
| | | **TOTALS:** | **$ 490.00** | **$ 508.00** | **$ 526.00** | **$ 544.00** | **$ 562.00** | **$ 2,630.00** |
| **E.** | **EMERGENCY RESPONSE** *Emergency Response includes 1 Aerial Lift Forestry Truck w/ Chipper and 3-Man Crew (4 hour minimum)* | | | | | | | |
| 1 | Emergency call out: Weekdays 7:00 a.m. to 5:00 p.m. (Operating Hours) | per hour | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| 2 | Emergency call out: Weekdays 5:00 p.m. to 7:00 a.m. (After-Hours) | per hour | 144.00 | 149.00 | 154.00 | 159.00 | 164.00 | **$ 770.00** |
| 3 | Emergency call out: Weekends Anytime | per hour | 144.00 | 149.00 | 154.00 | 159.00 | 164.00 | **$ 770.00** |
| 4 | Emergency call out: Holidays Anytime | per hour | 144.00 | 149.00 | 154.00 | 159.00 | 164.00 | **$ 770.00** |
| | | **TOTALS:** | **$ 528.00** | **$ 546.00** | **$ 565.00** | **$ 584.00** | **$ 603.00** | **$ 2,826.00** |
| **F.** | **LABOR RATES** | | | | | | | |
| 1 | Senior Tree Trimmer | per hour | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| 2 | Tree Trimmer | per hour | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| 3 | Groundsperson | per hour | 96.00 | 99.00 | 103.00 | 107.00 | 111.00 | **$ 516.00** |
| 4 | I.S.A. TRAQ Qualified Certified Arborist | per hour | 140.00 | 145.00 | 150.00 | 155.00 | 160.00 | **$ 750.00** |
| | | **TOTALS:** | **$ 428.00** | **$ 442.00** | **$ 459.00** | **$ 476.00** | **$ 493.00** | **$ 2,298.00** |
| | | | | | | **Sum Total** | | **$53,163.00** |

59.62793672

**RFP 23-001-3610 Professional Arboricultural Services**
**Bid Tabulation**

**Thrifty Tree Service, Inc.**
**DIR Labor Classifications**

| **DIR Labor Classifications:** Please indicate the Contractor Craft Classification. Labor Rate table may be duplicated for additional Contractor Craft Classifications if needed. | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** |
|---|---|---|---|---|---|---|
| Supervisor | Hourly Rate | $ 175.00 | $ 192.50 | $ 211.75 | $ 232.93 | $ 256.22 |
| Journeyman | Hourly Rate | $ 175.00 | $ 192.50 | $ 211.75 | $ 232.93 | $ 256.22 |
| Apprentice Journeyman | Hourly Rate | $ 175.00 | $ 192.50 | $ 211.75 | $ 232.93 | $ 256.22 |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |
| | Hourly Rate | | | | | |

| | **SERVICE** | **U/M** | **YEAR 1 FY 23/24** | **YEAR 2 FY 24/25** | **YEAR 3 FY 25/26** | **YEAR 4 FY 26/27** | **YEAR 5 FY 27/28** | **TERM TOTAL** |
|---|---|---|---|---|---|---|---|---|
| **A.** | **TREE PRUNING SERVICES** | | | | | | | |
| 1 | Maintenance Prune 1" - 12" DBH | per tree | $ 400.00 | $ 440.00 | $ 484.00 | $ 532.40 | $ 585.64 | **$ 2,442.04** |
| 2 | Maintenance Prune 13" - 24" DBH | per tree | $ 700.00 | $ 770.00 | $ 847.00 | $ 931.70 | $ 1,024.87 | **$ 4,273.57** |
| 3 | Maintenance Prune 25"+ DBH | per tree | $ 1,000.00 | $ 1,100.00 | $ 1,210.00 | $ 1,331.00 | $ 1,464.10 | **$ 6,105.10** |
| 4 | Maintenance Prune with Crown Reduction 1" - 12" DBH | per tree | $ 700.00 | $ 770.00 | $ 847.00 | $ 931.70 | $ 1,024.87 | **$ 4,273.57** |
| 5 | Maintenance Prune with Crown Reduction 13" - 24" DBH | per tree | $ 1,300.00 | $ 1,430.00 | $ 1,573.00 | $ 1,730.30 | $ 1,903.33 | **$ 7,936.63** |
| 6 | Maintenance Prune with Crown Reduction 25"+ DBH | per tree | $ 1,600.00 | $ 1,760.00 | $ 1,936.00 | $ 2,129.60 | $ 2,342.56 | **$ 9,768.16** |
| 7 | Palm Tree Prune 1" - 30" DBH | per palm | $ 375.00 | $ 412.50 | $ 453.75 | $ 499.13 | $ 549.04 | **$ 2,289.42** |
| 8 | Palm Tree Prune 31" - 55" DBH | per palm | $ 675.00 | $ 742.50 | $ 816.75 | $ 898.43 | $ 988.27 | **$ 4,120.95** |
| 9 | Palm Tree Prune 56"+ DBH | per palm | $ 975.00 | $ 1,072.50 | $ 1,179.75 | $ 1,297.73 | $ 1,427.50 | **$ 5,952.48** |
| | | **TOTALS:** | **$ 7,725.00** | **$ 8,497.50** | **$ 9,347.25** | **$ 10,281.99** | **$ 11,310.18** | $ 47,161.92 |
| **B.** | **TREE REMOVAL & STUMP GRINDING SERVICES** | | | | | | | |
| 1 | Tree Removal 1" - 12" DBH | per tree | $ 1,025.00 | $ 1,127.50 | $ 1,240.25 | $ 1,364.28 | $ 1,500.71 | **$ 6,257.74** |
| 2 | Tree Removal 13" - 24" DBH | per tree | $ 2,025.00 | $ 2,227.50 | $ 2,450.25 | $ 2,695.28 | $ 2,964.81 | **$ 12,362.84** |
| 3 | Tree Removal 25"+ DBH | per tree | $ 3,525.00 | $ 3,877.50 | $ 4,265.25 | $ 4,691.78 | $ 5,160.96 | **$ 21,520.49** |
| 4 | Stump Grinding 1" - 12" | per stump | $ 325.00 | $ 357.50 | $ 393.25 | $ 432.56 | $ 475.82 | **$ 1,984.13** |
| 5 | Stump Grinding 13" - 24" | per stump | $ 625.00 | $ 687.50 | $ 756.25 | $ 831.88 | $ 915.07 | **$ 3,815.70** |
| 6 | Stump Grinding 25"+ | per stump | $ 925.00 | $ 1,017.50 | $ 1,119.25 | $ 1,231.18 | $ 1,354.30 | **$ 5,647.23** |
| | | **TOTALS:** | **$ 8,450.00** | **$ 9,295.00** | **$ 10,224.50** | **$ 11,246.96** | **$ 12,371.67** | $ 51,588.13 |
| **C.** | **INVENTORY DATA COLLECTION SERVICES** | | | | | | | |
| 1 | Tree Inventory Data Collection | per tree | $ 225.00 | $ 247.50 | $ 272.25 | $ 299.48 | $ 329.43 | **$ 1,373.66** |
| 2 | Tree Inventory Data Collection | per hour | $ 200.00 | $ 220.00 | $ 242.00 | $ 264.43 | $ 290.87 | **$ 1,217.30** |
| | | **TOTALS:** | **$ 425.00** | **$ 467.50** | **$ 514.25** | **$ 563.91** | **$ 620.30** | $ 2,590.96 |
| **D.** | **TREE RISK ASSESSMENTS SERVICES** | | | | | | | |
| 1 | Level 2: Basic Tree Hazard Risk Assessment | per tree | $ 105.00 | $ 1,127.50 | $ 1,240.25 | $ 1,364.28 | $ 1,500.71 | **$ 5,337.74** |
| 2 | Level 3: Advanced Tree Risk Assessment *Decay Detection Climbing Inspection w/ Resistograph Resistance Drilling* | per hour | $ 275.00 | $ 302.50 | $ 332.75 | $ 366.03 | $ 402.63 | **$ 1,678.91** |
| 3 | Level 3: Advanced Tree Risk Assessment *Decay Detection w/ 2 Trunk Sonic Tomography Scans* | per hour | $ 425.00 | $ 467.50 | $ 514.25 | $ 565.68 | $ 622.25 | **$ 2,594.68** |
| 4 | Level 3: Advanced Tree Risk Assessment *Air Spade Root Inspection and Evaluation* | per hour | $ 525.00 | $ 577.50 | $ 635.25 | $ 698.78 | $ 768.66 | **$ 3,205.19** |
| | | **TOTALS:** | **$ 1,330.00** | **$ 2,475.00** | **$ 2,722.50** | **$ 2,994.77** | **$ 3,294.25** | $ 12,816.52 |
| **E.** | **EMERGENCY RESPONSE** *Emergency Response includes 1 Aerial Lift Forestry Truck w/ Chipper and 3-Man Crew (4 hour minimum)* | | | | | | | |
| 1 | Emergency call out: Weekdays 7:00 a.m. to 5:00 p.m. (Operating Hours) | per hour | $ 1,025.00 | $ 1,127.50 | $ 1,240.25 | $ 1,364.28 | $ 1,500.71 | **$ 6,257.74** |
| 2 | Emergency call out: Weekdays 5:00 p.m. to 7:00 a.m. (After-Hours) | per hour | $ 1,025.00 | $ 1,127.50 | $ 1,240.25 | $ 1,364.28 | $ 1,500.71 | **$ 6,257.74** |
| 3 | Emergency call out: Weekends Anytime | per hour | $ 1,025.00 | $ 1,127.50 | $ 1,240.25 | $ 1,364.28 | $ 1,500.71 | **$ 6,257.74** |
| 4 | Emergency call out: Holidays Anytime | per hour | $ 1,525.00 | $ 1,677.50 | $ 1,845.25 | $ 2,029.78 | $ 2,232.76 | **$ 9,310.29** |
| | | **TOTALS:** | **$ 4,600.00** | **$ 5,060.00** | **$ 5,566.00** | **$ 6,122.62** | **$ 6,734.89** | $ 28,083.51 |
| **F.** | **LABOR RATES** | | | | | | | |
| 1 | Senior Tree Trimmer | per hour | $ 175.00 | $ 192.50 | $ 211.75 | $ 232.93 | $ 256.22 | **$ 1,068.40** |
| 2 | Tree Trimmer | per hour | $ 175.00 | $ 192.50 | $ 211.75 | $ 232.93 | $ 256.22 | **$ 1,068.40** |
| 3 | Groundsperson | per hour | $ 175.00 | $ 192.50 | $ 211.75 | $ 232.93 | $ 256.22 | **$ 1,068.40** |
| 4 | I.S.A. TRAQ Qualified Certified Arborist | per hour | $ 225.00 | $ 247.50 | $ 272.25 | $ 299.48 | $ 329.43 | **$ 1,373.66** |
| | | **TOTALS:** | **$ 750.00** | **$ 825.00** | **$ 907.50** | **$ 998.27** | **$ 1,098.09** | $ 4,578.86 |
| | | | | | | **Sum Total** | | **$146,819.90** |

21.59107859

**AGREEMENT NO. A-8507**
**CONTRACT FOR SERVICES**
**BETWEEN THE CITY OF PALMDALE AND THE NEW TIP TOP ARBORISTS INC.**
**DBA TIP TOP ARBORISTS INC.**

**This CONTRACT for services** ("Contract" herein) is made and entered into by and between the City of Palmdale, a public body corporate and politic, (hereinafter called "CITY"), and THE NEW TIP TOP ARBORISTS INC. DBA TIP TOP ARBORISTS INC., a Corporation, (hereinafter called "CONTRACTOR"). This Contract shall become effective on the date of the last signatory.

## RECITALS

WHEREAS, CONTRACTOR represents that CONTRACTOR has the expertise and is qualified to perform the services described in this Contract.

NOW THEREFORE, CITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

## 1 CITY PROJECT MANAGER

To provide the services required by this Contract, CONTRACTOR shall act under the authority and approval of Public Works Director/designee, who shall oversee this Contract, the work performed by CONTRACTOR, assist CONTRACTOR with any necessary information, audit billings, and approve payments. The CONTRACTOR shall channel all contacts and requests through the City project manager.

## 2 DESCRIPTION OF WORK

2.1 CONTRACTOR shall provide the following services in a manner satisfactory to CITY:

Professional arboricultural services in support of the CITY's Urban Forestry Program in Parks and Facility Grounds, General Benefit Landscapes (including landscaped medians), Fairway Business Park, Park and Rides, Palmdale Transportation Center, Landscape Assessment Districts, and street right of ways, as well as select services and/or ornamental abatement for the Housing Division, Housing Authority, private property and vacant parcels or lots.

Arboricultural services include as-requested tree pruning, tree removals, stump grinding, tree inventory data collection, required work zone temporary traffic control, and tree hazard risk assessments in accordance with the Scope of Services and Technical Specifications set forth in Exhibit B.

2.2 CONTRACTOR shall have no claim for compensation for any services or work, which has not been authorized by CITY's Authorization to Proceed.

2.3 CONTRACTOR shall not accept any change of scope, or change in contract provisions, to this Contract unless issued in writing, as a contract change order or amendment and signed by CITY. Any extensions of time must be mutually agreed upon in writing and executed by both parties.

2.4 CONTRACTOR shall maintain in current status all Federal, State, and local licenses and permits required for the operation of the business conducted by the CONTRACTOR as applicable to this contract.

2.5 All work supplied under this Contract shall be fully guaranteed by CONTRACTOR for a minimum period of 365 days from the date of acceptance by CITY. Any defects of design, workmanship, or materials that would result in non-compliance with the Contract specifications shall be fully corrected by CONTRACTOR (including parts and labor) without cost to CITY. The written warranty shall be included with the delivered products to the using Department.

2.6 CITY shall provide to CONTRACTOR, without charge, all data, program information, including reports, records, maps, and other information, now in CITY's possession, which may facilitate the timely performance of the work.

## 3 CONTRACTOR'S KEY PERSONNEL

3.1 **Key Staff.** CITY reserves the right to review and approve CONTRACTOR'S staff including all subcontractors to be assigned to any project by CONTRACTOR during the term of this Contract.

This Contract has been awarded to CONTRACTOR based partially on the key personnel proposed to perform the services required herein. CONTRACTOR shall not change nor substitute any of these key staff for work on this Contract without prior written approval by CITY.

CONTRACTOR's Team and Key Personnel are as follows:

ISA Certified Arborists; ISA Certified Tree Worker Climber Specialists; TCIA Certified Treecare Safety Professionals; etc.

This Services Contract has been awarded to CONTRACTOR based on its representation that those personnel and subcontractors submitted as part of its bid and listed above will perform the portions of the work listed above.

CONTRACTOR shall not deviate nor substitute any of these team members without prior written approval by CITY.

3.2 **Subcontractors.** During the performance of the Agreement, CONTRACTOR may engage such additional SUBCONTRACTORS as may be required for the timely completion of this Agreement. In the event of subcontracting, the sole responsibility for fulfillment of all terms and conditions of this Agreement rests with CONTRACTOR.

CONTRACTOR shall not enter into any Subcontract under this Contract for the performance of this Contract without the advance written approval of CITY. The subcontract shall incorporate by reference the terms and conditions of this Contract.

3.3 **Direct Responsibility.** All services required under this Contract shall be performed by CONTRACTOR, or under CONTRACTOR's direct supervision, and all personnel shall possess the qualifications, permits and licenses required by State and local law to perform such services.

3.3.1 CONTRACTOR shall be solely responsible for the satisfactory work performance of all personnel engaged in performing services required by this Contract, and compliance with all reasonable performance standards established by CITY.

3.3.2 CONTRACTOR shall be responsible for payment of all CONTRACTOR's employees' and subcontractor's wages and benefits and shall comply with all requirements pertaining to the employer's liability, workers' compensation, unemployment insurance, and Social Security.

3.3.3 CONTRACTOR shall indemnify and hold harmless CITY, and its respective officers, agents and employees from and against all claims, demands, damages or costs arising from CONTRACTOR's acts or omissions with respect to any liability, damages, claims, costs and expenses of any nature arising from alleged violations of personnel practices.

## 4 CONTRACT TERM

The term of this Contract is Four (4) Years and Nine (9) Months, commencing on the effective date, with CITY reserving the option to extend the agreement for 0 additional terms of one year each.

## 5 ACCEPTANCE AND DOCUMENTATION

Each task shall be reviewed and approved by the Contract Project Manager to determine acceptable completion.

5.1 **Records**. The CONTRACTOR shall retain and shall contractually require each SUBCONTRACTOR to retain all data and other "records" relating to the acquisition and performance of the Contract for a period of five years after the completion of the Contract.

5.2 **Property of CITY.** All materials, including reports, computer programs and other deliverables, supplied or created under this Contract are the sole property of CITY. CONTRACTOR is not entitled to a patent or copyright on those materials and may not transfer the patent or copyright to anyone else. CONTRACTOR shall not use or release these materials without the prior written consent of CITY.

5.3 **Products.** All equipment, materials, parts, and other components incorporated in the work or services performed pursuant to this Contract shall be new, or the latest model and of the most suitable grade for the purpose intended. All work shall be performed in a skilled and workmanlike manner.

## 6 PRICE

CITY shall pay to CONTRACTOR an amount not to exceed Two Million Seven Hundred Fifty Thousand dollars ($2750000.00) for the completion of all the work and services described in Section 2, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as follows:

See Exhibit C Fee Schedule

6.1 An application for payment form must be submitted to CITY which shall include the following: a clear, detailed invoice reflecting work being billed for, a summary sheet showing percentage of work completed to date, amount/percent billed to date and current status of all tasks within a project; any/all backup documentation supporting the above items. Work schedule updates must also be included with the payment requests.

6.2 CONTRACTOR shall maintain adequate records and shall permit inspection and audit by CITY of CONTRACTOR's charges under this Contract. CONTRACTOR shall make such records available to CITY during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records, and they will be available only to CITY and any specified public agencies. Such records shall be maintained by CONTRACTOR for one (1) year following completion of the work under this Contract unless a longer period of time is required by state or federal law, in which event CONTRACTOR shall retain its records for the time required by such laws.

