PALMDALE
a place to call home

CITY COUNCIL
HOUSING AUTHORITY
ADJOURNED REGULAR MEETING
CITY COUNCIL CHAMBER
38300 SIERRA HIGHWAY
SUITE B
PALMDALE, CA 93550
WEDNESDAY, JANUARY 24, 2024
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 BISHOP, MAYOR PRO TEM LOA, COUNCILMEMBERS OHLSEN, BETTENCOURT, ALARCÓN
   COMMISSIONERS FRAGA-SAENZ, BETTS

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

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 two (2) minutes on the entirety of the Consent Calendar(s), Appointment(s), New Business and Closed Session, with two (2) minutes on each Public Hearing, 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.

4. **PUBLIC COMMENTS**

CONSENT CALENDAR(S), APPOINTMENT(S), NEW BUSINESS, AND CLOSED SESSION: Now is the time for public participation on items listed on the Consent Calendar(s), Appointment(s), New Business, and Closed Session. Each speaker is allotted two (2) minutes in total for the entirety of the above sections.

5. **HOUSING AUTHORITY CONSENT CALENDAR**

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

5.1 Approve the termination of Affordable Housing Agreement with Ninth Patriot, LLC and Housing Authority Development loan of $900,000 for development located at 9th Street East and East Avenues Q11 and Q12 (APN 3009-018-009 through 016).

SR Ninth Patriot termination.docx
Agrmt No. A-6987 with Ninth Patriot LLC.pdf

5.2 Award Information for Bid (IFB) No. 23-001-3610 for Professional Arboricultural Services and approve Agreement with The New Tip Top Arborists, Inc., in an amount not to exceed $500,000 over a 54-month term.

SR Agrmt No. A-8654 Arboricultural Services.docx
Agrmt No. A-8654 with The New Tip Top Arborists, Inc.pdf
Exh B Scope of Services & Technical Specifications Agrmt No. A-8654.pdf
Exh C Fee Schedule Agrmt No. A-8654.pdf

5.3 Approve the minutes from the previous meetings.

December 6, 2023

Minutes HA 12 06 2023.pdf

6. **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.

6.1 Waive full reading of the Resolution(s) and/or Ordinance(s) to be considered and voted on at this meeting. (This allows for reading the title only in lieu of reciting the entire text).

6.2 Adopt Resolution No. CC 2024-009, a Resolution of the City Council of the City of Palmdale stating the City's Investment Policy and repealing Resolution No. CC 2023-006, and Adopt Resolution No. CC 2024-010, a Resolution of the City Council of the City of Palmdale stating the Investment Policy for the City contributions to the Retiree Health Reimbursement Arrangement (HRA) Plan and the Retiree Health Premium Supplement (HPS) Plan and repealing Resolution No. CC 2023-007.

SR Investment Policy City and Retiree.docx
Reso. No. CC 2024-009 Investment Policy 2024.docx
Reso. No. CC 2024-010 Retiree Investment Policy 2024.docx

6.3 Approve Memorandum of Understanding by and between the City of Palmdale, County of Los Angeles and Los Angeles County Metropolitan Transportation Authority for the cooperation, collaboration, and negotiation of joint responsibilities to establish the Center for Transportation Technology Excellence.

SR Agrmt No. A-8676.docx
Agrmt No. A-8676 with LA County.docx

6.4 Accept a Department of Resources Recycling and Recovery (CALRECYCLE) grant for the replacement of 11 or more drinking fountains with dual bottle-filling drinking stations located at various City parks in the amount of $92,183.

SR CalRecycle Grant.docx
Atch 1 Proposed New Fountain .docx

6.5 Approve Agreement with Samsara, Inc., utilizing Sourcewell Cooperative Contract, for web-based fleet telematics software and equipment in an amount not to exceed $300,000 over a 5 year contract.

SR Agrmt No. A-8571 with Samsara Inc.docx
Agrmt No. A-8571 Samsara Inc.pdf
Samsara, Inc. Sourcewell Contract No. 020221.pdf

6.6 Award Construction Agreement with R.C. Becker and Son, Inc. for PN 741, Avenue S-8 and 40th Street East Roundabout Project, for $3,545,778 for a term

of 150 working days from the Date of the Notice to Proceed.
SR Agrmt No. A-8159 with R.C. Becker.docx
Agrmt No. A-8159 with R.C. Becker.pdf
Exh A Site Map.pdf

6.7 Approve Second Amendment to Agreement with MNS Engineers, Inc. for PN 761, Civic Center Complete Streets Project, for $168,435, bringing the total cost to $267,905, for continued public works construction inspection services.
SR Agrmt No. A-8310 Second Amendment with MNS Engineers.docx
Agrmt No. A-8310, Second Amendment with MNS Engineers.pdf
Exh A Civic Center Site Plan.pdf