6.3 **Payment.** A separate invoice shall be issued for each shipment of material or service performed, and no payment will be issued prior to receipt of material and/or completion of specified services and receipt of a correct invoice.

## 7 TAXES

7.1 CONTRACTOR shall pay all sales, consumer, use, and other similar taxes required to be paid by CONTRACTOR in accordance with state and local laws.

7.2 CONTRACTOR is an independent contractor and shall have no power or authority to incur any debt, obligation, or liability on behalf of CITY. No person employed by CONTRACTOR or acting on its behalf, in connection with this Contract shall be considered the Agent or employee of CITY.

7.3 CONTRACTOR shall be required to obtain a current City of Palmdale business license, as required by the Palmdale Municipal Code, before an Authorization to Proceed is issued.

7.4 When equipment, materials or supplies generally taxable to CONTRACTOR are eligible for a tax exemption due to the nature of the work, CONTRACTOR shall assist the City in applying for and obtaining such tax credits and exemptions, which shall be paid or credited to the City.

## 8 PATENT FEES AND ROYALTIES

CONTRACTOR shall pay all license fees and royalties and assume all costs incident to the use, in the performance of the work or the incorporation in the work of any invention, design, process, program, product or device which is the subject of patent rights or copyrights held by others. If a particular invention, design, process, program, product or device is specified in the contract documents for use in the performance of the work and if, to the actual knowledge of CITY, its use is subject to patent rights or copyrights calling for the payment of any license fee or royalty to others, the existence of such rights shall be disclosed by CITY in the contract documents. CONTRACTOR shall indemnify and hold harmless CITY and anyone directly or indirectly employed by CITY from and against all claims, damages, losses and expenses (including attorneys' fees) arising out of any infringement of patent rights or copyrights incident to the use in the performance of the work, or resulting from the incorporation in the work of any invention, design, process, program, product or device not specified in the contract documents, and shall defend all such claims in connection with any alleged infringement of such rights.

## 9 INDEMNIFICATION

To the fullest extent permitted by law, CONTRACTOR and any subcontractors working on its behalf agree to indemnify CITY, its officers, employees, agents and elected and appointed boards (hereinafter “Indemnified Parties”) for any loss, claim, demand, cause of action, cost, expense, damage, obligation or liability which arises out of or is in any way connected with the performance of any work under this agreement, including any acts or omissions, willful misconduct or negligent conduct, whether active or passive, on the part of CONTRACTOR, or its subcontractors, and regardless of any acts, omissions or negligence (whether active or passive) of any person or entity indemnified hereunder. At their own expense, CONTRACTOR and, as applicable, any subcontractors working on its behalf, shall defend any suit, claim or action against the Indemnified Parties founded upon such loss, claim, demand, cause of action, cost, expense, damage, obligation or liability. CONTRACTOR shall ensure that the contract of any subcontractor working under this agreement contain an indemnity agreement, requiring the subcontractor to indemnify and defend the Indemnified Parties pursuant the terms set forth above. CONTRACTOR shall indemnify the Indemnified Parties, and save it harmless from any and all loss, damage, costs, expenses and attorney's fees suffered or incurred on account of any

breach of the aforesaid obligations and covenants, and any other provision or covenant of this agreement.

## 10 INSURANCE

10.1 CONTRACTOR, at its expense, shall maintain in effect at all times during the performance of work under this Contract not less than the following coverage and limits of insurance, which shall be maintained with insurers listed "A" or better in the Best's Insurance Guide and authorized to do business in the State of California. **Proof of Insurance, as identified in Section 10.8, must be reviewed and accepted by the City Attorney**.

10.1.1 Workers' Compensation and Employer's Liability

- Workers' Compensation -- coverage as required by the State of California
- Employer's Liability -- $1,000,000.00 each accident
  $1,000,000.00 policy limit bodily injury
  $1,000,000.00 each employee bodily injury by disease

10.1.2 Commercial General Liability

- $2,000,000.00 limit on a per occurrence basis
- $5,000,000.00 general aggregate limit

10.1.3 Commercial Automobile Liability

- $5,000,000.00 combined single limit including owned, non-owned and hired automobile coverage

10.1.4 Professional Liability (Errors & Omissions) Insurance

- $2,000,000 limit on a per occurrence basis

10.2 All of CONTRACTOR's policies shall contain an endorsement providing that written notice shall be given to CITY at least thirty (30) calendar days prior to termination, cancellation, or reduction of coverage in the policy.

10.3 Policies providing for bodily injury and property damage coverage shall contain the following:

A. An endorsement extending coverage to the City as an additional insured, as respects liability arising out of the performance of any work under the Contract. Such insurance shall be primary insurance, as respects the interest of the City, and any other insurance maintained by the City shall be considered excess coverage and not contributing insurance with the insurance required hereunder. The certificates shall state: "The City of Palmdale, Successor Agency to the Community Redevelopment Agency of the City of Palmdale, Palmdale Civic Authority, Housing Authority, Industrial Development Authority, Airport Authority, their officers, agents, employees and volunteers are named as additional insured".

B. "Severability of Interest" Clause.

10.4 Promptly upon execution of this Contract, and prior to commencement of any work, CONTRACTOR shall deliver to CITY certificates of insurance and endorsements to all required policies demonstrating that CONTRACTOR has the required coverage and showing the required named insured. Within five (5) days of written request from CITY, CONTRACTOR shall deliver to CITY full and complete copies of all insurance policies required by this Contract.

10.5 The requirements as to the types and limits of insurance to be maintained by CONTRACTOR are not intended to and shall not in any manner limit or qualify CONTRACTOR's liabilities and obligations under this Contract.

10.6 Any policy or policies of insurance that CONTRACTOR elects to carry as insurance against loss or damage to its equipment and tools or other personal property used in the performance of this Contract shall include a provision waiving the insurer's right of subrogation against CITY.

10.7 All insurance coverage must be maintained throughout the duration of this Contract.

10.8 Acceptable Proof of Insurance:

10.8.1 ACORD Certificate of Insurance listing all coverage, limits, deductibles and insured; and endorsements for all applicable coverage if agent has authority to issue it; or additional insured Form CG20100704 and CG20370704 or equivalent must be provided for general liability coverage. Additional insured form CA0001 must be provided for automobile liability coverage.

10.8.2 Binders of insurance for all coverage. Agents must confirm that policy endorsements have been ordered from the respective insurance companies. Upon issuance, policy endorsements and a corresponding Certificate of Insurance listing all insurers and coverage must be submitted to the City Attorney.

10.8.3 When professional Liability (E&O) Insurance coverage is provided on a "claims made basis", CONTRACTOR will continue to renew the insurance for a period of five (5) years after this Agreement expires or is terminated. Such insurance will have the same coverage and limits as the policy that was in effect during the term of this Agreement, and will cover CONTRACTOR, or its officers, employees, or agents during the time this Agreement was in effect

10.9 Notwithstanding any other provision of this Contract, CITY may immediately terminate this Contract if, at any time CONTRACTOR fails to maintain the required insurance for any period of time or fails to comply with any of the insurance requirements listed above.

10.10 CONTRACTOR shall require any and all subcontractors working on its behalf to provide insurance coverages and limits that are based on the scope of work and nature of risk being performed by the subcontractor. Any and all subcontractors

working on behalf of CONTRACTOR shall be subject to all other insurance requirements that are stated herein.

Any deviation in this requirement will be CONTRACTOR's sole risk. CONTRACTOR's insurance requirements in Section 10 will not be impacted and/or limited by such deviation.

## 11 TERMINATION WITHOUT CAUSE

City reserves the right to terminate this Contract or any part thereof for its sole convenience with fifteen (15) days written notice. In the event of such termination, CONTRACTOR shall immediately stop all work hereunder, and shall immediately cause any of its suppliers and subcontractors to cease such work. CONTRACTOR shall also surrender to CITY all finished or unfinished documents, processes, programs and other supplies and materials, which shall be City's property. As compensation in full for services performed to the date of such termination, the CONTRACTOR shall receive an amount equal to the value of the work completed as of the termination date in accordance with the fee schedule or as negotiated between the parties. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Contract.

## 12 TERMINATION FOR CAUSE

If CITY determines that CONTRACTOR has failed to supply an adequate working force, or to provide services of proper quality, or has failed in any other respect to satisfactorily perform the services specified in this Contract, CITY shall give written notice to CONTRACTOR specifying all defaults to be remedied within thirty (30) days. Such notice shall set forth the basis for CITY's dissatisfaction and suggest corrective measures. If, after thirty days, CONTRACTOR has failed to implement appropriate corrective measures, CITY may elect to terminate this Contract in whole or in part.

12.1 In the event CITY terminates this Contract, in whole or in part, for cause, CITY may procure, upon such terms and in such manner, as it may deem appropriate, services similar to those terminated.

12.2 CONTRACTOR shall provide all finished or unfinished documents, data, studies, software, drawings, programs, processes, maps, photographs, reports, etc., prepared by CONTRACTOR within fifteen (15) working days after notice of termination. Upon such termination, CONTRACTOR shall be paid an amount equal to the value of the services provided and work performed as of the date of termination, taking into consideration the costs associated with hiring another CONTRACTOR to complete the services. In ascertaining the value of the work performed up to the date of termination, consideration shall be given to both completed work and work in progress, to complete and incomplete documents when such are delivered to CITY, and to authorized reimbursement expenses. The above is in addition to any other remedies available by law or equity to CITY.

12.3 If, after notice of termination of the Contract under the provisions of this Section 12, it is determined, for any reason, that CONTRACTOR was not in default, or that the default was excusable, then the rights and obligations of the parties shall be the same as if the notice of termination had been issued pursuant to Section 11.

## 13 DISPUTE RESOLUTION

All claims, disputes, and other matters in question between CITY and CONTRACTOR arising out of or relating to this Contract or the breach thereof shall, to the extent reasonably feasible, be resolved through good faith negotiations between the parties.

## 14 OWNERSHIP OF PRODUCT

All product, data, documents, programs and software including, but not limited to, research, field notes, investigations, analysis, studies, processes, software, instructions for use and other manuals, whether complete or incomplete, which are prepared or produced in the performance of this Contract are to be, and remain the property of CITY and shall be delivered to or left with CITY upon the completion or termination of this Agreement. CONTRACTOR shall furnish CITY, upon its request, originals and reproducible and electronic copies of product, data reports, studies and of all other documents listed above. Electronic copies shall be provided in an unprotected format which allows CITY to copy, reproduce and makes changes as CITY deems necessary.

## 15 DELEGATION AND ASSIGNMENT

15.1 CONTRACTOR shall not delegate or assign its duties or rights hereunder, either in whole or in part, without the prior written consent of CITY; provided, however, that claims for money due or to become due to CONTRACTOR from CITY under this Contract may be assigned to a bank, trust company or other financial institution without such approval.

15.2 Any assignment, delegation or subcontract shall be made in the name of CONTRACTOR and shall not bind or purport to bind CITY and shall not release CONTRACTOR from any obligations under this Contract including, but not limited to, the duty to properly supervise and coordinate the work of employees, assignees, delegates and subcontractors. No such assignment, delegation or subcontract shall result in any increase in the amount of total compensation payable to CONTRACTOR under this Contract.

## 16 NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

16.1 In performance of this Contract, CONTRACTOR shall not discriminate against any employee, subcontractor, or applicant for employment because of sex, color, race, religion, ancestry, national origin, disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sexual orientation, age, gender, gender identity,

gender expression, genetic information, or military and veteran status. CONTRACTOR will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their sex, color, race, religion, ancestry, national origin, disability, medical condition including the medical condition of Acquired Immune Deficiency Syndrome (AIDS) or any condition related thereto, marital status, sexual orientation, age, gender, gender identity, gender expression, genetic information, or military and veteran status . Affirmative action relating to employment shall include, but not be limited to the following: employment, upgrading, demotion or transfer; recruitment; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

16.2 The provisions of subsection 16.1 above shall be included in all solicitations or advertisements placed by or on behalf of CONTRACTOR for personnel to perform any services under this Contract. CITY shall have access to all documents, data and records of CONTRACTOR and its subcontractors for purposes of determining compliance with the equal employment opportunity and non-discrimination provisions of this Section, and all applicable provisions of Executive Order No. 11246 which is incorporated herein by this reference. A copy of Executive Order No. 11246 is available for inspection at, and on file with, the Palmdale City Clerk's Office.

## 17 FINANCIAL INTEREST CERTIFICATION

17.1 CONTRACTOR warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee; and that no officer or employee of the CITY has any interest, financially or otherwise, in CONTRACTOR's firm.

17.2 For breach or violation of this warranty, CITY shall have the right to annul this Contract without liability or at its discretion to deduct from the Contract Price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

## 18 CONFLICT OF INTEREST

18.1 CONTRACTOR stipulates that its officers and employees do not now have a conflict of interest and it further agrees for itself, its officers and its employees that it will not contract for or accept employment for the performance of any work or services with any individual business, corporation or government unit that would create a conflict of interest in the performance of its obligations pursuant to this Contract or which would cause CONTRACTOR to be "financial interested" (as provided in California Government Code Section 1090 et seq. or 87100 et seq.) in any contract or decision made by CITY on any matter.

18.2 CONTRACTOR shall not employ any City official or employee to perform any work required pursuant to this Contract.

18.3 To the extent required by the City Manager or his designee, CONTRACTOR shall complete and file with the City Clerk a Form 700 Statement of Economic Interests disclosing any reportable property interests, income, gifts, investments, or business positions.

## 19 COMPLIANCE WITH LAW

19.1 CONTRACTOR shall comply with all state and federal laws, including but not limited to, the requirement to hire only those persons authorized by federal law to work in the United States. If CONTRACTOR uses any subcontractors to complete this Contract, this same requirement shall be included in all subcontracts and strictly enforced by CONTRACTOR.

19.2 The law of the state of California shall govern this Contract. The venue of any legal action, either formal or informal, shall be the County of Los Angeles.

## 20 NOTICES

Any notice required under this Contract shall be in writing, addressed to the appropriate party at its address on the signature page and given personally or by registered or certified mail postage prepaid, or by a commercial courier service. All notices shall be effective upon the date of receipt.

## 21 ENTIRE AGREEMENT AND AMENDMENTS

21.1 This Contract is the complete Agreement between the parties and supersedes all prior proposals, agreements, and understandings between the parties and may not be modified or terminated orally.

21.2 No attempted waiver of any of the provisions hereof, nor any modification in the nature, extent or duration of the work to be performed by CONTRACTOR hereunder, shall be binding unless in writing and signed by the party against whom the same is sought to be enforced.

21.3 The failure of any party to enforce against another party any provision of this Contract shall not constitute a waiver of that party’s right to enforce such a provision at a later time, and shall not serve to vary the terms of this Contract.

## 22 ATTORNEY'S FEES

If any action at law or in equity is brought to enforce or interpret any provisions of this Contract, 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.

**In Witness Whereof,** the parties hereto have caused this Contract to be executed and attested by their respective officers thereunto duly authorized.

CITY OF PALMDALE:

SIGNATURE AREA

Ronda Perez
City Manager

SIGNATURE AREA

ADDRESS FOR NOTICE:
CITY OF PALMDALE
39110 3rd Street East, Suite C
Palmdale, CA 93550

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
Interim City Attorney

ATTEST:

SIGNATURE AREA

Roxanne Faber
Acting City Clerk

THE NEW TIP TOP ARBORISTS INC.
DBA TIP TOP ARBORISTS INC.:

SIGNATURE AREA

James Lewandowski
President

ADDRESS FOR NOTICE:
THE NEW TIP TOP ARBORISTS INC.
DBA TIP TOP ARBORISTS INC.
PO Box 2107
Lancaster, CA 93539

---------- INTERNAL USE ONLY ----------

□Certificate(s) and Endorsement(s) attached
□Confirmed business name on contract with certificate(s)
□Attached Agreement Checklist and met all requirements

**EXHIBIT A**

Prevailing Wage Requirements

1. This Contract calls for work to be performed constituting public works. Contractor and all subcontractors shall pay the general prevailing rate of per diem wages as determined and as published by the State Director of the Department of Industrial Relations pursuant to Article 2 of Chapter 1 of Part 7, of Division 2 of the State Labor Code, including, but not limited to, Sections 1770, 1771, 1773, 1773.2 and 1774.

2. This is a public work and requires the payment of prevailing wages for the work or craft in which the worker is employed for any public work done under the contract by Contractor or by any subcontractor pursuant to Section 1771 of the Labor Code. Pursuant to the provisions of Section 1773 of the Labor Code of the State of California, the City has obtained the general prevailing rate of per diem wages and the general rate for holiday and overtime work in this locality for each craft, classification, or type of workman needed to execute this contract from the Director of the Department of Industrial Relations. These rates are on file with the City or may be obtained at http://www.dir.ca.gov/OPRL/DPreWageDetermination.htm.

Contractor shall post a copy of such wage rates at the job site and shall pay the adopted prevailing wage rates as a minimum. Contractor shall comply with the provisions of Sections 1775, 1776, 1777.5, 1777.6, and 1813 of the Labor Code. Pursuant to the provisions of 1775 of the Labor Code, Contractor shall forfeit to the City, as a penalty, not more than $200.00 for each calendar day, or portion thereof, for each laborer, worker, or mechanic employed, paid less than the stipulated prevailing rates for any work done under this Contract, by him or by any subcontractor under him, in violation of the provisions of this Agreement.

3. Contractors and subcontractors who are ineligible to bid for work on, or be awarded, a public works project pursuant to Labor Code Sections 1777.1 and 1777.7 are prohibited from bidding on, being awarded, or performing work as a subcontractor, on this Project pursuant to Public Contract Code Section 6109.

4. Contractor's attention is directed to the provisions in Sections 1774, 1775, 1776, 1777.5 and 1777.6 of the Labor Code. Contractor shall comply with the provisions in these Sections. The statutory provisions for penalties for failure to comply with the State's wage and hours laws will be enforced. Pursuant to Section 1775 of the Labor Code, the Contractor and any subcontractors, shall, as a penalty to the City forfeit the prescribed amounts per calendar day, or portion thereof, for each worker paid less than the prevailing wage rates.

5. Pursuant to Labor Code Section 1771.4, the Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

6. Each Contractor and subcontractor shall furnish the records specified in Labor Code Section 1776 directly to the State Labor Commissioner at least monthly in the format prescribed by the State Labor Commissioner.

7. Sections 1774 and 1775 require the Contractor and all subcontractors to pay not less than the prevailing wage rates to all workmen employed in the execution of the Contract and specify forfeitures and penalties for failure to do so. The minimum wages to be paid are those determined by the State Director of the Department of Industrial Relations. Section 1776 requires the Contractor and all subcontractors to keep accurate payroll records, specifies the contents thereof, their inspection and duplication procedures and certain notices required of the Contractor pertaining to their location.

8. Section 1777.5 of the Labor Code requires Contractor or subcontractor employing workers in any apprenticeable occupation to apply to the Joint Apprenticeship Committee nearest the site of the public works project, which administers the apprenticeship program in that trade for a certificate of approval. The certificate will also fix the ratio of apprentices to journeymen to be used in the performance of the Contract. The Contractor is required to make contributions to funds established for the administration of apprenticeship programs if he employs registered apprentices or journeymen in any apprenticeable trade and if other contractors on the public works site are making such contributions. Information relative to apprenticeship standards, contributions, wage schedules and other requirements may be obtained from the State Director of Industrial Relations or from the Division of Apprenticeship Standards. Section 1777.6 of the Labor Code provides that it shall be unlawful to refuse to accept otherwise qualified employees as registered apprentices solely on the grounds of race, religious creed, color, national origin, ancestry, sex, or age.

9. Eight hours labor constitutes a legal day's work, as set forth in Labor Code Section 1810. The statutory provisions for penalties for failure to comply with the State's wage and hour laws will be enforced as set forth in Labor Code Section 1813.

**EXHIBIT B**

Scope of Services and Technical Specifications

## SCOPE OF SERVICES

**The following are the general conditions for the work to be performed:**

CONTRACTOR shall have a minimum of 10 years' experience in the business of providing professional arboricultural services in support of municipal urban forestry programs.

CONTRACTOR shall comply with Cal-OSHA and American National Standard, ANSI A-Z133 Safety Standard 2017 or latest edition and all other regulatory safety requirements.

The CITY requires CONTRACTOR to have a trained and skilled workforce, proficient in current professional arboricultural practices. The CONTRACTOR's account manager and field supervisor shall be certified arborists with the International Society of Arboriculture (ISA). Crew foremen working in a senior tree trimmer capacity shall be a certified tree worker climber specialist with the ISA. CITY recommends tree workers be certified as tree worker specialists and/or tree worker aerial lift specialists by the ISA.

The CONTRACTOR'S personnel shall wear uniform shirts with the company name and logo printed or embroidered on them, and they shall wear reflective Class III safety vests while working in city streets and right of ways.

The CONTRACTOR'S aerial lift and other tree service trucks shall be properly equipped with, but not limited to, appropriate safety gear including hard hats, chaps, harnesses, climbing saddles, lanyards, heavy duty rope, first aid kit, fire extinguisher, chain saws, sharp chains, loppers, pole pruners, hand pruners, wedges, woodchipper and hand tools necessary for equipment field maintenance. All CONTRACTOR equipment must be in excellent working condition while in service to the CITY.

At all times during the term of this Contract, CONTRACTOR shall possess and maintain all required Federal, State and local licenses and permits. CONTRACTOR shall possess a valid and current Class C-61 Limited Specialty Contractor's License with D-49 Tree Service subcategory, a C-27 Landscaping Contractor License and a City of Palmdale business license to perform the required work. CONTRACTOR's State License Board registration number is 821770 and their DIR registration number is 1000004077. CONTRACTOR hereby certifies that it holds the required license(s).

It is understood that except as otherwise specifically stated herein, the CONTRACTOR shall provide and pay for all materials, labor, tools, equipment, transportation of every nature, and all other services and/or facilities of every nature whatsoever necessary to execute, complete, and deliver the arboricultural services within the specified time. Permits, insurance, and licenses (including City of Palmdale business license) necessary for the execution of the work shall be secured and paid for by the CONTRACTOR.

[Technical Specifications on next page]

## TECHNICAL SPECIFICATIONS

CONTRACTOR shall provide all labor and equipment to effectively accomplish the following services.

The CITY will accept NO less than the full completion of the specifications and/or functions outlined in Sections A – F. If these specifications are not met, CONTRACTOR shall be subject to the Compliance-Based Penalties, Punitive Damages, and/or Liquidated Damages as defined in Section G.

### SECTION A. GENERAL EXPECTATIONS

**A.1 Communication and Work Requests**

The CONTRACTOR shall respond to e-mails or phone calls from superintendents, city arborists or appointed designees within one (1) business day. Upon receipt of written work requests from the superintendents, city arborists or appointed designees, the CONTRACTOR shall create work orders in tree inventory software and confirm work schedule within two (2) business days. All work requested shall begin within ten (10) business days of work request unless otherwise authorized by the superintendents, city arborists or appointed designees.

24-hour emergency call outs guarantee a minimum compensation of four (4) hours, require immediate crew mobilization with requested operations taking place within (4) hours of work request. CONTRACTOR'S supervisor and/or crew foreman shall meet with superintendents, city arborists or appointed designees prior to beginning work at each location to confirm the specific objectives of the City of Palmdale.

**A.2 Contractor Responsibilities**

It shall be the sole responsibility of the CONTRACTOR to perform a Level 1: Limited Visual Assessment, as described in the I.S.A. Best Management Practices: Tree Risk Assessment, International Society of Arboriculture, 2017 or latest edition & ANSI A300 Part 9 Tree Risk Assessment 2017 or latest edition, for each tree serviced during all tree maintenance operations.

CONTRACTOR shall inspect the canopy, trunk, trunk flare, surface of tree root zone, and site conditions around the trees being serviced and immediately report any structural concerns, hazards, pest and/or disease presence or any other anomaly to superintendents, city arborists or appointed designees and log findings in tree detail section of city tree inventory.

CONTRACTOR'S account manager and field supervisor shall be responsible to ensure all work is performed in accordance with ANSI A300 Standards Part I Pruning 2017 or latest edition and the arboricultural objectives set forth by the superintendents, city arborists or appointed designees.

**A.3 Invoicing/Billing**

The CONTRACTOR shall submit detailed billing records, separated per urban forestry program, and itemized per site, outlining tree identification numbers with pricing according to applicable fee schedule for review prior to invoicing. Payments will only be made for complete work orders, no partial billing allowed. Payment terms are minimum net 30 days to maximum net 45 days.

**A.4 Traffic Control Requirements**

CONTRACTOR shall be responsible for all work zone safety delineation required at each work site including design and implementation of all temporary work zone traffic control per the *California Manual on Uniform Traffic Control Devices*, latest edition. CONTRACTOR shall supply all labor and equipment required for proper implementation of temporary work zone traffic control and shall utilize high visibility arrow/message boards while working on all major arterial streets.

Contractor must obtain an Encroachment Permit. Contractor shall provide Engineered Traffic Control Plans per requirements of their Encroachment Permit.

**A.5 Traffic Control Encroachment Permit**

All traffic control devices and layouts shall conform to the latest edition of the California Manual of Uniform Traffic Control Devices. Applicant shall submit, for City review, an engineered traffic control plan when the proposed construction work involves any of the following conditions: (1) Moving traffic over the street centerline; (2) Reducing the number of travel lanes by more than one lane; (3) Any road closure (one or two-way); and/or (4) Any work performed within 250 feet of a traffic signal.

In addition, at the discretion of the Deputy Director of Public Works/City Engineer, an engineered traffic control plan may be required for other work impacting the public right-of-way. The applicant is solely responsible for the traffic control design and implementation. Furthermore, the applicant is responsible for maintaining the approved traffic control plan for the construction zone on a 24-hours basis. The traffic control plan shall remain in place until work is completed. Any street closure will require the approval of the Deputy Director of Public Works/City Engineer.

**A.6 Traffic Control Conditions**

Emergency vehicle access shall always be maintained. Access to private property shall always be maintained, unless otherwise authorized by the City of Palmdale. All traffic signs, traffic control devices and traffic control procedures shall conform to the *Manual on Uniform Traffic Control Devices,* latest edition.

Superintendents, city arborists or appointed designees MAY assign city staff and resources to assist with traffic control operations if the work of the CONTRACTOR reduces the number of traffic lanes in major arterial streets. The requirements as outlined above do not constitute the issuance of an encroachment permit. Questions related to applying for an encroachment permit can be directed to the Engineering Division at (661) 267-5272. Any further traffic questions may be directed to city traffic engineer.

## SECTION B. PRUNING OPERATIONS

**B.1 General Requirements**

Pruning operations shall adhere to the ANSI A-300 Part I Pruning 2017 or latest edition and ANSI Z133 Safety Standard 2017 or latest edition. Pruning will generally be maintenance pruning and shall adhere to the natural pruning techniques. All pruning tools must be sterilized with a solution of 10% bleach & 90% water or Lysol disinfectant spray prior to pruning each tree. The City of Palmdale shall submit detailed work requests to the CONTRACTOR outlining location, service description, tree identification numbers and projected costs. Pruning operations should remove no more living material than what is necessary to achieve the following pruning objectives.

**B.2 Develop Tree Structure**

CONTRACTOR shall develop tree structure improving upon the natural form of each tree, promote or subordinate certain leaders, branches or stems, head back co-dominant leaders, promote or discourage growth in a particular direction, promote desirable branch spacing and canopy structure to reduce the likelihood of branch or whole tree failure.

**B.3 Clearance**

CONTRACTOR shall provide clearance to mitigate interference with traffic signals and signs, vehicular and pedestrian traffic and line of sight, streetlights, other trees and public or private property. Trees shall be pruned to provide a minimum clearance of 17 feet above public right of ways.

**B.4 Tree Shape and Size Management**

CONTRACTOR shall manage tree shape and size through effective application of branch removal cuts, branch reduction cuts, and branch heading cuts as required to reduce the likelihood of branch or whole tree failure and achieve the city's specific pruning objectives for each tree.

**B.5 Improve Tree Integrity**

CONTRACTOR shall improve tree integrity by removing dead, crowded, and rubbing branches, increasing sun light and wind penetration while improving upon the natural form of each tree to reduce the likelihood of branch or whole tree failure. **Lion-tailing is unacceptable**.

**B.6 Protection of Public and Private Property**

CONTRACTOR shall be responsible for the protection of all public and private property and improvements within and adjacent to all work areas including but not limited to plant material, lawns, sprinkler systems, drains, fencing, block walls, brick or masonry work, sidewalks, street paving, streetlights, traffic signals, utility pedestals and all other public or private improvements.

**B.7 Restitution for Public or Private Property Damage**

Any public or private improvements damaged by the CONTRACTOR while conducting scheduled work shall be replaced in kind at the CONTRACTOR'S expense, to the absolute satisfaction of the superintendents, city arborists, appointed designees and/or private property owner. Replacement shall take place no later than five (5) working days from the date of damage, unless otherwise authorized.

## SECTION C. TREE REMOVAL AND STUMP GRINDING

**C.1 General Requirements**

Tree removal operations shall observe ANSI A-300 Part I Pruning 2017 or latest edition, ANSI Z133 Safety Standard 2017 or latest edition and all other applicable regulatory safety standards. Tree removals are intended to mitigate hazards and shall include removal of dead or dying trees, trees with pronounced canopy, trunk, or root system defects, overcrowded trees and trees whose conflict with public or private infrastructure or interest cannot be otherwise resolved. The City of Palmdale shall submit detailed work requests to the CONTRACTOR outlining location, service description, tree identification numbers and projected costs.

**C.2 Method**

The CONTRACTOR shall consider all tree and site conditions when formulating each tree removal plan. This includes surrounding obstacles, targets, terrain, wind direction and magnitude, structure, flaws and lean of each tree. CONTRACTOR must obtain approval from superintendents, city arborists or appointed designees in advance of any felling operations.

**C.3 Underground Service Alert**

The CONTRACTOR is responsible for contacting Underground Service alert, securing a dig-alert ticket, and allowing the time required by law for members to respond and mark their underground infrastructure and verifying positive electronic response prior to conducting any stump grinding operations. CONTRACTOR must analyze and respect all utility markings and grind stumps with care to avoid contact with any underground infrastructure within the stump grind zone.

**C.4 Stump Grinding**

All tree stumps are to be ground within five (5) working days of the tree removal unless otherwise requested or authorized by superintendents, city arborists or appointed designees. Where possible, stump grinding must strive to achieve a minimum depth of twenty-four inches (24") below grade until anchoring roots are no longer visible, to accommodate the successful planting of replacement trees. CONTRACTOR shall provide stump grinding work schedule, and report issues preventing grinding to a minimum depth of 24 inches (24") to superintendents, city arborists or appointed designees.

**C.5 Wood Grindings**

CONTRACTOR shall compact wood grindings flush with adjacent grade and remove all excess stump grinding material from the job site.

**C.6 Protection of Public and Private Property**

CONTRACTOR shall be responsible for the protection of all public and private property and improvements within and adjacent to all work areas including but not limited to plant material, lawns, sprinkler systems, drains, fencing, block walls, brick or masonry work, sidewalks, street paving, street lights, traffic signals, utility pedestals and all other public or private improvements.

**C.7 Restitution for Public or Private Property Damage**

Any public or private improvements damaged by the CONTRACTOR while conducting scheduled work shall be replaced in kind at the CONTRACTOR'S expense, to the absolute satisfaction of the superintendents, city arborists, appointed designees and/or private property owner. Replacement shall take place no later than five (5) working days from the date of damage, unless otherwise authorized.

## SECTION D. CLEAN UP OPERATIONS

**D.1 General Requirements**

All walkways, trails, parking lots, right of ways, or adjacent public and private property dirtied by the CONTRACTOR'S arboricultural operations shall be cleaned prior to completion of work at each site. Under no circumstances shall any trimmings, leaves, and/or debris remain in public right of ways and/or adjacent public or private property.

Superintendents, city arborists or appointed designees shall be the sole judge as to the adequacy of clean-up and shall have the authority to direct further clean up, with results expected the same day. Any costs resulting from the use of City personnel or equipment for clean-up due to the CONTRACTOR not complying with clean-up expectations shall be deducted from the CONTRACTOR'S billing.

**D.2 Disposal of Green Waste**

All green waste produced because of the CONTRACTOR'S operations under this agreement shall be reduced, reused, and/or recycled. Reducing shall include, but is not limited to, chipping, grinding, and/or shredding of green waste. Reusing will include, but is not limited to, using chipped, ground, or shredded tree green waste as mulch. Recycling will include, but is not limited to, re-purposing wood that is too large to be chipped, ground, or shredded as firewood and/or as mulch provided to Waste Management.

CONTRACTOR shall dispose of all green waste, free of charge, at the City of Palmdale Maintenance Center located at 39110 3rd Street East. Green waste shall be deposited in a designated collection area and/or as directed by the superintendents, city arborists or appointed designees.

**D.3 Staging of Equipment**

CONTRACTOR will be authorized to stage arboricultural equipment at the City of Palmdale Maintenance Center while conducting work requested by and performed for the City of Palmdale.

CONTRACTOR shall indemnify and hold the City harmless for any equipment loss or damage experienced while the CONTRACTOR'S equipment is staged at the City of Palmdale's Maintenance Center.

## SECTION E. TREE INVENTORY

Tree inventories serve as the foundation for developing and sustaining an effective urban forest management plan. Superintendents, city arborists or appointed designees may request the CONTRACTOR to conduct tree inventory data collection concurrent with or independent from tree maintenance and removal operations. The tree location and attribute data shall be collected using handheld computers with geographic positioning system (GPS) capabilities, logged directly into the city's tree inventory software.

Data to be collected by the CONTRACTOR while performing tree inventory operations shall include but is not limited to photo, location, unique asset number, tree species, trunk diameter at breast height, tree condition, record of service history provided under this agreement, direct maintenance costs, and available planting sites resulting from tree removals.

CONTRACTOR shall inspect the canopy, trunk, trunk flare, surface of tree root zone, and site conditions around the trees being serviced and immediately report any structural concerns, hazards, pest and/or disease presence or any other anomaly to superintendents, city arborists or appointed designees and log findings in tree detail section of city tree inventory software.

## SECTION F. TREE RISK ASSESSMENT

### F.1 Level 1: Limited Visual Assessment

It shall be the sole responsibility of the CONTRACTOR to perform a Level 1: Limited Visual Assessment, as described in the I.S.A. Best Management Practices: Tree Risk Assessment, International Society of Arboriculture, 2017 or latest edition & ANSI A300 Part 9 Tree Risk Assessment 2017 or latest edition, for each tree serviced during all tree maintenance operations. CONTRACTOR shall inspect the canopy, trunk, trunk flare, surface of tree root zone, and site conditions around the trees and immediately report any structural concerns, hazards, pest and/or disease presence or any other anomaly to superintendents, city arborists or appointed designees and log findings in tree detail section of city tree inventory software.

### F.2 Level 2: Basic Tree Risk Assessment

Superintendents, city arborists or appointed designees may request CONTRACTOR to perform a Level 2: Basic Tree Risk Assessment as described in the I.S.A. Best Management Practices, Tree Risk Assessment, International Society of Arboriculture 2017 or latest edition & ANSI A300 Part 9 Tree Risk Assessment 2017 or latest edition.

The methodology shall follow the I.S.A. matrix-based approach set forth in the I.S.A. Tree Risk Assessment Qualification (TRAQ) program and shall be performed by a TRAQ qualified Arborist. CONTRACTOR shall utilize and submit a completed I.S.A. Basic Tree Risk Assessment Form or city approved substitute form (Appendix D or E) for each tree being assessed.