6.8 Approve First Amendment to Agreement with MNS Engineers, Inc., for Public Works Construction Inspection Services for PN 780, Avenue Q-12 Sidewalk Gap Closure Project, for an increase of $42,480, total agreement amount not to exceed $107,480, for a term of ninety (90) calendar days from receipt of Authorization to Proceed.
SR Agrmt No. A-8312 First Amendment with MNS Engineers Inc.docx
Agrmt No. A-8312, First Amendment with MNS Engineers, Inc.pdf
Vicinity Map.pdf

6.9 Approve the minutes from the previous meetings.

CC/SA - January 10, 2024

Minutes CC SA 01 10 2024.pdf

7. PUBLIC HEARING

7.1 Introduction and adoption of Ordinance No. 1612, an Ordinance of the City Council of the City of Palmdale approving various amendments to Title 3 and Title 5 of the Palmdale Municipal Code.
SR Ord. No. 1612.docx
Ord. No. 1612.docx
PPT Ord. No. 1612.pptx

7.2 Introduction and adoption of Ordinance No. 1634, an Ordinance of the City Council of the City of Palmdale approving various amendments to Titles 1, 8, and 9 of the Palmdale Municipal Code (PMC) to enhance public safety.
SR Ord. No. 1634.docx
Ord. No. 1634.docx
PPT Ord. No. 1634.pptx

7.3 Introduction and adoption of Urgency Ordinance No. U-1635, an Urgency Ordinance of the City Council of the City of Palmdale, adopting by reference

Appendix P of the 2022 California Building Code, and Appendix AZ of the 2022 California Residential Code.

SR Ord. No. U-1635.docx
Ord. No. U-1635.docx
Exh A - CBC Appendix P and CRC Appendix AZ.pdf

8. **REPORTS AND ACTION ITEMS FROM MAYOR AND / OR COUNCILMEMBERS**

8.1 Council Action Items.

9. **CITY MANAGER'S REPORT**

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.*

11. **PRESENTATION BY CITY ATTORNEY**

11.1 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).

12. **ANNOUNCEMENT BY CITY ATTORNEY**

13. **ADJOURN** meeting to February 7, 2024, 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 translation, please contact the City Clerk's Office at (661) 267-5151 at least 72 hours prior to the meeting.

Housing Authority
Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE CHAIR AND COMMISSIONERS**

FROM: **NEIGHBORHOOD SERVICES DEPARTMENT**
HOUSING DIVISION

DISTRICT: **1**

SUBJECT: **APPROVE THE TERMINATION OF AFFORDABLE HOUSING AGREEMENT WITH NINTH PATRIOT, LLC AND HOUSING AUTHORITY DEVELOPMENT LOAN OF $900,000 FOR DEVELOPMENT LOCATED AT 9TH STREET EAST AND EAST AVENUES Q11 AND Q12 (APNS 3009-018-009 THROUGH 016**)

RECOMMENDATION

Staff recommends that the Housing Authority:

1. Approve termination of Affordable Housing Agreement No. A-6987; and
2. Authorize the Executive Director or her designee to execute the termination of Affordable Housing Agreement with Ninth Patriot, LLC.

BACKGROUND

On December 15, 2020, the Housing Authority of the City of Palmdale adopted Resolution No. HA 2020-004 approving Affordable Housing Agreement No. A-6987 with Ninth Patriot, LLC (Developer) to develop 31 units of two-bedroom townhomes, with four Very Low-Income units and the remaining as market-rate rental housing (Project). The Project is located in Focus Neighborhood No. 4, at 9th Street East and East Avenues Q11 and Q12, APNs 3009-018-009 through 016. The City of Palmdale approved a Density Bonus Agreement to mitigate the minimum number of parking spaces required and provide four Very-Low Income units will remain in place.

DISCUSSION

On November 30, 2023, Ninth Patriot, LLC submitted to the Housing Authority of the City of Palmdale a letter requesting to withdraw from Affordable Housing Agreement No. A-6987. The Developer has determined it has sufficient funding to continue the Project without the use of Housing Authority funds.

FISCAL IMPACT

$0; No fiscal impact; release of the encumbrance of $900,000 in account 29364005-782920.