### F.3 Level 3: Advanced Tree Risk Assessment

Superintendents, city arborists or appointed designees may request CONTRACTOR to perform a Level 3: Advanced Tree Risk Assessment as described in the I.S.A. Best Management Practices, Tree Risk Assessment, International Society of Arboriculture 2017 or latest edition & ANSI A300 Part 9 Tree Risk Assessment 2017 or latest edition.

The Level 3: Advanced Tree Risk Assessment may be requested in conjunction with or following a Level 2 Basic Tree Risk Assessment. This assessment may include climbing inspections, detailed target analysis, detailed site evaluation, health evaluation, storm, or wind load analysis, measuring and assessing lean, examination of the root system using a compressed air tool and/or, ground penetrating sonar, resistance drilling using a resistograph, and/or sonic tomography of a specific section of a tree using a Picus tomograph or equivalent, to help determine the presence and level of decay.

The Level 3: Advanced Tree Risk Assessment report shall include name of the TRAQ qualified tree risk assessor, the date of the assessment, statement of the assignment scope of work, location, identification, and pictures of the tree assessed, level of inspection and details of the method, targets, occupancy rates, likelihood of impacting the target, and potential consequences of failure, site factors considered, documentation of the likelihood of failure, such as a list of tree conditions, structural defects, and response growth that were observed, risk assessment and conclusion, options and or recommendations for hazard mitigation, residual risk information, recommendations for reassessment and limitations of the assessment.

## SECTION G. COMPLIANCE, PUNITIVE DAMAGE PENALTIES, AND/OR LIQUIDATED DAMAGES

The CITY will accept NO less than the full completion of the specifications and/or functions outlined in Sections A – F. If these specifications are not met, CONTRACTOR shall be subject to the Compliance-Based Penalties, Punitive Damages, and/or Liquidated Damages as defined below.

**Applicable Sections:** A. General Expectations; B. Pruning Operations; C. Tree Removal and Stump Grinding; D. Clean Up Operations; E. Tree Inventory; and F. Tree Risk Assessment.

### G.1 Compliance

Superintendents, city arborists or appointed designees shall have the right to withhold payment and leverage punitive damages for any work not complying with I.S.A. Best Management Practices, Tree Pruning, International Society of Arboriculture 2019 or latest edition ANSI A-300 Part I Pruning 2017 or latest edition, ANSI Z133 Safety Standard 2017 or latest edition, the Manual on Uniform Traffic Devices 2022 or latest edition, the City of Palmdale's arboricultural objectives and any other applicable industry standards and regulatory requirements.

### G.2 Punitive Damages

Superintendents, city arborists or appointed designees will notify the CONTRACTOR both verbally and in writing each time the CONTRACTOR'S performance is unsatisfactory and can suspend CONTRACTOR'S operations at any time. CONTRACTOR will have five (5) working days to correct deficient work. Any deficient work not corrected within five (5) working days or deemed beyond correction shall result in **withholding of the associated payment and punitive damage penalty of $500 per violation**. Significant violations may result in a penalty equal to the appraised value of damaged tree/s.

### G.3 Liquidated Damages

It shall be agreed by the parties to the Agreement that time is of the essence, and in the event of a delay in starting the work or the delivery of the equipment, goods, services, and personnel required for project implementation and training or equipment beyond the timeline set forth in section A.1, damage will be sustained by the City and that it is or will be impractical to determine the actual amount of the damage caused by reason of such delay. It is therefore agreed that the successful Contractor will pay to the City the **sum of twenty-five hundred dollars ($2,500) for each working day delay** in completing the schedule set by the Contractor, as set forth in the Agreement beyond any timeline or due date, or authorized extension.

These damages shall be deducted from any monies due, or which may thereafter become due, to the successful Contractor under the Agreement or may be recovered by the City through any lawful means.

The successful Contractor will be granted an extension of time and will not be assessed liquidated damages for any portion of the delay in performance which would be excused pursuant to the force majeure provisions of the Agreement, provided that the successful Contractor shall notify the City's representative in writing of the causes of delay within one (1) business day from the beginning of any such delay. The successful Contractor shall bear the burden of proof to establish that any delay is subject to the force majeure provisions of the Agreement.

**G.4** **Force Majeure**

The time period(s) specified for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather (to be determined by City staff), fires, earthquakes, floods, epidemics, quarantine restrictions, riots strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor will within ten (10) days of the commencement of such delay notify the City in writing of the causes of the delay.

The City will ascertain the facts and the extent of the delay and extend the time for performing the services for the period of the enforced delay when and if the judgment of the superintendent, or designee, the delay is justified. The superintendent or his designee's, decision shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however, caused; Contractor's sole remedy being extension of the Agreement pursuant to this Section.

**EXHIBIT C**
Fee Schedule

| | SERVICE | U/M | YEAR 1 FY 23/24 | YEAR 2 FY 24/25 | YEAR 3 FY 25/26 | YEAR 4 FY 26/27 | YEAR 5 FY 27/28 |
|---|---|---|---|---|---|---|---|
| **A.** | **TREE PRUNING SERVICES** | | | | | | |
| 1 | Maintenance Prune 1" - 12" DBH | per tree | $ 99.00 | $ 105.00 | $ 110.00 | $ 115.00 | $ 120.00 |
| 2 | Maintenance Prune 13" - 24" DBH | per tree | $ 175.00 | $ 180.00 | $ 185.00 | $ 190.00 | $ 195.00 |
| 3 | Maintenance Prune 25"+ DBH | per tree | $ 215.00 | $ 220.00 | $ 225.00 | $ 230.00 | $ 235.00 |
| 4 | Maintenance Prune with Crown Reduction 1" - 12" DBH | per tree | $ 99.00 | $ 105.00 | $ 110.00 | $ 115.00 | $ 120.00 |
| 5 | Maintenance Prune with Crown Reduction 13" - 24" DBH | per tree | $ 300.00 | $ 350.00 | $ 400.00 | $ 450.00 | $ 500.00 |
| 6 | Maintenance Prune with Crown Reduction 25"+ DBH | per tree | $ 400.00 | $ 450.00 | $ 475.00 | $ 500.00 | $ 550.00 |
| 7 | Palm Tree Prune 1" - 30" DBH | per palm | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 |
| 8 | Palm Tree Prune 31" - 55" DBH | per palm | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 |
| 9 | Palm Tree Prune 56"+ DBH | per palm | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 |
| **B.** | **TREE REMOVAL & STUMP GRINDING SERVICES** | | | | | | |
| 1 | Tree Removal 1" - 12" DBH | per tree | $ 255.00 | $ 260.00 | $ 265.00 | $ 270.00 | $ 275.00 |
| 2 | Tree Removal 13" - 24" DBH | per tree | $ 525.00 | $ 530.00 | $ 535.00 | $ 540.00 | $ 545.00 |
| 3 | Tree Removal 25"+ DBH | per tree | $ 1,100.00 | $ 1,250.00 | $ 1,350.00 | $ 1,400.00 | $ 1,450.00 |
| 4 | Stump Grinding 1" - 12" | per stump | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 | $ 95.00 |
| 5 | Stump Grinding 13" - 24" | per stump | $ 110.00 | $ 110.00 | $ 110.00 | $ 110.00 | $ 110.00 |
| 6 | Stump Grinding 25"+ | per stump | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 |
| **C.** | **INVENTORY DATA COLLECTION SERVICES** | | | | | | |
| 1 | Tree Inventory Data Collection | per tree | $ 4.50 | $ 4.50 | $ 4.50 | $ 4.50 | $ 4.50 |
| 2 | Tree Inventory Data Collection | per hour | $ 75.00 | $ 75.00 | $ 75.00 | $ 75.00 | $ 75.00 |
| **D.** | **TREE RISK ASSESSMENTS SERVICES** | | | | | | |
| 1 | Level 2: Basic Tree Hazard Risk Assessment | per tree | $ 85.00 | $ 85.00 | $ 85.00 | $ 85.00 | $ 85.00 |
| 2 | Level 3: Advanced Tree Risk Assessment<br>*Decay Detection Climbing Inspection w/ Resistograph Resistance Drilling* | per hour | $ 125.00 | $ 125.00 | $ 125.00 | $ 125.00 | $ 125.00 |
| 3 | Level 3: Advanced Tree Risk Assessment<br>*Decay Detection w/ 2 Trunk Sonic Tomography Scans* | per hour | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 | $ 150.00 |
| 4 | Level 3: Advanced Tree Risk Assessment<br>*Air Spade Root Inspection and Evaluation* | per hour | $ 200.00 | $ 200.00 | $ 200.00 | $ 200.00 | $ 200.00 |
| **E.** | **EMERGENCY RESPONSE** **Includes 1 Aerial Lift Forestry Truck w/ Chipper and 3-Man Crew (4 hour minimum)* | | | | | | |
| 1 | Emergency call out: Weekdays 7:00 a.m. to 5:00 p.m. (Operating Hours) | per hour | $ 250.00 | $ 250.00 | $ 250.00 | $ 250.00 | $ 250.00 |
| 2 | Emergency call out: Weekdays 5:00 p.m. to 7:00 a.m. (After-Hours) | per hour | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 |
| 3 | Emergency call out: Weekends Anytime | per hour | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 | $ 300.00 |
| 4 | Emergency call out: Holidays Anytime | per hour | $ 325.00 | $ 325.00 | $ 325.00 | $ 325.00 | $ 325.00 |
| **F.** | **LABOR RATES** | | | | | | |
| 1 | Senior Tree Trimmer | per hour | $ 85.00 | $ 88.00 | $ 91.00 | $ 92.00 | $ 95.00 |
| 2 | Tree Trimmer | per hour | $ 80.00 | $ 82.00 | $ 85.00 | $ 87.00 | $ 89.00 |
| 3 | Groundsperson | per hour | $ 75.00 | $ 77.00 | $ 80.00 | $ 82.00 | $ 85.00 |
| 4 | I.S.A. TRAQ Qualified Certified Arborist | per hour | $ 95.00 | $ 100.00 | $ 105.00 | $ 105.00 | $ 105.00 |

# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS**

**DISTRICT:** **ALL**

**SUBJECT:** **APPROVE LONG-TERM BUNDLED RENEWABLE ENERGY RESALE AGREEMENT BETWEEN ENERGY FOR PALDMALE'S INDEPENDENT CHOICE AND SHELL ENERGY NORTH AMERICA (US), L.P.**

## ISSUE

Approve Long-Term Bundled Renewable Energy Resale Agreement between Energy for Palmdale's Independent Choice and Shell Energy North America (US), L.P.

## RECOMMENDATION

Staff recommends the City Council approve a Long-Term Bundled Renewable Energy Resale Agreement with Shell Energy on behalf of Energy for Palmdale's Independent Choice (EPIC) to promote EPIC's compliance with applicable long-term renewable energy contracting mandates reflected in California's RPS program.

## BACKGROUND

The California Renewable Portfolio Standard Program ("RPS" or "RPS Program") was established by Senate Bill ("SB") 1078, and was subsequently modified by SB 107, SB 1036, and SB 2-1X. In October of 2015, the State of California enacted Senate Bill 350 (SB 350), also known as The Clean Energy and Pollution Reduction Act of 2015.

Amongst other details, SB 350 increased California's RPS mandate to 50% by 2030, established multi-year RPS compliance periods and imposed a 65% long-term contracting requirement for all statutorily required RPS purchases. Note that "long-term," as defined by SB 350, reflects a delivery period of 10 years or more. Subsequently, Senate Bill 100 (SB 100, 2018) was signed into law, which further increased California's RPS procurement mandate to 60% by 2030 and also required all of the state's electricity supply to be sourced from carbon-free resources no later than 2045.

As a California Community Choice Aggregator, EPIC must comply with applicable RPS procurement mandates, including the noted long-term contracting mandate. With this in mind, it has identified certain contracting opportunities, including the subject long-term

PCC1 Resale Agreement with Shell Energy, to further its progress in fulfilling such mandates.

## DISCUSSION

To meet the requirements of SB 100, CalChoice, on behalf of EPIC, has been engaged in competitive solicitation processes and bilateral contracting discussions to identify suitable procurement opportunities to facilitate EPIC's compliance with applicable RPS procurement mandates, including the long-term contracting requirement. CalChoice, as well as its legal and technical team, spent several months negotiating and finalizing terms and conditions associated with the subject long-term PCC1 Resale Agreement with Shell Energy on behalf of EPIC.

This opportunity was determined to be: 1) cost-competitive relative to current market conditions for similar products; and 2) relatively unique in terms of its delivery characteristics, which will provide near-term (FY 2023-24) PCC1 deliveries to EPIC as part of a long-term purchase agreement. Note that very few, if any, long-term RPS transactions being executed at this time reflect near-term deliveries in 2023 and 2024.

Such deliveries, which will be provided to EPIC on a "firm" (meaning, guaranteed) basis, are very important in promoting RPS compliance, as such volumes are expected to ensure the sufficiency of long-term RPS purchases in Compliance Period 4, which includes years 2021 through 2024. Absent deliveries from this prospective Resale Agreement with Shell Energy, EPIC would likely be deficient meeting its long-term RPS procurement obligations.

The balance of the delivery term (FY 2024-25 and beyond) will provide annual volumes approximating 15% of EPIC's need/requirement. These future deliveries will promote EPIC's ongoing compliance with applicable RPS mandates while also promoting portfolio and supplier diversity by allowing for purchases from several other suppliers/projects in rounding out EPIC's RPS needs. Failure to meet the long-term RPS procurement mandate and/or RPS procurement mandates in general would trigger substantial financial penalties.

As a condition of the agreement, payment terms are such that the City's general fund is protected. It is also important to note that EPIC's current financial projections indicate that adequate revenues exist to support this purchase. Additionally, this particular transaction is also not expected to trigger the need for retail rate changes.

## FISCAL IMPACT

Sufficient revenues will be generated to cover operating expenses, including power procurement. The impact associated with this transaction is as follows: FY 2023-24, approximately $4 million; for FYs 2024-25 through 2036-37, approximately $3.4 to $4.2 million per year.

## 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.

Goal III: Invest in infrastructure to improve community livability.

A. Implement and administer environmentally sustainable programs.

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

B. Provide inclusive access to a variety of supportive services that build a resilient and healthy community.

| | |
|---|---|
| Prepared by: | Lynn Glidden, P.E. Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P. Curley, III, Interim City Attorney |

## ATTACHMENTS

Power Purchase Agreement

**Shell Energy North America (US), L.P.**

**TRANSACTION CONFIRMATION**
**Firm Bundled Renewable Energy ("PCC1") Resale**

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This confirmation (this "Confirmation") is entered into this [October 5, 2023] ("Effective Date"), by and between **City of Palmdale, a California municipal corporation and charter city** ("Palmdale" or "Buyer") and **Shell Energy North America (US), L.P.** ("Shell Energy"), each referred to herein individually as a "Party" and collectively as the "Parties", regarding the purchase and sale of the Product (as defined below) under the terms and conditions herein. Capitalized terms used in this Confirmation and not defined herein have the meaning assigned thereto in the Master Agreement (each as defined below). The Master Agreement and this Confirmation shall be collectively referred to herein as the "Agreement."

*Seller:* Shell Energy

*Buyer:* City of Palmdale (Buyer's WREGIS Account Holder Name: City of Palmdale, [redacted])

*Master Agreement:* This Confirmation shall be governed by the terms and conditions of the EEI Master Agreement, dated effective October 5, 2023, (as amended from time to time, the "Master Agreement"). Terms not defined in this Confirmation shall have the meaning set forth in the Master Agreement.

*Product:* As used herein, "Product" shall mean Energy produced hourly by the Projects that is simultaneously bundled with the Renewable Energy Credits ("RECs") generated therefrom, which together qualifies as Portfolio Content Category 1 (as defined below), under and pursuant to the California Renewable Portfolio Standard.

*Environmental Attributes:* The only Environmental Attributes "RECs" conveyed under this Confirmation as part of the Product are those Environmental Attributes required for the Product to qualify as PCC1 under the RPS.

*Project:* As used herein, "Project" shall mean one or more ERRs owned by Shell Energy or from which Shell Energy has a contract to purchase Product, in either case that have a first point of interconnection with a California balancing authority, have a first point of interconnection with distribution facilities used to serve end users within a California balancing authority area, or are scheduled from the ERR into a California balancing authority without substituting electricity from another source.

*Delivery Period:* Commencing October 1, 2023, through December 31st 2037; provided that the RECs attributable to the Energy generated during the Delivery Period but created after the Delivery Period shall be transferred to and paid for by Buyer in accordance with the terms of this Confirmation. Solely for purposes of clarifying Product quantities, delivery characteristics and pricing, the Delivery Period will be divided into two (2) periods: Delivery Period 1 and Delivery Period 2 as follows:

Delivery Period 1: October 1, 2023 and continuing through December 31, 2025

Delivery Period 2: January 1, 2026 and continuing through December 31, 2037

*Quantity:* The Quantity for Delivery Period 1 is Firm and as set forth in the table below for the years 2023-2025.

| Period 1 Annual Delivery Quantity | 2023 | 2024 | 2025 | Total |
|---|---|---|---|---|
| Quantity (MWh) | [redacted] | [redacted] | [redacted] | [redacted] |

The Quantity for Delivery Period 2 is set forth in the table below for years 2026-2037, and as more specifically described on Schedule A. The Quantity for Delivery 2 is Firm and applies to all days of the

week.

| Period 2 Annual Delivery Quantity | 2026 | 2027 | 2028 | 2029 | 2030 | 2031 | 2032 | 2033 | 2034 | 2035 | 2036 | 2037 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Quantity (MWh) | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] | [redacted] |

*Delivery Period 2 Hourly Quantity*: See Schedule A for the around the clock 7x24 hourly shape and is Firm for all days of the week and for every calendar year of Delivery Period 2.

*Contract Price*: Delivery Period 1: The Contract Price for each MWh of Product delivered to Buyer during Delivery Period 1 is [redacted] per MWh (i.e., per REC) plus the price for Energy delivered at the Delivery Point determined in accordance with the procedures and rules of the California ISO.