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:	Heather Nichols, Senior Housing Coordinator
Certified as to availability of Funds:	Janelle Samson, Director of Operations
Approved by:	Ronda Perez, Executive Director
Approved as to form:	William P. Curley, III, Authority Attorney

ATTACHMENTS

1. Agmt No. A-6987 with Ninth Patriot, LLC

TERMINATION OF
AFFORDABLE HOUSING AGREEMENT
Agreement No. A-6987

THIS TERMINATION OF AFFORDABLE HOUSING AGREEMENT ("**Termination**") is made and entered into as of January 24, 2024 ("**Termination Effective Date**"), by and between THE HOUSING AUTHORITY OF THE CITY OF PALMDALE, a public body corporate and politic ("**Authority**"), and NINTH PATRIOT LLC, a California limited liability company ("**Owner**"), with reference to the following facts:

A. Authority and Owner entered into that certain unrecorded Affordable Housing Agreement dated December 15, 2020 ("**AHA**") with regard to that certain real property located at the southwest corner of Ninth Street East and Avenue Q-11 in the City of Palmdale, California ("**Property**").

B. The AHA was never implemented and no AHA attachments were executed in furtherance of the AHA.

C. No portion of the Authority Loan (as defined in the AHA) was ever disbursed to Owner.

D. Authority and Owner now wish to terminate the AHA.

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein by this reference, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Termination of AHA. As of the Termination Effective Date, the AHA shall terminate, and shall be of no further force or effect.

2. Release. The encumbrance of the AHA is hereby released from the Property.

3. Interpretation. This Termination shall be construed according to its fair meaning and as if prepared by both parties hereto.

4. Governing Law. This Termination shall be governed by the internal laws of the State of California and any question arising hereunder shall be construed or determined according to such law. The Superior Court of the State of California in and for the County of Los Angeles, or such other appropriate court in such county, shall have exclusive jurisdiction of any litigation between the parties concerning this Termination.

5. Counterparts. This Termination may be executed in counterparts, each of which, when this Termination has been signed by all the parties hereto, shall be deemed an original, and such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, Authority and Owner each hereby represents that it has read this Termination, understands it, and hereby executes this Termination to be effective as of the day and year first written above.

CITY
THE CITY OF PALMDALE, CALIFORNIA,
a municipal corporation

By:_____
Ronda Perez
Executive Director

ATTEST:

By: _____
Roxanne Faber
Acting Authority Secretary

APPROVED AS TO FORM:

By:_____
William P. Curley, III
Authority Counsel

KANE, BALLMER & BERKMAN

By: _____
Susan Apy
Authority Special Counsel

OWNER
NINTH PATRIOT, LLC, a
California limited liability company

By: Ninth Patriot, LLC,
a California limited liability company,
its Administrative General Partner

By: _____
Robert Sarkissian
President

ATTEST

By:_____
Aria Irvani
Secretary

Housing Authority
Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE CHAIR AND COMMISSIONERS**

FROM: **NEIGHBORHOOD SERVICES DEPARTMENT**
HOUSING DIVISION

DISTRICT: **ALL**

SUBJECT: **AWARD INFORMATION FOR BID (IFB) NO. 23-001-3610 FOR PROFESSIONAL ARBORICULTURAL SERVICES AND APPROVE AGREEMENT WITH THE NEW TIP TOP ARBORISTS, INC. DBA TIP TOP ARBORISTS INC., IN AN AMOUNT NOT TO EXCEED $500,000 OVER A 54-MONTH TERM**

RECOMMENDATION

Staff recommends that the Housing Authority:

1. Award IFB No. 23-001-3610 for Professional Arboricultural Services to The New Tip Top Arborists, Inc. DBA Tip Top Arborists Inc.;

2. Approve Agreement No. A-8654 with The New Tip Top Arborists, Inc. DBA Tip Top Arborists Inc. in an amount not to exceed $500,000 over a 54-month term; and,

3. Authorize the Executive Director or her designee to execute Agreement No. A-8654 with The New Tip Top Arborist, Inc. DBA Tip Top Arborists Inc., making minimal and/or non-substantive changes.

BACKGROUND

The Housing Authority administers service agreements with contractors specializing in various professional disciplines to assist with Housing Authority operations, such as arboricultural services. 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 in accordance with the Scope of Services and Technical Specifications set forth in Exhibit B of the Agreement.

Professional arboricultural services to be provided are in support of the City's Urban Forestry Program in Housing Authority properties including Boulders at the Ranch I, Boulders at the Ranch II, Boulders at the Lake, Impressions, La Quinta, Park Vista and

Summerwood Apartments, Single-family Residential Properties, and vacant parcels or lots.

DISCUSSION

The City released 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. The New 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, Inc. and The New 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 flexibility in operations 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 The New Tip Top Arborists, Inc. However, Mariposa Landscape, Inc. withdrew its bid, resulting in the full award to The New Tip Top Arborists, Inc. In addition, evaluation of the Housing Authority requirements resulted in the Housing Authority entering a separate agreement from the City for arboricultural services.