Delivery Period 2: The Contract Price for each MWh of Product delivered to Buyer at the Delivery Point during Delivery Period 2 shall consist of the Energy Price and the REC Price,

where for Calendar Years 2026 and 2027 "Energy Price" means [redacted] per MWh, and "REC Price" means [redacted] per REC. The sum of the Energy Price and the REC Price for Calendar Years 2026 and 2027 is [redacted] per MWh;

where for Calendar Years 2028 through and including 2031 "Energy Price" means [redacted] per MWh, and "REC Price" means [redacted] per REC. The sum of the Energy Price and the REC Price for Calendar Years 2028 through and including 2031 is [redacted] per MWh; and

where for or Calendar Years 2032 through and including 2037 "Energy Price" means [redacted] per MWh, and "REC Price" means [redacted] per REC. The sum of the Energy Price and the REC Price for Calendar Years 2032 through and including 2037 is [redacted] per MWh.

*Delivery Point:* Delivery Period 1: CAISO or California Balancing Authority

Delivery Period 2: CAISO SP15 Trade Hub

*Scheduling*: Delivery Period 1: Seller will perform all scheduling and tagging requirements as may be applicable to the transaction contemplated hereunder.

Delivery Period 2: The Quantity for Delivery Period 2 will be scheduled by Seller to Buyer at the Delivery Point via a CAISO IST. All scheduling will be performed consistent with all applicable California ISO and WECC Scheduling Protocols.

*REC Transfer:* Via WREGIS

Seller will transfer the RECs purchased and sold hereunder to Buyer's WREGIS account no later than April 1st of the year following the year in which the Energy to which such RECs are attributable was generated.

*Settlements and Payment:*

Seller shall deliver the Product by (i) delivering Energy to the California ISO on behalf of Buyer at the Delivery Point in accordance with the California ISO requirements and procedures and (ii) transferring the RECs, with associated NERC e-Tags (if any) through WREGIS, to Buyer's (or Buyer's Designee's) designated WREGIS account(s).

Delivery Period 1: During Delivery Period 1, the California ISO shall pay Seller directly for the Energy portion of the Product in accordance with the California ISO requirements and procedures and Buyer shall not be required to pay any additional amount to Seller in respect of such Energy. Buyer shall pay the Delivery Period 1 Contract Price multiplied by the Quantity delivered for Delivery Period 1 subsequent to the transfer of the RECs as provided below.

Delivery Period 2: During Delivery Period 2, Buyer shall pay Seller for the Energy portion of the Product equal to the monthly Quantity for Delivery Period 2 that is scheduled and delivered to the Delivery Point in accordance with this Confirmation, including Schedule A, multiplied by the Energy Price as provided below. Buyer shall pay the REC Price portion of the Contract Price for Delivery Period 2 to Seller subsequent to the transfer of the RECs into Buyer's WREGIS account as provided below.

Buyer shall make payment to Seller by wire transfer or ACH payment to the bank account specified for Seller in the Master Agreement. Buyer shall pay undisputed invoice amounts on or before the twenty-third (23rd) day of the month in which the invoice was received, provided that such invoice was received by the fifteenth (15th) day of the month, otherwise the invoice will be paid on the next month's monthly distribution date under the Security Documents (i.e., the 23rd of the month). If such due date falls on a weekend or legal holiday, such due date shall be the next Business Day.

*Supporting Data:* In the event that the Product being transferred from Seller to Buyer originates from a Project(s) outside of the state of California, Seller shall provide Buyer a reconciliation consisting of hourly meter data, tag data and associated calculations, lesser of each by hour, for each vintage month of RECs delivered to Buyer under this Confirmation.

*Compliance With RPS:*

Seller represents and warrants to Buyer that the purchase and sale of Product pursuant to this Confirmation is a resale and meets the following additional requirements:

i. this Confirmation transfers only Energy and RECs that have not yet been generated prior to the effective date of this Confirmation;

ii. in connection with the transfer of the Energy and associated RECs that comprise the Product purchased and sold under this Confirmation the Energy transferred by this Confirmation is transferred to Buyer in real-time via sale by Seller to, and purchase by Buyer from, the California ISO; and

iii. if applicable, the California Renewables Portfolio Standard-eligible energy is scheduled from one or more Eligible Renewable Energy Resources that are not interconnected to a California balancing authority into a California balancing authority without substituting electricity from another source, and the original hourly or subhourly schedule is maintained.

*Change in Law Provisions:* If after the Effective Date there is a change in applicable law or a governmental authority with jurisdiction over the Parties or the subject matter of this Confirmation interprets, enacts or materially modifies any law, regulation, rule or order that (a) repeals or invalidates the RPS, (b) makes it illegal or impossible to transfer any part of the Product as contemplated pursuant to this Confirmation, or (c) causes the Product to no longer qualify as PCC1 under the RPS at the time of delivery, then in the case of item (c) the Parties will in good faith negotiate regarding amendments to the terms of this Confirmation solely to cause the Product to again qualify as PCC1 and Seller shall take such commercially reasonable actions as may be prudent in an effort to cause the Product to again qualify as PCC1, but will not be required to incur any costs or expenses in pursuit thereof in excess of an aggregate amount equal to [redacted] (the "Compliance Cap"). In the case of (1) items (a) and (b) of the preceding sentence, or (2) item (c) of the preceding sentence if Seller has met or exceeded the Compliance Cap or the Parties have not agreed to amendments to this Confirmation within sixty (60) days after the change referred to in the preceding sentence, then in either case either Party may by giving written notice to the other terminate this Confirmation. In the event of any such termination, neither Party shall have any liability to the other as a result of such termination nor any further liability or payment or performance obligations hereunder; provided, however, that the Parties shall remain liable for any payments due for, and all other obligations that may lawfully be performed respecting, delivery and receipt of Product prior to such termination.

**SPECIAL PROVISIONS:**

**A. Non-Modifiable Standard Terms and Conditions**

(1) Eligibility: Seller, and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement that: (i) the Project qualifies and is certified by the CEC as an Eligible Renewable Energy Resource ("ERR") as such term is defined in

Public Utilities Code Section 399.12 or Section 399.16; and (ii) the Project's output delivered to Buyer qualifies under the requirements of the California Renewables Portfolio Standard. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. **[STC 6, Non-Modifiable. (Source: D.07-11-025, Attachment A.) D.08-04-009]**

(2) Applicable Law: Governing Law. This Agreement and the rights and duties of the Parties hereunder shall be governed by and construed, enforced and performed in accordance with the laws of the state of California, without regard to principles of conflicts of law. To the extent enforceable at such time, each Party waives its respective right to any jury trial with respect to any litigation arising under or in connection with this Agreement. **[STC 17, Non-Modifiable. (Source: D.07-11-025, Attachment A) D.08-04-009]**

(3) Transfer of Renewable Energy Credits: Seller and, if applicable, its successors, represents and warrants that throughout the Delivery Term of this Agreement the renewable energy credits transferred to Buyer conform to the definition and attributes required for compliance with the California Renewables Portfolio Standard, as set forth in California Public Utilities Commission Decision 08-08-028, and as may be modified by subsequent decision of the California Public Utilities Commission or by subsequent legislation. To the extent a change in law occurs after execution of this Agreement that causes this representation and warranty to be materially false or misleading, it shall not be an Event of Default if Seller has used commercially reasonable efforts to comply with such change in law. **[STC REC-1, Non-modifiable. D.11-01-025]**

(4) Tracking of RECs in WREGIS: Seller warrants that all necessary steps to allow the Renewable Energy Credits transferred to Buyer to be tracked in the Western Renewable Energy Generation Information System will be taken prior to the first delivery under the contract. **[STC REC-2, Non-modifiable. D.11-01-025]**

**B. Additional Terms and Conditions**

(1) Seller Representations and Warranties: Seller represents and warrants:

(a) Seller has not sold the Product to be transferred to Buyer to a third party;

(b) the Energy component of the Product produced by a Project and purchased by Seller for resale to Buyer hereunder is not being sold by Seller back to the Project or Project owner;

(c) as Energy is delivered to and directly settled with the California ISO, the sale is being reported to FERC as a sale to the California ISO under the applicable electronic quarterly reports requirements; and

(d) the Product meets the requirements set forth in PUC Code 399.16(b)(1) and the RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052.

(2) Buyer Representations and Warranties. Buyer represents and warrants that Buyer has taken all necessary steps to establish a WREGIS account to receive the RECs to be transferred from Seller to Buyer prior to the first delivery under this Confirmation.

**C. AMENDMENTS TO THE MASTER AGREEMENT**

Confidentiality. Section 10.11, Confidentiality, of the Master Agreement is amended for purposes of this Confirmation by inserting after the word "proceeding" prior to the semicolon the following: "or to Deliver RECs pursuant to the requirements of WREGIS". Notwithstanding anything to the contrary in Section 10.11, Confidentiality, of the Master Agreement, shall be permitted to publicly disclose the Parties' names, resource type, delivery term, project location, and project capacity with respect to this Confirmation.

**DEFINITIONS:**

For purposes of this Confirmation, the following definitions shall apply:

"California Renewables Portfolio Standard" or ("RPS") means the renewable energy program and policies, codified in California Public Utilities Code Sections 399.11 through 399.32 and California Public Resources Code Sections 25740 through 25751, as such provisions are amended or supplemented from time to time.

"CEC" means the California Energy Commission or its regulatory successor.

"CPUC" means the California Public Utilities Commission or its regulatory successor.

"Environmental Attributes" means characteristics concerning or affecting the environment created by or resulting from the generation of electric energy by an ERR and which is capable of measurement, verification or calculation. Environmental Attributes do not include tax credits or other benefits under any law or other subsidy for generation of Energy by an ERR.

"ERR" means an eligible renewable energy resource, as such term is defined in the California Public Utilities Code Section 399.12 or Section 399.16, which is either (a) designed and intended to provide electricity at an annualized plant capacity factor of less than 60 percent, as defined in California Public Utilities Code Section 8340(a), or (b) emits $CO_2$ at a rate less than 1,100 lbs/MWh, in compliance with D.07-01-039, or both.

"FERC" means the Federal Energy Regulatory Commission or its regulatory successor.

"Firm" means, with respect to a Transaction, that if either Party fails to perform its obligation to sell and deliver or purchase and receive the Product, the Party to which performance is owed shall be entitled to receive from the Party that failed to perform an amount determined pursuant to Article 4 of the EEI Master Agreement. Force Majeure shall not excuse performance of a Firm Transaction.

"Product Content Category 1" or ("PCC1") means electric energy as set forth in CPUC Code 399.16(b)(1) and the RPS compliance requirements for Portfolio Content Category 1 as set forth in CPUC Decision 11-12-052.

"STC" stands for Standard Terms and Conditions of the CPUC relating to purchase and sales of the Product.

"WECC" means the Western Electricity Coordinating Council or its successor organizations.

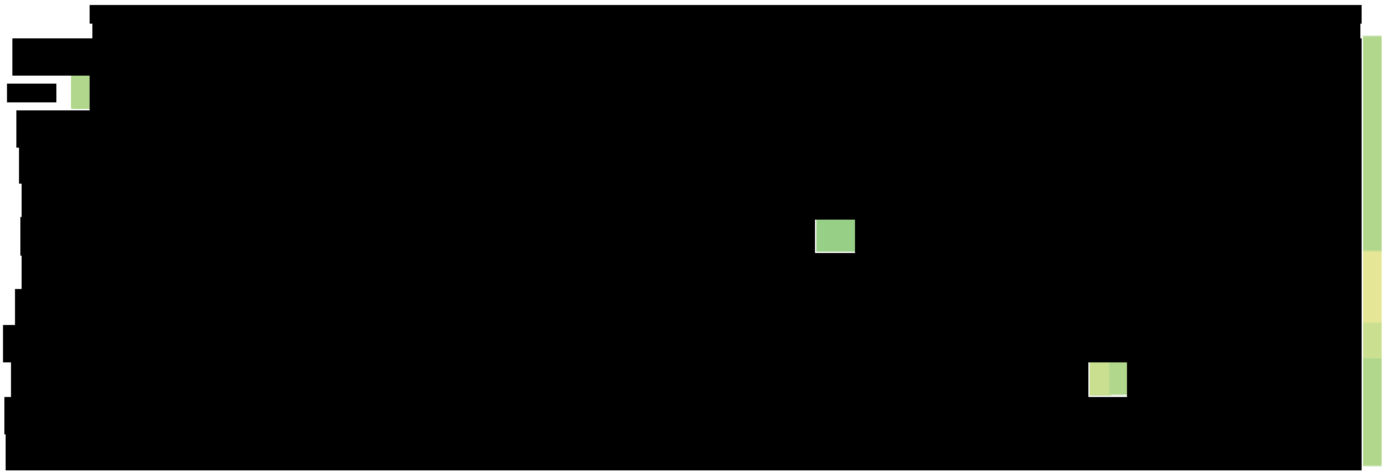
"WREGIS" means the Western Renewable Energy Generation Information System or its successor systems.

Notwithstanding anything contained in the Master Agreement to the contrary, this Confirmation shall not be effective unless executed by both Parties.

IN WITNESS WHEREOF, the Parties have signed this Confirmation effective as of the Effective Date.

| **City of Palmdale, a California municipal corporation and charter city** | **Shell Energy North America (US), L.P.** |
|---|---|
| By: | By: |
| Name: | Name: |
| Title: | Title: |

Schedule A: Hourly Fixed Energy Schedule (MW)



# City Council Staff Report

**DATE:** **OCTOBER 4, 2023**

**TO:** **HONORABLE MAYOR AND CITY COUNCIL**

**FROM:** **PUBLIC WORKS**
**ENGINEERING DIVISION**

**DISTRICT:** **1**

**SUBJECT:** **ADOPT RESOLUTION NO. CC 2023-053 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, LOS ANGELES COUNTY CONSOLIDATED FIRE PROTECTION DISTRICT, AND THE LOS ANGELES COUNTY WATERWORKS #40 – ANTELOPE VALLEY, 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 MOSQUITO AND VECTOR CONTROL DISTRICT, ANTELOPE VALLEY RESOURCE CONSERVATION DISTRICT, CITY OF PALMDALE, AND THE ANTELOPE VALLEY – EAST KERN WATER AGENCY APPROVING AND ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES RESULTING FROM ANNEXATION 14-447 TO COUNTY SANITATION DISTRICT NO. 14.**

## ISSUE

Adopt Resolution No. CC 2023-053, 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, Los Angeles County Consolidated Fire Protection District, and the Los Angeles County Waterworks #40 – Antelope Valley, and the governing bodies of the Antelope Valley Cemetery District, Antelope Valley Mosquito and Vector Control District, Antelope Valley Resource Conservation District, City of Palmdale, and the Antelope Valley – East Kern Water Agency approving and accepting negotiated exchange of property tax revenues resulting from Annexation No. 14-447 to County Sanitation District No. 14.

## RECOMMENDATION

Staff recommends that the City Council adopt Resolution No. CC 2023-053, a Resolution of the City Council of the City of Palmdale adopting the Joint Tax Sharing Resolution entitled “Annexation 14-447” 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 that results in a special district providing a new service not previously provided to an area, the law requires the governing bodies of all local agencies that receive a portion of that property tax determined by resolution the amount of the annual tax increase to be transferred to that special district. The existing tax revenue based on the property's assessed value received by agencies will not change. This resolution only affects a percentage of future revenue agencies would receive based on the increased property valuation assessment.

## DISCUSSION

In the attached letter dated July 27, 2023, the County Sanitation District has requested that the City of Palmdale enter into a tax-sharing agreement for the annexation of parcel number 3218-015-089, as shown in Exhibit A. The proposed development is located at the intersection of Columbia Way (Avenue M) and Division Street and has requested annexation into the County Sanitation District (CSD) No. 14. This annexation is a condition of the development's entitlement and is required before receiving sewer service.

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 currently receive property tax revenues for these parcels execute and are a party to the same Joint Resolution.

Staff recommends that the City Council adopt Resolution No. CC 2023-053 authorizing the Mayor to execute the Joint Tax Sharing Resolution entitled Annexation No. 14-447 with the County Sanitation District No. 14 for the parcel.

## FISCAL IMPACT

The current property tax share ratio for the City of Palmdale within the area of the Ritter Ranch development properties is 0.066294048 (6.6294%). This Council action will allocate 0.003365570 (0.3366%) of any future tax increase to the County Sanitation District No. 14. This results in a net City tax share rate of 0.065895873 (6.5896%). For example, a tax increase based on the assessed property value for these parcels will generate an additional $100 in total property tax. The City would receive an additional $6.5896 of this increase, and the Sanitation District would receive $0.3366. This allocation is made following 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: | Lynn Glidden, P.E., Director of Public Works |
| Certified as to availability of Funds: | Janelle Samson, Director of Finance |
| Approved by: | Ronda Perez, City Manager |
| Approved as to form: | William P, Curley, III, Interim City Attorney |

## ATTACHMENTS

1. Resolution No. CC 2023-053
2. Sanitation District of Los Angeles County Transmittal Letter
3. County Joint Resolution for Annexation No. 14-447
4. Property Tax Transfer Resolution Worksheet
5. Exhibit A, Annexation Map No. 447

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2023-053

JOINT RESOLUTION OF THE BOARD OF SUPERVISORS OF THE COUNTY OF LOS ANGELES ACTING IN BEHALF OF THE LOS ANGELES COUNTY GENERAL FUND, LOS ANGELES COUNTY CONSOLIDATED FIRE PROTECTION DISTRICT, AND THE LOS ANGELES COUNTY WATERWORKS #40 – ANTELOPE VALLEY, 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 MOSQUITO AND VECTOR CONTROL DISTRICT, ANTELOPE VALLEY RESOURCE CONSERVATION DISTRICT, CITY OF PALMDALE, AND THE ANTELOPE VALLEY – EAST KERN WATER AGENCY APPROVING AND ACCEPTING NEGOTIATED EXCHANGE OF PROPERTY TAX REVENUES RESULTING FROM ANNEXATION TO COUNTY SANITATION DISTRICT NO. 14.

ANNEXATION NO. 447

**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. 447;

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. 447 is approved and accepted.

**SECTION 2.** For each fiscal year commencing on and after July 1, 2023, 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 0.3365570 percent of the annual

tax increment attributable to the land area encompassed within Annexation No. 447 as shown on the attached Property Tax Transfer Resolution 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. 447.