FISCAL IMPACT

$500,000; total contract cost for Professional Arboricultural Services is for an amount not to exceed $500,000 over a 54-month term, with an estimated cost of $100,000 each fiscal year. This contract estimate was determined based on the IFB's service item costs and anticipated needs of the program.

Sufficient funds are budgeted and available in fiscal year 2023-24, and funds for future years will be incorporated into the annual operating budget. Funds are budgeted under Contract Services line items in 29264004 and 29364002.

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:	Heather Nichols, Senior Housing Coordinator
Certified as to availability of Funds:	Janelle Samson, Director of Operations
Approved by:	Ronda Perez, Executive Director
Approved as to form:	William P. Curley, III, Authority Counsel

ATTACHMENTS

1. Agrmt No. A-8654 with The New Tip Top Arborists Inc. DBA Tip Top Arborists Inc.
2. Exh B Scope of Services and Technical Specifications Agrmt. No. A-8654
3. Exh C Fee Schedule Agrmt No. A-8654

AGREEMENT NO. A-8654
CONTRACT FOR SERVICES
BETWEEN THE HOUSING AUTHORITY OF THE CITY OF PALMDALE AND THE NEW TIP TOP ARBORIST INC. DBA TIP TOP ARBORISTS INC.

This CONTRACT for services ("Contract" herein) is made and entered into by and between the Housing Authority of the City of Palmdale, a public body corporate and politic, (hereinafter called "HOUSING AUTHORITY"), and

THE NEW TIP TOP ARBORIST 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, HOUSING AUTHORITY and CONTRACTOR, in consideration of the mutual covenants hereinafter set forth, agree as follows:

1 HOUSING AUTHORITY PROJECT MANAGER

To provide the services required by this Contract, CONTRACTOR shall act under the authority and approval of Neighborhood Services 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 Housing Authority project manager.

2 DESCRIPTION OF WORK

2.1 CONTRACTOR shall provide the following services in a manner satisfactory to HOUSING AUTHORITY:

Professional arboricultural services in support of the CITY's Urban Forestry Program in Parks and Facility Grounds, Housing Authority properties including Boulders at the Ranch I, Boulders at the Ranch II, Boulders at the Lake, Impressions, La Quinta, Park Vista and Summerwood Apartments, Single family Residential Properties, 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.

Licenses.

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 and a C-27 Landscaping Contractor License with the Contractor's State License Board (CSLB) and a City of Palmdale business license to perform the required work. CONTRACTOR's State License Board registration number is 821770. CONTRACTOR's DIR registration number is 1000004077. CONTRACTOR hereby certifies that it holds the required license(s).

Prevailing Wage
This Contract calls for work to be performed constituting public works. All labor is to be paid at prevailing wage rates. CONTRACTOR to determine proper wage classification. CONTRACTOR and all subcontractors must be registered with the State of California Department of Industrial Relations (DIR) as a public works contractor for the duration of the agreement and is responsible for any and all registration and/or renewal fees. CITY may request certified payroll records for any work performed under the term of the agreement. CONTRACTOR acknowledges and understands it must comply with the prevailing wage requirements as set for in Exhibit A.

2.2 CONTRACTOR shall have no claim for compensation for any services or work, which has not been authorized by HOUSING AUTHORITY'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 HOUSING AUTHORITY. 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 HOUSING AUTHORITY. 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 HOUSING AUTHORITY. The written warranty shall be included with the delivered products to the using Department.

HOUSING AUTHORITY shall provide to CONTRACTOR, without charge, all data, program information, including reports, records, maps, and other information, now in HOUSING AUTHORITY's possession, which may facilitate the timely performance of the work.

3 CONTRACTOR'S KEY PERSONNEL

3.1 **Key Staff.** HOUSING AUTHORITY 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 HOUSING AUTHORITY.

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 HOUSING AUTHORITY.

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 HOUSING AUTHORITY. 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 HOUSING AUTHORITY.

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 HOUSING AUTHORITY, 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 six (6) Months, commencing on the effective date, with HOUSING AUTHORITY 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 HOUSING AUTHORI**TY**.** All materials, including reports, computer programs and other deliverables, supplied or created under this Contract are the sole property of HOUSING AUTHORITY. 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 HOUSING AUTHORITY.