**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 Mosquito and Vector Control District, Antelope Valley Resource Conservation District, City of Palmdale, and the Antelope Valley – East Kern Water Agency, signatory hereto.

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

**PASSED**, **APPROVED** and **ADOPTED** this 4th day of October 2023.

Approved as to form:

Laura Bettencourt, Mayor

ATTEST:

William P. Curley III
Interim City Attorney

Rochelle Scott, Acting City Clerk

I, Rochelle Scott, Acting 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 4th day of October, 2023 by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

Date: _____ _____

Rochelle Scott, Acting City Clerk

**LOS ANGELES COUNTY SANITATION DISTRICTS**
*Converting Waste Into Resources*

**Robert C. Ferrante**
Chief Engineer and General Manager

1955 Workman Mill Road, Whittier, CA 90601-1400
Mailing Address: P.O. Box 4998, Whittier, CA 90607-4998
(562) 699-7411 • www.lacsd.org

July 27, 2023

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.

| Annexation No. | Type of Project |
|---|---|
| 14-447 | two proposed industrial buildings |

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.

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

Donna J. Curry

Customer Service Specialist
Facilities Planning Department

DC:dc

Enclosures: 14-447

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

Los Angeles County Waterworks #40 - Antelope Valley

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 Mosquito & Vector Control District

Antelope Valley Resource Conservation District

City of Palmdale

Antelope Valley - East Kern Water Agency

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

**"ANNEXATION NO. 447"**

**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. 447;*

**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. 447* is approved and accepted.

2. For each fiscal year commencing on and after July 1, 2023, 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 0.3365570 percent of the annual tax increment attributable to the land area encompassed within Annexation *No. 447 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. 447.*

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 Mosquito & Vector Control District, Antelope Valley Resource Conservation District, City of Palmdale, and Antelope Valley - East Kern Water Agency, signatory hereto.

CITY OF PALMDALE

_____
SIGNATURE

_____
PRINT NAME AND TITLE

ATTEST:

_____
Secretary

_____
Date

**(SIGNED IN COUNTERPART)**

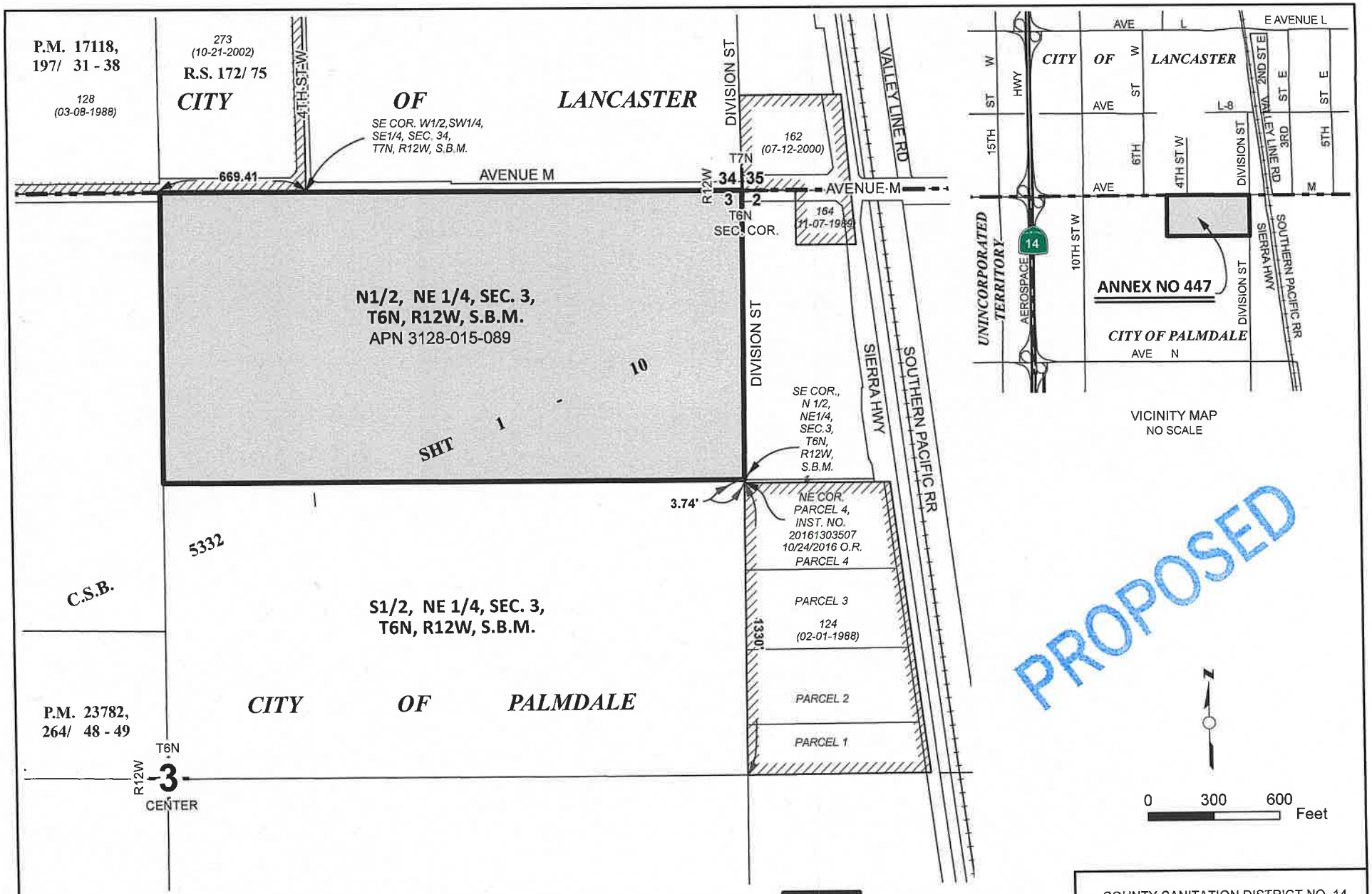
ANNEXATION TO: CO.SANITATION DIST.NO 14 DEBT S.
ACCOUNT NUMBER: 066.45
TRA: 17128
EFFECTIVE DATE: 07/01/2023
ANNEXATION NUMBER: 447 PROJECT NAME: A-14-447

DISTRICT SHARE: 0.006006203

| ACCOUNT # | TAXING AGENCY | CURRENT TAX SHARE | PERCENT | PROPOSED DIST SHARE | ALLOCATED SHARE | ADJUSTMENTS | NET SHARE |
|---|---|---|---|---|---|---|---|
| 001.05 | LOS ANGELES COUNTY GENERAL | 0.260838510 | 26.0847 % | 0.006006203 | 0.001566660 | -0.001612480 | 0.259226030 |
| 001.20 | L.A. COUNTY ACCUM CAP OUTLAY | 0.000116439 | 0.0116 % | 0.006006203 | 0.000000699 | 0.000000000 | 0.000116439 |
| 007.30 | CONSOL. FIRE PRO.DIST.OF L.A.CO. | 0.178939056 | 17.8939 % | 0.006006203 | 0.001074744 | -0.001074744 | 0.177864312 |
| 007.31 | L A C FIRE-FFW | 0.007512447 | 0.7512 % | 0.006006203 | 0.000045121 | 0.000000000 | 0.007512447 |
| 047.04 | LA CO WATERWORKS #40 ANTELOPE VY | 0.013026958 | 1.3026 % | 0.006006203 | 0.000078242 | -0.000078242 | 0.012948716 |
| 051.75 | L A CO WATER WKS NO 40 ACO FUND | 0.009959069 | 0.9959 % | 0.006006203 | 0.000059816 | -0.000059816 | 0.009899253 |
| 053.30 | ANTELOPE VY CEMETERY DISTRICT | 0.001394505 | 0.1394 % | 0.006006203 | 0.000008375 | -0.000008375 | 0.001386130 |
| 061.05 | ANTELOPE VLY MOSQ & VECTOR CONTR | 0.001751758 | 0.1751 % | 0.006006203 | 0.000010521 | -0.000010521 | 0.001741237 |
| 068.05 | ANTELOPE VY RESOURCE CONSER DIST | 0.000964328 | 0.0964 % | 0.006006203 | 0.000005791 | -0.000005791 | 0.000958537 |
| 225.01 | CITY PALMDALE REDV PROJ 4/EIFD | 0.066294048 | 6.6294 % | 0.006006203 | 0.000398175 | -0.000398175 | 0.065895873 |
| 300.10 | ANTELOPE VY.-EAST KERN WATER AGY | 0.019550834 | 1.9550 % | 0.006006203 | 0.000117426 | -0.000117426 | 0.019433408 |
| 400.00 | EDUCATIONAL REV AUGMENTATION FD | 0.061349887 | 6.1349 % | 0.006006203 | 0.000368479 | EXEMPT | 0.061349887 |
| 400.01 | EDUCATIONAL AUG FD IMPOUND | 0.126868107 | 12.6868 % | 0.006006203 | 0.000761995 | EXEMPT | 0.126868107 |
| 400.15 | COUNTY SCHOOL SERVICES | 0.001443139 | 0.1443 % | 0.006006203 | 0.000008667 | EXEMPT | 0.001443139 |
| 400.21 | CHILDREN'S INSTIL TUITION FUND | 0.002864402 | 0.2864 % | 0.006006203 | 0.000017204 | EXEMPT | 0.002864402 |
| 529.01 | LANCASTER SCHOOL DISTRICT | 0.060811214 | 6.0811 % | 0.006006203 | 0.000365244 | EXEMPT | 0.060811214 |
| 529.06 | CO.SCH.SERV.FD.- LANCASTER | 0.008998274 | 0.8998 % | 0.006006203 | 0.000054045 | EXEMPT | 0.008998274 |
| 529.07 | DEV CTR HDCPD MINOR LANCASTER | 0.000872588 | 0.0872 % | 0.006006203 | 0.000005240 | EXEMPT | 0.000872588 |
| 717.02 | ANTELOPE VALLEY UNION HIGH SCH. | 0.099615080 | 9.9615 % | 0.006006203 | 0.000598308 | EXEMPT | 0.099615080 |

ANNEXATION NUMBER: 447 PROJECT NAME: A-14-447 TRA: 17128

| ACCOUNT # | TAXING AGENCY | CURRENT TAX SHARE | PERCENT | PROPOSED DIST SHARE | ALLOCATED SHARE | ADJUSTMENTS | NET SHARE |
|---|---|---|---|---|---|---|---|
| 717.06 | CO.SCH.SERV.FD.- ANTELOPE VALLEY | 0.000365901 | 0.0365 % | 0.006006203 | 0.000002197 | EXEMPT | 0.000365901 |
| 717.07 | ANTELOPE VY.UN.HI.-ELEM SCH FD. | 0.048803165 | 4.8803 % | 0.006006203 | 0.000293121 | EXEMPT | 0.048803165 |
| 792.04 | ANTELOPE VY.JT. COMMUNITY COLL. | 0.027660291 | 2.7660 % | 0.006006203 | 0.000166133 | EXEMPT | 0.027660291 |
| ***066.45 | CO.SANITATION DIST.NO 14 DEBT S. | 0.000000000 | 0.0000 % | 0.006006203 | 0.000000000 | 0.000000000 | 0.003365570 |
| | TOTAL: | 1.000000000 | 100.0000 % | | 0.006006203 | -0.003365570 | 1.000000000 |




"FOR TAX ASSESSMENT PURPOSES ONLY"

LA County Assessor Landbase,
CAMS Centerline, DPW City boundary
LA County Sanitation Districts:
AnnexationLayer and District Layer

Annexation No. 447 shown thus .....

Boundary of Sanitation District No. 14 prior to Annexation No. 447 shown thus .....

City Boundary .....

Prior Annexations shown thus .....

ANNEX. NO.
(RECORDING DATE)

Area of Annexation ..... 78.369 Acres

COUNTY SANITATION DISTRICT NO. 14
OF LOS ANGELES COUNTY, CA
OFFICE OF CHIEF ENGINEER
ROBERT C. FERRANTE
CHIEF ENGINEER & GENERAL MANAGER

ANNEXATION NO. 447
TO
COUNTY SANITATION DISTRICT NO. 14

Recorded:

R:\Planning\PropertyManagement\Annexations\Annex_GIS\Projects\14_447.mxdl EAO/JULY 24, 2023

**MINUTES**
**CITY COUNCIL/SA/HA**
**CITY HALL COUNCIL CHAMBER**
**38300 SIERRA HIGHWAY, SUITE B**
**PALMDALE, CALIFORNIA**
**AUGUST 2, 2023**

1) CALL MEETING TO ORDER

Mayor Bettencourt called the meeting to order at 5:00 pm.

*Note: All City Council memberships are reflected in their City Council titles.

2) ROLL CALL MAYOR BETTENCOURT, MAYOR PRO TEM ALARCÓN, COUNCILMEMBERS BISHOP, LOA, OHLSEN COMMISSIONERS FRAGA-SAENZ, BETTS

PRESENT: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen, Christina Fraga-Saenz, Dianne Betts.
ABSENT: None.

3) PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

4) PRESENTATION

4.1) Mayor Bettencourt presented Certificates of Recognition to the Palmdale High School Solar Car Challenge team.

5) PUBLIC COMMENT RULES

6) PUBLIC COMMENTS

The following individuals provided public input: Eugene Hernandez spoke regarding Items 7.1, 13.1, 13.3, and the City's adopted budget; Jason Zink spoke regarding Items 7.1, 7.2, section 13, and the Joint Palmdale/Lancaster City Council meeting; and Diane spoke regarding item 7.1.

7) CONSENT CALENDAR

7.1) Receive and file the monthly and quarterly investment activity reports for June 2023.

7.2) Approve First Amendment for Agreement with Taft Electric Company to increase contract price $180,000 for an amount not to exceed $270,000 for a term through June 2025.

Mayor Pro Tem Alarcón pulled this item for discussion. Director of Public Works Glidden provided background information on Taft Electric.

Motion: Approve First Amendment for Agreement with Taft Electric Company to increase contract price $180,000 for an amount not to exceed $270,000 for a term through June 2025
Moved by Andrea Alarcón, seconded by Laura Bettencourt.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

Motion: Approve all items as listed on the Consent Calendar except 7.2.
Moved by Austin Bishop, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

8) NEW BUSINESS

8.1) Presentation on Public Safety.

Neighborhood Services Director Reyes and the Public Safety Division provided a detailed PowerPoint presentation on services provided to the community and businesses.

Discussion ensued regarding the benefit of neighborhood watch programs, the feasibility study with Animal Arts and Team Shelter USA, graffiti, Part 1 Crimes, Sheriff's Department response times and vacancies, increased funding for additional staffing in the City of Palmdale Neighborhood Services Compliance Department, Sheriff's Department CARPing, and a Public Safety minute for residents. Lieutenant Rhea, Los Angeles Sheriff's Department, provided clarification on the questions asked by Council.

Chad Christensen, Battalion Chief of the Los Angeles County Fire Department, provided a presentation on the local resources and services provided to the public.

Mayor Bettencourt, Mayor Pro Tem Alarcón, and Council thanked the Los Angeles County Fire Department for their service.

Councilmember Bishop asked which calls are received the most, fire or paramedic. Battalion Chief Christensen responded paramedic calls for sure.

Mayor Bettencourt stated she would like to have something presented at every other Council meeting related to first responders, the fire department, paramedics, and the Sheriff's Department to keep the public informed on what they are doing and how they are doing it.

The following individuals provided public input: Eugene Hernandez spoke regarding a post he received from Sheriff Luna; Kalisha Miles-Johnson, AVC political science student, commented in support of information provided at the meeting; Laurel Forrest commented regarding the microphone and public

comment section; Mario Presents and Carol Ross spoke in support of the Sheriff's Department, Fire Department, and City Council; Jaylene Davidson, Diane, Citizen (no name provided), and Carl spoke in support of the Sheriff's Department and Fire Department; Jason Zink commented regarding attachments for agenda items and Sheriff vacancies; Xavier Flores spoke regarding alcohol outlet density; Citizen (no name provided) commented regarding a one-on-one meeting with each Councilmember; Felix Menendez spoke in support of Sheriff's Department, Human Rights Advisory Committee, and Council.

Mayor Bettencourt announced that the neighborhood watch programs have bilingual staff and deputies and provided the website for the Los Angeles County Sheriff's Department (www.lasd.org) and the Federal Bureau of Investigation (www.fbi.gov) to search for crime stats.

Mayor Bettencourt closed the Public Comments.

9) NON-AGENDA PUBLIC COMMENTS:

The following individuals provided public input: Jason Zink and Christine Parkinson commented regarding the Sheriff's Department and other miscellaneous items; Laurel Forrest commented in support of Council, on the topic of addiction, and the Joint Palmdale/Lancaster City Council meeting; Carol Ross, Michael Ross, Diane, Chuck Murphy, and three citizens (no name provided) spoke on the Joint Palmdale/Lancaster City Council meeting; citizen (no name provided), Felix Menendez, and Marisela Gomez commented in support of SALVA receiving City grant funds; Bryant Kline, Teamsters 396, spoke regarding the Amazon strike; Jaylene Davidson commented regarding Mayor Pro Tem Alarcón and the Sheriff's Department; Irvine commented regarding an incident that happened at SALVA and the services provided; Eugene Hernandez spoke regarding support for the unhoused and non-profits; Xavier Flores commented regarding public criticism of a Council person; and Mario Presents spoke in support of the Palmdale Freedom Coalition.

Mayor Bettencourt closed the Public Comments.

10) INFORMATIONAL REPORT FROM MAYOR AND / OR COUNCILMEMBERS ON THEIR VARIOUS COMMITTEE MEMBERSHIPS AND MEETINGS ATTENDED AT PUBLIC EXPENSE

10.1) Council Reports on Committee Memberships and Meetings Attended at Public Expense.

The Council stated their reports were on file.

Councilmember Ohlsen announced the July 1st fireworks celebration was well attended and it was a great event; Veteran Peer Access Network facility is open for services; and National Night Out was great.