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

HOUSING AUTHORITY shall pay to CONTRACTOR an amount not to exceed FIVE HUNDRED THOUSAND dollars ($500000.00) 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 HOUSING AUTHORITY 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 HOUSING AUTHORITY of CONTRACTOR's charges under this Contract. CONTRACTOR shall make such records available to HOUSING AUTHORITY during normal business hours upon reasonable notice. Nothing herein shall convert such records into public records, and they will be available only to HOUSING AUTHORITY 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 HOUSING AUTHORITY. No person employed by CONTRACTOR or acting on its behalf, in connection with this Contract shall be considered the Agent or employee of HOUSING AUTHORITY.

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 HOUSING AUTHORITY in applying for and obtaining such tax credits and exemptions, which shall be paid or credited to the HOUSING AUTHORITY.

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 HOUSING AUTHORITY, 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 HOUSING AUTHORITY in

the contract documents. CONTRACTOR shall indemnify and hold harmless HOUSING AUTHORITY and anyone directly or indirectly employed by HOUSING AUTHORITY 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 HOUSING AUTHORITY, 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 Housing Authority 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 (Errors & Omissions) Liability*

- $2,000,000.00 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 HOUSING AUTHORITY 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 HOUSING AUTHORITY 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 HOUSING AUTHORITY, and any other insurance maintained by the HOUSING AUTHORITY 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 HOUSING AUTHORITY 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 HOUSING AUTHORITY, CONTRACTOR shall deliver to HOUSING AUTHORITY 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 HOUSING AUTHORITY.

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 Housing Authority Attorney.

10.8.3 *When professional/errors & omissions 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 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.

10.9 Notwithstanding any other provision of this Contract, HOUSING AUTHORITY 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 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 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

HOUSING AUTHORITY 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 HOUSING AUTHORITY all finished or unfinished documents, processes, programs and other supplies and materials, which shall be HOUSING AUTHORITY'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 HOUSING AUTHORITY 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, HOUSING AUTHORITY shall give written notice to CONTRACTOR specifying all defaults to be remedied within thirty (30) days. Such notice shall set forth the basis for HOUSING AUTHORITY's dissatisfaction and suggest corrective measures. If, after thirty days, CONTRACTOR has failed to implement appropriate corrective measures, HOUSING AUTHORITY may elect to terminate this Contract in whole or in part.

12.1 In the event HOUSING AUTHORITY terminates this Contract, in whole or in part, for cause, HOUSING AUTHORITY 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 HOUSING AUTHORITY, and to authorized reimbursement expenses. The above is in addition to any other remedies available by law or equity to HOUSING AUTHORITY.

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 HOUSING AUTHORITY 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 HOUSING AUTHORITY and shall be delivered to or left with HOUSING AUTHORITY upon the completion or termination of this Agreement. CONTRACTOR shall furnish HOUSING AUTHORITY, 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 HOUSING AUTHORITY to copy, reproduce and makes changes as HOUSING AUTHORITY 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 HOUSING AUTHORITY; provided, however, that claims for money due or to become due to CONTRACTOR from HOUSING AUTHORITY 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 HOUSING AUTHORITY 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, marital status, sexual orientation, or age. 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, 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.

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. HOUSING AUTHORITY 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 HOUSING AUTHORITY has any interest, financially or otherwise, in CONTRACTOR's firm.

17.2 For breach or violation of this warranty, HOUSING AUTHORITY 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 HOUSING AUTHORITY 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.

HOUSING AUTHORITY OF THE CITY OF PALMDALE

Ronda Perez
Executive Director
Sophia Reyes
Signed: 12/21/2023

ADDRESS FOR NOTICE:
HOUSING AUTHORITY OF THE CITY OF PALMDALE
38250 Sierra Highway, 2nd Floor
Palmdale, CA 93550

APPROVE AS TO FORM:

William P. Curley, III
Authority Counsel

ATTEST:

Roxanne Faber
Acting Authority Secretary

THE NEW TIP TOP ARBORIST INC.
DBA TIP TOP ARBORISTS INC.:

James Lewandowski
President

ADDRESS FOR NOTICE:
THE NEW TIP TOP ARBORIST 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

Record of Signing

For

Name

Title

Sophia Reyes

Signed on 2023-12-21 01:47:54 GMT

Secured by Concord™
DocumentID: ZTgzMDU1ODYtNW
SigningID: ZjdjZTYzZmItZm
Signing date: 12/21/2023
IP Address: 206.171.111.149
Email: sreyes@cityofpalmdale.org

concord™
Where agreements happen.