11) CITY COUNCIL ANNOUNCEMENTS AND REQUESTS

Councilmember Bishop requested that staff review the microphone set up on the podium and replace it with something more suitable for public access.

Councilmember Loa spoke about the participation in sports at the Best of the West Softball Complex and the need for a future snack bar.

Mayor Pro Tem Alarcón spoke about the future snack bar, food distribution programs, and veteran programs.

Mayor Bettencourt requested a future presentation on the Best of the West Softball Complex snack bar.

Councilmember Ohlsen requested the creation of a Public Safety Committee. He also committed to holding town halls or having coffee with the public to increase communication and clear up misinformation.

12) CITY MANAGER'S REPORT

City Manager Perez reported on the following: National Night Out; Battle Cross Monument reveal in Poncitlan Square; Music in the park at Domenic Massari on July 27th; SAVES Back to School event and a community resource fair on July 31st; shovel ceremony for Transwestern Development Company; Music in the Park at Domenic Massari August 3rd; public outreach meeting on the animal feasibility study; Family Movie Night; Summer Concert Series; Tequila & Taco Festival; rollout of the Accela Program; and the Fentanyl Awareness event.

Interim City Attorney Curley made a statement regarding the cost of public improvement projects.

13) PRESENTATION BY CITY ATTORNEY

Interim City Attorney Curley confirmed the Closed Session items.

13.1) CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property Address: Vacant Land located along 3rd Street East near Avenue P-12 (APN 3006-006-036)
Negotiators for the City: Sophia Reyes, Director Neighborhood Services and Heather Nichols, Senior Housing Coordinator
Negotiator for Property Owner: Leo Hayashi Trust and Hirokazu Konishi
Under Negotiation: Price and terms of payment

13.2) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: 1 case

13.3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Land Developers & Associates Corporation v. Successor Agency to the Community Redevelopment Agency of the City of Palmdale, et al.
Los Angeles County Superior Court

Case No. 22AVCV01093
The closed session is being held pursuant to the authority of California Government Code Section 54956.9(d)(1).

13.4) CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property Address: Vacant land VIC of Vineyard Lane and Elizabeth Lake Road (APN 3206-007-001; 3206-006-028; 3205-002-051; 3206-007-059; 3205-002-053; 3206-005-008)
City Negotiator: Luis Garibay, Director of Economic & Community Development
Negotiating parties: RDR Development Holdings LLC
Under negotiation: Price and terms

13.5) CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property Address: Vacant land VIC of Avenue O-8 and 10th St. West (APN 3005-038-076)
City Negotiator: Luis Garibay, Director of Economic & Community Development
Negotiating parties: Green Valley Corporation
Under negotiation: Price and terms

13.6) PUBLIC EMPLOYMENT
Title: City Attorney

14) ANNOUNCEMENT BY CITY ATTORNEY

Items 13.1 - 13.5 - Interim City Attorney Curley announced Council was updated, provided direction to staff, and there were no reportable actions.

Item 13.6 - City Manager Perez announced the Council provided direction and there was no reportable action.

15) ADJOURN

Mayor Bettencourt adjourned the meeting 9:45 pm to August 16, 2023, at 5:00 pm in the City Hall Council Chamber located at 38300 Sierra Highway, Suite B, Palmdale, California.

APPROVED, PASSED, and ADOPTED this 4th day of October 2023.

_____
Laura Bettencourt, Mayor

ATTEST:

_____
Rochelle Scott, Acting City Clerk

**MINUTES**
**CITY COUNCIL/HOUSING AUTHORITY**
**CITY HALL COUNCIL CHAMBER**
**38300 SIERRA HIGHWAY, SUITE B**
**PALMDALE, CALIFORNIA**
**AUGUST 16, 2023**

**www.cityofpalmdale.org**

1) CALL MEETING TO ORDER

Mayor Bettencourt called the meeting to order at 5:00 p.m.

*Note: All City Council memberships are reflected in their City Council titles.

2) ROLL CALL MAYOR BETTENCOURT, MAYOR PRO TEM ALARCÓN, COUNCILMEMBERS BISHOP, LOA, OHLSEN COMMISSIONERS FRAGA-SAENZ, BETTS

PRESENT: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen, Christina Fraga-Saenz, Dianne Betts.
ABSENT: None.

3) PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

Interim City Attorney Curley requested the addition of a new Item 14.1 D'Angelo vs City of Palmdale and stated the findings and the need to take immediate action.

Motion: Add item 14.1 regarding D'Angelo vs City of Palmdale case.
Moved by Andrea Alarcón, seconded by Austin Bishop.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

4) WAIVER OF FULL READING OF RESOLUTION(S) and ORDINANCE(S)

Motion: Move to waive full reading of the Resolution (s) and/or Ordinance(s) to be considered and voted on at this meeting.
Moved by Richard J. Loa, seconded by Austin Bishop.

Vote: Motion carried (7-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen, Christina Fraga-Saenz, Dianne Betts.

5) PUBLIC COMMENTS:

The following individuals provided public input: Eugene Hernandez commented regarding the future snack bar at the Best of the West Softball Complex; Cesar spoke in favor of Patrick Brophy being appointed to The Palmdale Aerospace Academy; Michael Ross spoke regarding items 7.5 and 7.6; and Jason Zink spoke regarding items 7.2, 7.5, and 7.6.

Mayor Bettencourt closed the Public Hearing.

6) HOUSING AUTHORITY CONSENT CALENDAR

6.1) Review and approve budget adjustments for acquisition of vacant land located along 3rd Street East near Avenue P-12 (APN 3006-006-036).

6.2) Approve the minutes from the previous meetings.

June 7, 2023 - HA Minutes
June 21, 2023 - HA Minutes

Motion: Approve all items listed on the Housing Authority Consent Calendar
Moved by Austin Bishop, seconded by Richard J. Loa.

Vote: Motion carried (7-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen, Christina Fraga-Saenz, Dianne Betts.

7) CONSENT CALENDAR

7.1) Approve Second Amendment to agreement with NBS Government Finance Group (A-7611) to increase the total amount of the Agreement by $75,250 for a not to exceed amount of $1,001,380 for the remainder of the term through 2024.

7.2) Approve Second Amendment to Legal Services Agreement with Bradley, Gmelich & Wellerstein, LLP (A-7819) to increase the total amount of the Agreement by an additional $240,000 not to exceed the sum of $990,000.

7.3) Approve service agreement for a digital divide study with Nutter Consulting in the amount of $140,000 for a term of six (6) months.

7.4) Award Agreement with MNS Engineers, Inc. for Construction Management and Inspection Services Associated with PN795, Sam Yellen Park Phase 2, in the amount of $535,568 for a term of 16 months from the date of Notice to Proceed.

7.5) Approve Grant Agreement A-8464 with Advancing Communities Together for $781,820 for development of 20-units of crisis interim housing, for a ten-year term, to be located at 38629 9th Street East, Palmdale.

Housing Coordinator Nichols provided a detailed overview of Item 7.4.

Council asked questions regarding the tiny home community's funding source, project location, and maximum capacity. Housing Coordinator Nichols responded.

Rossie and Olivia Cherry, Advancing Communities Together, spoke regarding developing properties, workforce development, serving the unhoused in the community, and a safety plan.

Discussion ensued regarding competitive proposals, access for City of Palmdale referrals, operational costs, and funding sources.

Motion: Approve Grant Agreement A-8464 (7.5) and A-8465 (7.6) with Advancing Communities Together.
Moved by Richard J. Loa, seconded by Austin Bishop.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

7.6) Approve Grant Agreement A-8465 with Advancing Communities Together for $390,220 for facility improvements and site preparation for a Winter Shelter to be located at 38626 9th Street East, Palmdale.

7.7) Adopt Resolution No. CC 2023-050, a Resolution of the City Council of the City of Palmdale establishing a new full-time position and amending the City's Classification and Pay Plan for General Positions.

7.8) Adopt Resolution No. CC 2023-048, a Resolution of the City Council of the City of Palmdale, authorizing the submission of the application for the 2023 Local Edward Byrne Memorial Justice Grant (JAG) Program to receive Grant allocation of $54,869.

7.9) Approve the minutes from the previous meeting. July 12, 2023 - CC/SA Minutes July 19, 2023 - CC Minutes

Motion: Approve all items listed on the Consent Calendar except 7.5 and 7.6.
Moved by Austin Bishop, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

8) APPOINTMENT

8.1) City Council nomination and appointment of one (1) member to The Palmdale Aerospace Academy Board of Directors.

Mr. Brophy provided his background and experience.

Motion: Appoint Patrick Brophy to The Palmdale Aerospace Academy Board of Directors.
Moved by Richard J. Loa, seconded by Eric Ohlsen.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

9) PUBLIC HEARING

9.1) Introduction and Adoption of Ordinance No. 1613, an Ordinance of the City Council of the City of Palmdale approving Zoning Ordinance Amendment 23-001 and Zone Change 23-001, a request to modify Title 17 of the Palmdale Municipal Code to address inconsistencies correct typographical errors, update the associated Zoning Map and find that the Amendment is consistent with Program Environmental Impact Report (PEIR) 22-002 prepared and certified in conjunction with City's General Plan (Palmdale2045).

Mayor Bettencourt read the title of Ordinance No. 1613.

Associate Planner Almora provided a brief PowerPoint on this project.

Mayor Bettencourt called for Public Comments.

Public Comment: Jason Zink

Mayor Bettencourt closed the Public Comments.

Motion: Introduce and Adopt Ordinance No. 1613
Moved by Andrea Alarcón, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

9.2) Introduction and Adoption of Ordinance No. 1614, an Ordinance of the City Council of the City of Palmdale, a request to amend various sections of the Palmdale Municipal Code to address inconsistencies, correct typographical errors and references and finding that the Amendment is consistent with Program Environmental Impact Report 20-002 prepared and certified in conjunction with the City's General Plan (Palmdale 2045).

Planning Manager Magana read the title of Ordinance No. 1614 and presented a PowerPoint on the this item.

Public Comment: Jason Zink

Mayor Bettencourt closed the Public Comments.

Motion: Introduce and Adopt Ordinance No. 1614
Moved by Richard J. Loa, seconded by Andrea Alarcón.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

9.3) Introduction and Adoption of Ordinance No. 1611, an Ordinance of the City Council of the City of Palmdale, Amending Section 2.08.010 of the Palmdale Municipal Code to establish the process to annually designate the mayor and selecting the mayor pro tem.

Mayor Bettencourt read the title of Ordinance No. 1611.

Interim City Attorney Curley presented a detailed overview of this item.

There was Council discussion regarding a Councilmember declining their rotational position as mayor, and a rotational option for mayor pro tem.

Mayor Bettencourt called for Public Comments.

The following individuals provided public input: Jason Zink, Marcos Alvarez, Vicky Ventura, Felix Menendez, Marsha Furman, Xavier Flores, citizen (no name provided), and Bertha De Alegria

Mayor Bettencourt closed the Public Comments.

Council discussion ensued regarding the redistricting process, rotational systems, and the California Voters Rights Act.

Councilmember Ohlsen requested that staff research and report back to the Council on the process and feasibility of bringing back the directly elected mayor.

Councilmember Ohlsen suggested adding two provisions: 1) A Councilmember can deny the rotational position as mayor and 2) The mayor pro tem shall serve with the same provisions as mayor that they cannot be represented twice within a full rotation.

There was further discussion among the Council regarding amendments to the ordinance. Interim City Attorney Curley restated the changes suggested by Council. Discussion ensued regarding election reform.

Council suggested creating a public survey to receive feedback from the community after the legal analysis is completed.

Council provided direction to City Manager Perez to receive a legal analysis of a rotational mayor versus and at-large mayor and a strong mayor versus a ceremonial mayor.

Motion: Introduce and Adopt Ordinance No. 1611 with the amendments articulated by Interim City Attorney Curley from the dais.
Moved by Laura Bettencourt, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

10) NEW BUSINESS

10.1) Presentation update for the Community Programs Division.

Community Programs Coordinator Morales gave a detailed PowerPoint on the resources and services offered through SAVES and introduced the community partners.

Discussion ensued regarding the timeframe for the relocation of SAVES and the different programs offered at SAVES.

Council thanked staff and the community partners.

Mayor Bettencourt called for Public Comments.

Public Comment: Jason Zink spoke regarding signage and grants.

Mayor Bettencourt closed the Public Comments.

10.2) Consideration and adoption of City Council Rules and Regulations; recommendation to adopt Resolution No. CC 2023-052, a Resolution establishing a Code of Conduct for City Council Members and Officials and establishing rules for conducting City Council Meetings.

Mayor Bettencourt requested that the item be postponed.

Discussion ensued regarding designating an Ad Hoc Committee and revisions to the code of conduct.

Motion: Continue Item 10.2
Moved by Laura Bettencourt, seconded by Andrea Alarcón.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Richard J. Loa, Eric Ohlsen.

10.3) Letter of Support protecting U.S. Manufacturing Jobs, Community Investments, and Promoting Innovative Workforce and Community Partnerships.

Mayor Pro Tem Alarcón recused herself from this item stating a conflict of interest.

Councilmember Bishop recused himself from this item stating he has done business with BYD in the past.

Economic and Community Development Director Garibay provided Council with the background on this item.

Mayor Bettencourt called for Public Comments.

The following individuals provided public comments: Jason Zink; Eugene

Hernandez, and Marcos Alvarez.

Mayor Bettencourt closed the Public Comments.

Discussion ensued regarding saving local jobs.

Motion: Approve Letter of Support protecting U.S. Manufacturing Jobs, Community Investments and Promoting Innovative Workforce and Community Partnerships
Moved by Laura Bettencourt, seconded by Richard J. Loa.

Vote: Motion carried (3-0)
Yes: Laura Bettencourt, Richard J. Loa, Eric Ohlsen.

Mayor Pro Tem Alarcon and Councilmember Bishop returned to the dais.

11) NON-AGENDA PUBLIC COMMENTS:

The following individuals provided public input: Jason Zink commented regarding grant leveraging, agenda presentations, and support for seniors; David Harris spoke regarding grants, Waste Management, and thanked Parks and Recreation for allowing their day camp to operate at Domenic Massari Park; Bertha De Alegria commented in support of SAVES; citizen (no name provided) discussed appointment of mayor and mayor pro tem; Eugene Hernandez commented regarding the Sheriff's Department; and Marcos Alvarez spoke regarding help for troubled youth and challenges faced in the Antelope Valley.

Mayor Bettencourt commented regarding challenges experienced in the North County when trying to get help for mental health issues.

Mayor Pro Tem Alarcón provided the 988 crisis line for suicide prevention.

Discussion ensued regarding the 988 crisis line, contacting 911 for the Mental Evaluation Team; fentanyl poisoning report, and mental health.

Citizen (no name provided) discussed the council rules of conduct.

12) CITY COUNCIL ANNOUNCEMENTS AND REQUESTS

Councilmember Ohlsen reiterated his request for the creation of a Criminal Justice Commission.

Mayor Pro Tem Alarcón announced the Antelope Valley Air Quality Management District (AVAQMD) approved funding for 12 electric vehicle charging stations at McAdams Park and electric vehicle charging stations at the Auto Mall; and applications are being accepted from Junior High and High School students for the Mayor Pro Tem for the Day Program.

Discussion ensued regarding a future leaders program and mock city council meetings.

13) CITY MANAGER'S REPORT

City Manager Perez reported on the following: Tequila & Taco Festival; Family Movie Night August 18th; Summer Concert Series August 19th; Palmdale Partners Academy; Installation of flashing beacon at Summerwind Elementary to increase safety; Letter of Support was sent to advocate for additional SNAP benefits; held outreach meetings surrounding unhoused population in March, April, and May; Small Business Grant Program; and celebration of the City's 61st birthday on August 24th.

Mayor Pro Tem Alarcón stated the non-profit organization training boot camp was amazing.

14) PRESENTATION BY CITY ATTORNEY

Interim City Attorney Curley confirmed the Closed Session items.

14.1) CONFERENCE WITH LEGAL COUNSEL—EXISTING LITIGATION
Donald D'Angelo v. County of Los Angeles, et al
Los Angeles County Superior Court Case No. 21AVC00441

14.2) PUBLIC EMPLOYMENT
Title: City Attorney

15) ANNOUNCEMENT BY CITY ATTORNEY

Interim City Attorney Curley announced there were no reportable actions.

16) ADJOURNMENT

Mayor Bettencourt adjourned the meeting in honor of the victims in Lahaina, Maui to September 6, 2023, at 5:00 p.m. in the City Hall Council Chamber located at 38300 Sierra Highway, Suite B, Palmdale, California.

APPROVED, PASSED, and ADOPTED this 4th day of October 2023.

_____
Laura Bettencourt, Mayor

ATTEST:

_____
Rochelle Scott, Acting City Clerk

**MINUTES**
**CITY COUNCIL/SA/HA**
**CITY HALL COUNCIL CHAMBER**
**38300 SIERRA HIGHWAY, SUITE B**
**PALMDALE, CALIFORNIA**
**SEPTEMBER 6, 2023**

**www.cityofpalmdale.org**

1) CALL MEETING TO ORDER

Mayor Bettencourt called the meeting to order at 5:00 pm.

*Note: All City Council memberships are reflected in their City Council titles.

2) ROLL CALL MAYOR BETTENCOURT, MAYOR PRO TEM ALARCÓN, COUNCILMEMBERS BISHOP, LOA, OHLSEN COMMISSIONERS FRAGA-SAENZ, BETTS

PRESENT: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa, Christina Fraga-Saenz, Dianne Betts.
ABSENT: None.

3) PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

4) PRESENTATIONS

4.1) Mayor Bettencourt presented a Proclamation to Jacqueline Fontana, You Are Enough Foundation, declaring September as Suicide Prevention Awareness Month in the City of Palmdale.

4.2) Mayor Bettencourt presented Certificates of Recognition to the Quartz Hill Fury girls' soccer team for winning the 11U Girls Extra championship at the 2023 AYSO National Games.

4.3) Mayor Bettencourt, Congressman Garcia's Office, Assemblyman Lackey's Office, Assemblyman Carrillo's Office, and Kathryn Barger's Office made presentations to Mike Miller in honor of his retirement from the City of Palmdale.