Signed with www.concordnow.com

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 *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 *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 *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

MINUTES
CITY COUNCIL/SA/HA
CITY HALL COUNCIL CHAMBER
38300 SIERRA HIGHWAY, SUITE B
PALMDALE, CALIFORNIA
DECEMBER 6, 2023

1) CALL MEETING TO ORDER

Mayor Bettencourt called the meeting to order at 5:06 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) Los Angeles Internal Services Department and the Southern California Regional Energy Network (SoCalRen) presented an award to the City of Palmdale for “Extraordinary Emission Reduction for the Highest Energy Savings Achieved by a Public Agency".

4.2) Chair Jung declared December as Human Rights Month in the City of Palmdale and provided a verbal update on the City of Palmdale Human Rights Advisory Committee.

4.3) Presentation of the Film Palmdale Strategic Plan.

Deputy Director of Economic and Community Development Taggart spoke regarding the implementation of the strategic plan. Economic Development Manager Schuler gave a presentation and discussed the goals and objectives of the strategic plan.

Council discussion ensued regarding the use of municipal facilities, the creation of a Film Commission, fee structure, economic value, quality of life for citizens in the entertainment industry, and environmental benefits.

5) PUBLIC COMMENTS:

Mayor Bettencourt announced the Closed Session agendized for this evening had been cancelled.

The following individuals provided public input: Sandy Corrales thanked Mayor Bettencourt for her leadership as Mayor; Jason Zink commented regarding the protestors, film commission, and the housing track on Ave S and 65th East; Kevin Shenkman spoke regarding the capacity restrictions, changing demographics, and food distribution; Marsha Furman commented regarding the process for rotating the mayor; and Citizen (no name) commented regarding the distribution of city funds to help all citizens.

Mayor Bettencourt closed the Public Comments.

6) HOUSING AUTHORITY CONSENT CALENDAR

6.1) Approve the Housing Authority of the City of Palmdale's 2022-2023 Annual Report pursuant to California Health and Safety Code 34176.1 and direct staff to post the report on the City's website.

6.2) Approve the minutes from the previous meetings.
August 16, 2023
September 6, 2023
November 15, 2023

Motion: Approve all items listed under the Housing Authority Consent Calendar.
Moved by Eric Ohlsen, 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.

Mayor Bettencourt adjourned the Housing Authority.

7) CONSENT CALENDAR

7.1) Waive full reading of the Resolution(s) and/or Ordinance(s) to be considered and voted on at this meeting. (This permits reading the title only in lieu of reciting the entire text.)

7.2) Receive and file the Monthly Investment Activity Report for October 2023.

7.3) Receive and file the Annual Activity Report for Development Agreement pertaining to the Oasis Wellness Village Project located at the southeast corner of Palmdale Boulevard and Tierra Subida Avenue.

7.4) Approve agreement with Ninth Patriot, LLC for the deferment of undergrounding of transmission mainlines for Site Plan Review No. 19-001.

Mayor Pro Tem Alarcón pulled this item for discussion.

Public Works Director Glidden presented the staff report and answered questions regarding the deferment and completion of the project.

Motion: Approve agreement with Ninth Patriot, LLC.
Moved by Austin Bishop, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

7.5) Notice of Completion - Accept Public Improvements for Tract 61611 & 61981 located at the northeast corner of Avenue S and 65th Street East.

7.6) Approve Final Parcel Map No. 83805 (located at Trade Center Drive and Avenue P-4).

7.7) Approve Requisition No. 240592 with All-State Utility Supply, Inc. for the purchase of replacement streetlight poles and other related items in an amount not to exceed $207,380 for FY 2023-24.

7.8) Adopt Resolution No. CC 2023-059, a Resolution of the City Council of the City of Palmdale approving the renaming of Avenue Q-6 to Hammack Avenue (Avenue Q-6) between Sierra Highway to 10th Street East.

Mayor Bettencourt pulled this item for discussion and noted that the Hammack family was in the audience.

Public Works Director Glidden provided a brief overview of the staff report.

The Hammack family was presented with a street sign.

Councilmember Loa provided the background on the passing of Deputy Hammack.

Motion: Adopt Resolution No. CC 2023-059, a Resolution of the City Council of the City of Palmdale approving the renaming of Avenue Q-6 to Hammack Avenue (Avenue Q-6).
Moved by Laura Bettencourt, seconded by Richard J. Loa.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

7.9) Notice of Completion - Accept Public Improvements for Circle K at 3851 East Palmdale Blvd.

Mayor Pro Tem Alarcón pulled this item for discussion and spoke regarding staff's diligent research and verification that Caltrans will maintain the street improvements along Palmdale Boulevard.

Councilmember Loa recognized the O'Connor family.

Motion: Accept Notice of Completion for Public Improvements.
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.

7.10) Approve the minutes from the previous meetings.

CC - November 15, 2023
CC - November 16, 2023

Mayor Pro Tem Alarcón pulled this item for discussion and suggested adopting joint minutes once on the agenda.

Motion: Approve the minutes from the previous meetings.
Moved by Austin Bishop, seconded by Laura Bettencourt.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

Motion: Approve all items listed under the Consent Calendar except 7.4, 7.8, 7.9, and 7.10
Moved by Andrea Alarcón, seconded by Laura Bettencourt.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

8) PUBLIC HEARING

8.1) Public Hearing to obtain community input for the Community Development Block Grant (CDBG) and HOME Investment Partnership Program (HOME) Grant for the development of the 2024-2025 Action Plan.

Management Analyst Bartlett provided a detailed overview on this item.

Councilmember Bishop, Councilmember Loa, and Mayor Bettencourt spoke regarding the benefits of CDBG funds.

Public Comments: Jason Zink spoke regarding rental assistance, basic cable, and free internet for seniors.

Mayor Bettencourt closed the Public Hearing.

Mayor Pro Tem Alarcón announced there will be a second public hearing on May 1, 2024.

Mayor Bettencourt closed the Public Hearing.

Motion: Approve the recommendations and findings as listed in the staff report. Moved by Austin Bishop, seconded by Eric Ohlsen.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

8.2) Introduction and Adoption of Ordinance No. 1627, an Ordinance of the City Council of the City of Palmdale approving Zoning Ordinance Amendment (ZOA) 23-0003 to amend Title 17 and finding that the amendment is consistent with Program Environmental Impact Report (PEIR) 22-002 prepared and certified in conjunction with the City's General Plan (Palmdale 2045).

Planning Manager Magana provided a detailed overview of the Zoning Ordinance Amendment.

City Attorney Curley read the title of Ordinance No. 1627.

A motion was made and carried unanimously to introduce Ordinance No. 1627.

Mayor Bettencourt called for Public Comments.

The following individuals provided public input in opposition to this item: Benjamin Fiss, Pacific Zoning LLC; Rick Norris; Mark McGaughey, CBRE; Robert Valencia; Yvette Emard; Navid Sharafatian; Jason Zink; and Mario Presents

Barry Munz, Antelope Valley Engineering commented in support and opposition of this item.

Angelica Maldonado spoke in support of this item.

Mayor Bettencourt closed the Public Hearing.

Director of Economic and Community Development Garibay provided an update to the Council on this item.

Mayor Pro Tem Alarcón asked how the comments brought by developers were assessed. Director Garibay provided a response.

Councilmember Loa spoke regarding the redline documents submitted by Mr. Valencia and asked what else would be impacted if the item was not adopted. Director Garibay responded that other potential uses will be impacted.

Discussion ensued regarding communicating with developers and the impacts of the changes requested.

Councilmember Bishop spoke regarding the distance and separation related to drive-thru restaurants and traffic issues. Mr. Bishop volunteered to work with the developers and staff on a committee and suggested that another Councilmember join. Councilmember Loa volunteered to be a part of the committee.

Councilmember Ohlsen spoke regarding communicating with developers and moving forward with the adoption of the current ordinance.

Mayor Bettencourt encouraged face-to-face communication with the developers.

Mayor Pro Tem Alarcón asked questions regarding the redline that was proposed by the business community. Director Garibay responded.

Motion: Adopt Ordinance No. 1627 and continue working with developers on outstanding items.
Moved by Eric Ohlsen, seconded by Austin Bishop.

Vote: Motion carried (5-0)
Yes: Laura Bettencourt, Andrea Alarcón, Austin Bishop, Eric Ohlsen, Richard J. Loa.

Mayor Bettencourt called for a recess 7:30 pm - 7:40 pm.

9) NON-AGENDA PUBLIC COMMENTS:

The following individuals spoke in support of SALVA receiving City funding for their community programs: Stephanie Mayol; Allan Morales; Marisela Adriana Gomez; Eduardo; Felix Menendez; Oscar Carrasco; Marcos Alvarez; Alejandro Rubio; Elmer Mayorga, Brenda Zaso, Dulce Zamora, and Scarlet Alvarez.

Mayor Bettencourt stated Council has never spoken regarding anyone's citizenship status.

Rich Gallego and Christine spoke regarding the Code of Conduct and SALVA.

Eugene Hernandez commented regarding the enforcement of abandoned shopping carts.

Jason Zink commented regarding change, Palmdale leadership, and food distribution.

Yul Gevargas commented regarding citizenship and naming of Desert Sands Park.

Roger Soderstedt requested that staff presentations include the cost to taxpayers.