5) WAIVER OF FULL READING OF RESOLUTION(S) and ORDINANCE(S)

Motion: Move to waive full reading of the Resolution (s) and/or Ordinance(s) to be considered and voted on at this meeting.
Moved by Andrea Alarcón, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

6) PUBLIC COMMENT RULES

7) PUBLIC COMMENTS:

None.

Mayor Bettencourt closed the Public Comments.

8) HOUSING CONSENT CALENDAR

8.1) Approval of the Housing Authority of The City of Palmdale's Annual Report prepared and submitted per the Health and Safety Code Section 34328 and 34328.1 and authorize the Executive Director or their designee to submit the report to the State of California Department of Housing and Community Development (HCD).

Management Analyst II Bartlett provided a brief overview of the item.

Mayor Pro Tem Alarcón commended staff for their hard work.

Motion: Approve all items as listed on the Housing Authority Consent Calendar Moved by Andrea Alarcón, seconded by Christina Fraga-Saenz.

Vote: Motion carried (7-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa, Christina Fraga-Saenz, Dianne Betts.

9) CONSENT CALENDAR

9.1) Receive and file the Monthly Investment Activity Reports for July 2023.

9.2) Approval of the City Council's Discretionary Funds Policy and Procedures.

Mayor Pro Tem Alarcón pulled this item for discussion.

City Council Chief of Staff Zayas presented the staff report.

Discussion ensued regarding a dedicated email address for funding requests, utilization of funds by Councilmembers to support community events, and flexibility in using the discretionary funds. City Manager Perez and Interim City Attorney Curley provided clarification on the use of discretionary funds.

There was Council consensus to bring this item back at a later date.

9.3) Approve Third Amendment with Universal Electronic Alarms, Inc. to increase contract price by $90,000 in an amount not to exceed $190,000, for the remainder of the term through June 2024.

9.4) Approve Second Amendment with NBS Government Finance Group to increase the total amount of the agreement by $78,000 for an amount not to exceed $208,000 and extend the agreement through March 2025.

9.5) Approve Lease Agreement with the American Legion, Post 348, for a City-owned building located at 1002 East Avenue Q-12, Palmdale, CA 93550.

Mayor Pro Tem Alarcón pulled this item for discussion.

Economic and Community Development Director Garibay provided a brief overview of the item.

Ralph Velador, Vice Commander of the Palmdale American Legion Post 348, spoke regarding the organization and the services provided to the community.

Councilmember Loa requested that City Manager Perez and Economic and Community Development Garibay find a location for the American Legion to occupy until they take up residence at 1002 East Avenue Q-12.

Mayor Pro Tem Alarcón requested an amendment to Paragraph 4 regarding the lease rate. Discussion ensued.

Motion: Approve Lease Agreement with the American Legion, Post 348, for a City-owned building located at 1002 East Avenue Q-12, Palmdale, CA 93550 with amendment to lease rate.
Moved by Andrea Alarcón, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

9.6) Approve Energy for Palmdale's Independent Choice (EPIC) 2022 Power Content Label and Attestation.
Public Works

Motion: Approve all items as listed on the Consent Calendar except Items 9.2 and 9.5.
Moved by Richard J. Loa, seconded by Laura Bettencourt.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

10) PUBLIC HEARING

10.1) Public Hearing to receive feedback on the Draft Consolidated Annual Performance Evaluation Report (CAPER) for Fiscal Year 2022-2023; review and approve the 2022-2023 CAPER; and authorize the City Manager or their designee to make necessary changes and submit the CAPER report to the U.S. Department of Housing and Urban Development (HUD) by September 28, 2023 in compliance with HUD Regulations

Management Analyst II Bartlett presented the staff report.

There were Council questions regarding the services for the unhoused, use and carryover of unused funds, and public outreach. Neighborhood Services Director Reyes provided clarification on the available programs and the allocation of grant funds.

Public Comment: Jason Zink spoke regarding the support of seniors and disabled veterans.

Mayor Bettencourt closed the Public Comments.

Motion: Approve the findings as listed on the staff report.
Moved by Andrea Alarcón, seconded by Austin Bishop.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

11) NEW BUSINESS

11.1) Presentation on Los Angeles Homeless Services Authority Homeless Count.

Heather Varden, Community Relations Coordinator of LAHSA, provided a detailed PowerPoint on the 2023 Greater Los Angeles Homeless Count.

Discussion ensued regarding the homeless count for Palmdale, response time for the Los Angeles County Homeless Outreach Portal, outreach to the unhoused in remote areas, migration study and funding of communities, mental health and safety, and a domestic violence shelter.

Council thanked Ms. Varden for her service.

12) NON-AGENDA PUBLIC COMMENTS:

The following individuals provided public comments: Todd Davis, Toys for Tots, thanked Council for locating a facility for their organization; Bryant Kline updated Council regarding the Amazon strike; Breela spoke in support of Toys for Tots; Pastor Duncan commented in support of Toys for Tots and the unhoused; Gigi Speaks encouraged individuals to attend Gracefest and spoke regarding outreach to the homeless; Selina Baraza, Palmdale Food Park, commented in support of food truck vendors; Luis Navarro, Trinity Harvest Food Bank, spoke regarding recognition of Hispanic Heritage Month; Jason Zink commented regarding digital signs, City website, and the creation of a HUD district in the Antelope Valley; citizen (no name provided) spoke regarding the rotational mayor; Marsha commented regarding the unhoused, outreach programs, human trafficking, and safety; Marcos Alavarez, Roger Soderstedt, and citizen (no name provided) spoke regarding the unhoused and providing a solution; citizen (no name provided) spoke regarding the unhoused and providing solutions, and the City's code of conduct for Councilmembers; and Jesus Gutierrez commented regarding corporations paying reasonable wages.

13) INFORMATIONAL REPORT FROM MAYOR AND / OR COUNCILMEMBERS ON THEIR VARIOUS COMMITTEE MEMBERSHIPS AND MEETINGS ATTENDED AT PUBLIC EXPENSE

13.1) Council Reports on Committee Memberships and Meetings Attended at Public Expense.

Council reports were posted with the agenda.

14) CITY COUNCIL ANNOUNCEMENTS AND REQUESTS FOR NEW AGENDA ITEMS

Mayor Pro Tem Alarcón reported the following: Metrolink announced they will increase the service lines in the Antelope Valley in October starting as early as 4:00 am and returning as late as 11 pm; stated September is Childhood Cancer Awareness month and requested a formal proclamation to commemorate; and announced that she would be hosting an event at a local salon donating ten inches of her hair to Locks of Love.

Mayor Bettencourt expressed the importance of cancer patients having hair and thanked Mayor Pro Tem Alarcón for donating her hair to Locks of Love.

15) CITY MANAGER'S REPORT

City Manager Perez reported on the following: 9th Annual Generations Art Contest; Palmdale Partners Academy; Gracefest to be held on September 8th and 9th; Kiwanis Duck Race to be held on September 8th @ DryTown; Fallen Heroes Memorial Remembrance Ceremony to be held at the mall on Monday September 11th @ 9am; AV Fair and Alfalfa Festival to be held September 22nd through October 1st; Movie Nights at the Amphitheatre for Halloween; the City received the Earl F Sayre Excellence in Safety Award; and grand openings of Xevichez, Handel's, Farmer's Insurance, Hair by Mariam, and Jersey Mike Subs.

16) PRESENTATION BY CITY ATTORNEY

Interim City Attorney Curley confirmed the Closed Session items.

16.1) CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property: Vacant land located at the Northeast quadrant of the Antelope Valley (State Route 14) Freeway and West Palmdale Boulevard (APN 3008-041-001, 002, 003, 004, 005, 007, 008, 009, 010).
City Negotiator: Ronda Perez, City Manager and Michael Miller, Assistant City Manager Negotiating Parties: Royal and Aframian, LLC; Royal Investors Group, LLC; 26 Maple, LLC; JAZ Investment Corporation; and K Land Associates.
Under Negotiation: Price and terms of payment

16.2) CONFERENCE WITH REAL PROPERTY NEGOTIATORS
Property Address: Vacant land VIC of Avenue O and Sierra Highway (APN 3006-003-036; 3006-003-036; 3006-003-040; 3006-003-044)
City Negotiator: Luis Garibay, Director of Economic & Community Development
Negotiating parties: Sierra Gateway Resolution, LLC
Under negotiation: Price and terms

17) ANNOUNCEMENT BY CITY ATTORNEY

Closed Session was held from 8:14 pm - 8:58 pm

Interim City Attorney announced there were two properly agendized items, the Council was updated, provided direction to staff, and there was no reportable action.

Mayor Bettencourt announced that the State of the City would be held on September 13, 2023 at 11am, and tickets are available for purchase.

18) ADJOURN

Mayor Bettencourt adjourned the meeting at 9:00 pm to October 4, 2023 at 5:00 pm in the City Hall Council Chamber located at 38300 Sierra Highway, Suite B, Palmdale, California.

PASSED, APPROVED, and ADOPTED this 4th day of October 2023.

_____
Laura Bettencourt, Mayor

ATTEST:

_____
Rochelle Scott, Acting City Clerk

**CITY OF PALMDALE**
**OFFICE OF THE CITY COUNCIL**

**M E M O R A N D U M**

**TO:** City Clerk

**FROM:** Laura Bettencourt, Mayor

**SUBJECT:** Monthly Informational Report – Events and Meetings

**DATE:** October 4, 2023

During the period September 1, through September 30, 2023, I attended the following meetings and events:

| | |
|---|---|
| Sept. 5: | Palmdale Partners Academy Welcome |
| Sept. 6: | Legacy Commons Advisory Board Installation |
| Sept. 6: | Regular Council Meeting |
| Sept. 6: | Brent Ives, BHI Consulting |
| Sept. 10: | Family Day at Drytown |
| Sept. 11: | 9/11 Remembrance Ceremony AV Fallen Heroes Memorial |
| Sept. 13: | State of the City-AV Chambers Luncheon |
| Sept. 14: | County Sanitation District 14 and 20 Board meeting |
| Sept. 16: | Press Conference at AV Hospital for Deputy Clinkunbroomer |
| Sept. 17: | Press Conference for Deputy Clinkunbroomer |
| Sept. 17: | Vigil for Sheriff's Deputy Clinkunbroomer |
| Sept. 18: | Press Conference for Deputy Clinkunbroomer |
| Sept. 29: | Presentation to Judy Cooperberg of MHALA |
| Sept. 30: | Childhood Cancer Awareness-Locks of Love donation MPT Alarcon |

**CITY OF PALMDALE**
**OFFICE OF THE CITY COUNCIL**

# M E M O R A N D U M

**TO:** City Clerk

**FROM:** Andrea Alarcón, Mayor Pro Tem

**SUBJECT:** Monthly Informational Report – Events and Meetings

**DATE:** October 4, 2023

During the period September 1, through September 30, 2023, I attended the following meetings and events:

| | |
|---|---|
| Sept. 1: | Xevichez Grand Opening |
| Sept. 8: | Dolores Huerta Food Distribution |
| Sept. 6: | Regular Council Meeting |
| Sept. 8: | Ventura Graphix 22nd Year Anniversary Celebration |
| Sept. 9: | Erick A. Garcia “You Are Enough” Foundation Suicide Prevention Awareness Month Event |
| Sept. 8: | Dolores Huerta Food Distribution |
| Sept. 11: | 9/11 Remembrance Ceremony AV Fallen Heroes Memorial |
| Sept. 13: | State of the City-AV Chambers Luncheon |
| Sept. 14: | Palmdale Woman’s Club Luncheon |
| Sept. 14: | AV Grubfest-Victory Outreach |
| Sept. 15: | SALVA Food Distribution |
| Sept. 15: | BYTE Dental Kit Giveaway |
| Sept. 15: | Dolores Huerta Food Distribution |
| Sept. 15: | SALVA Family Movie Night |

| | |
|---|---|
| Sept. 16: | Mexican American Independence Day Celebration-Adelanto |
| Sept. 16: | Palmdale Playhouse Hispanic Heritage Month Performance |
| Sept. 16: | Press Conference for Deputy Clinkunbroomer at AV Hospital/Procession to Coroner |
| Sept. 17: | Press Conference for Deputy Clinkunbroomer |
| Sept. 17: | Vigil for Sheriff's Deputy Clinkunbroomer |
| Sept. 18: | Press Conference for Deputy Clinkunbroomer |
| Sept. 19: | AVAQMD Board Meeting |
| Sept. 19-22: | League of California Cities Annual Conference and Expo |
| Sept. 26: | Palmdale Public Art Commission Meeting |
| Sept. 27: | Guest Speaker AVID Students—Littlerock High School |
| Sept. 27: | Sister Cities Meeting |
| Sept. 27: | Measure AV Committee Meeting |
| Sept. 28: | Valley Oasis 1st Annual Young Adult Resource Fair |
| Sept. 28: | 9th Annual Biz Fed Freshman Policymakers Reception |
| Sept. 30: | SAVES Empty Bowls Gala |
| Sept. 30: | Locks of Love Hair Donation |
| Sept. 28-Sept.30: | AV Fair & Alfalfa Festival |

**CITY OF PALMDALE**
**OFFICE OF THE CITY COUNCIL**

# M E M O R A N D U M

**TO:** City Clerk

**FROM:** Austin Bishop, Councilmember

**SUBJECT:** Monthly Informational Report – Events and Meetings

**DATE:** October 4, 2023

During the period September 1, through September 30, 2023, I attended the following meetings and events:

| | |
|---|---|
| Sept. 1: | Xevichez Grand Opening |
| Sept. 6: | Spanish Talk Radio Program |
| Sept. 6: | Regular Council Meeting |
| Sept. 7: | Handel's Homemade Ice Cream Grand Opening |
| Sept. 11: | 9/11 Remembrance Ceremony AV Fallen Heroes Memorial |
| Sept. 12: | Audit Committee Meeting |
| Sept. 13: | State of the City-AV Chambers Luncheon |
| Sept. 16: | Press Conference at AV Hospital for Deputy Clinkunbroomer |
| Sept. 17: | Press Conference for Deputy Clinkunbroomer |
| Sept. 17: | Vigil for Sheriff's Deputy Clinkunbroomer |
| Sept. 18: | Press Conference for Deputy Clinkunbroomer |
| Sept. 19: | AVAQMD Board Meeting |
| Sept. 19: | Public Art: Walk on Words Sidewalk Poetry Unveiling |
| Sept. 19: | Sister Cities Welcome Reception |
| Sept. 20: | Jersey Mike's Grand Opening |
| Sept. 22-27: | AV Fair & Alfalfa Festival |

**CITY OF PALMDALE**
**OFFICE OF THE CITY COUNCIL**

# M E M O R A N D U M

**TO:** City Clerk

**FROM:** Richard Loa, Councilmember

**SUBJECT:** Monthly Informational Report – Events and Meetings

**DATE:** October 4, 2023

During the period September 1, through September 30, 2023, I attended the following meetings and events:

| | |
|---|---|
| Sept. 1: | Xevichez Grand Opening |
| Sept. 6: | Regular Council Meeting |
| Sept. 6: | Brent Ives, BHI Consulting |
| Sept. 7: | SCAG Transportation Committee Meeting |
| Sept. 7: | Amigos De La Feria Board Meeting |
| Sept. 11: | 9/11 Remembrance Ceremony AV Fallen Heroes Memorial |
| Sept. 12: | Swearing-In Lancaster Police Chief |
| Sept. 13: | State of the City-AV Chambers Luncheon |
| Sept. 14: | LA County Sanitation District 14 and 20 Board Meeting |
| Sept. 14: | Amigos De La Feria Board Meeting |
| Sept. 16: | Press Conference for Deputy Clinkunbroomer at AV Hospital |
| Sept. 17: | Press Conference for Deputy Clinkunbroomer |
| Sept. 17: | Vigil for Sheriff's Deputy Clinkunbroomer |
| Sept. 18: | Press Conference for Deputy Clinkunbroomer |
| Sept. 21: | Amigos De La Feria Board Meeting |
| Sept. 22: | Amigos De La Feria Opening Night Event at AV Fair & Alfalfa Festival |
| Sept. 24: | Amigos De La Feria at AV Fair & Alfalfa Festival |

| | |
|---|---|
| Sept. 26: | AVTA Board Meeting |
| Sept. 26: | Sheriff’s Booster’s AV Fair Concert |
| Sept. 27: | Business Friendly Developer Roundtable |
| Sept. 28: | Amigos De La Feria Board Meeting |

**CITY OF PALMDALE**
**OFFICE OF THE CITY COUNCIL**

# M E M O R A N D U M

**TO:** City Clerk

**FROM:** Eric Ohlsen, Councilmember

**SUBJECT:** Monthly Informational Report – Events and Meetings

**DATE:** October 4, 2023

During the period September 1, through September 30, 2023, I attended the following meetings and events:

| | |
|---|---|
| Sept. 6: | Spanish Talk Radio Program |
| Sept. 6: | Regular Council Meeting |
| Sept. 6: | Brent Ives, BHI Consulting |
| Sept. 8: | Kiwanis Duck Race at Drytown |
| Sept. 8: | Ventura Grafix 22nd Year Anniversary Celebration Mixer |
| Sept. 11: | 9/11 Remembrance Ceremony AV Fallen Heroes Memorial |
| Sept. 13: | State of the City-AV Chambers Luncheon |
| Sept. 16: | Press Conference for Deputy Clinkunbroomer at AV Hospital |
| Sept. 17: | Press Conference for Deputy Clinkunbroomer |
| Sept. 17: | Vigil for Sheriff's Deputy Clinkunbroomer |
| Sept. 18: | Press Conference for Deputy Clinkunbroomer |
| Sept. 19: | Public Art: Walk on Words Sidewalk Poetry Unveiling |
| Sept. 19: | Sister Cities Welcome Reception |
| Sept. 20: | Jersey Mike's Grand Opening |
| Sept. 26: | AVTA Board Meeting |
| Sept. 22-30: | AV Fair & Alfalfa Festival |