Marsha Furman spoke regarding the rotational mayor and commended Mayor Bettencourt for her service to the citizens of Palmdale.

Mayor Bettencourt closed the public comments.

Councilmember Bishop spoke regarding the support he has personally provided to SALVA.

Councilmember Loa commented regarding the public accusations and the responsibilities of the Council to provide equality to all citizens.

Councilmember Ohlsen commented on the lack of communication,

misunderstanding, and the Measure AV grant program.

Mayor Pro Tem Alarcón spoke regarding distributing food to the needy, funding for SALVA, and allocation of Measure AV funds. She thanked all of those who attended the meeting.

10) NEW BUSINESS

10.1) Rotation of Incumbents serving as Mayor and Mayor Pro Tem.

City Attorney Curley provided a brief overview of the process.

City Attorney announced Councilmember Bishop would be Mayor and Councilmember Loa would be as Mayor Pro Tem pursuant to the code.

11) PRESENTATION OF A PLAQUE TO MAYOR BETTENCOURT AND CEREMONIAL PASSING OF THE GAVEL

Mayor Bettencourt did the ceremonial passing of the gavel to Councilmember Bishop.

Councilmember Bishop presented Mayor Bettencourt with a plaque.

12) INFORMATIONAL REPORT FROM MAYOR AND / OR COUNCILMEMBERS ON THEIR VARIOUS COMMITTEE MEMBERSHIPS AND MEETINGS ATTENDED AT PUBLIC EXPENSE

12.1) Council Reports on Committee Memberships and Meetings Attended at Public Expense

All reports were submitted electronically.

13) CITY COUNCIL ANNOUNCEMENTS AND REQUESTS

None.

14) CITY MANAGER'S REPORT

City Manager Perez reported on the following: Food Vendor Training, Family Volunteer Day; Opening of Oasis Park playground; celebrated the Journey of Hula at the Playhouse; SAVES Thanksgiving basket distribution; Business Watch presentations; worked with the Partners Against Crime Team to hold public safety multi-family housing presentations; holiday safety presentations through social media; celebrated Jolly Holiday and the Holiday Lights event; announced the Palmdale School District winter parade Saturday, December 9 at 10 am; High Desert Corridor project was awarded a $500,000 grant; Brightline received $3.1 billion from President Biden; Department of Transportation awarded $3.1 billion for the high-speed rail from San Francisco to Los Angeles; approved for 2,400 units of Narcan from the State; grand opening of Raising Cane's; and Luxury Perfume Outlet grand opening on December 15.

Councilmember Bishop thanked staff for all of their hard work.

15) PRESENTATION BY CITY ATTORNEY

Closed Session was not held.

15.1) 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).

15.2) CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION
Significant exposure to litigation pursuant to Government Code 54956.9(d)(2): 1 potential case

15.3) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
U-Haul v. City of Palmdale Case No. 22AVCV00439
This closed session is being held pursuant to the authority of California Government Code Section 54956.9.

15.4) CONFERENCE WITH LEGAL COUNSEL - EXISTING LITIGATION
Guerra v. City of Palmdale
Case No. 23AVCV01005
This closed session is being held pursuant to the authority of California Government Code Section 54956.9.

16) ANNOUNCEMENT BY CITY ATTORNEY

None.

17) ADJOURN

Mayor Bettencourt adjourned the meeting at 9:40 pm to January 10, 2024, at 5:00 p.m. in the City Hall Council Chamber located at 38300 Sierra Highway, Suite B, Palmdale, California.

PASSED, APPROVED, and ADOPTED this 24th day of January 2024.

_____
Austin Bishop, Mayor

ATTEST:

_____
Rochelle Scott, Acting City Clerk

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **OPERATIONS DEPARTMENT**
FINANCE DIVISION

DISTRICT: **ALL**

SUBJECT: **ADOPT RESOLUTION NO. CC 2024-009, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE STATING THE CITY'S INVESTMENT POLICY AND REPEALING RESOLUTION NO. CC 2023-006, AND ADOPT RESOLUTION NO. CC 2024-010, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE STATING THE INVESTMENT POLICY FOR THE CITY CONTRIBUTIONS TO THE RETIREE HEALTH REIMBURSEMENT ARRANGEMENT (HRA) PLAN AND THE RETIREE HEALTH PREMIUM SUPPLEMENT (HPS) PLAN AND REPEALING RESOLUTION NO, CC 2023-007**

RECOMMENDATION

Staff recommends that the City Council:

1. Adopt Resolution No. CC 2024-009 stating the Investment Policy for the City of Palmdale and repeal Resolution No. CC 2023-006; and
2. Adopt Resolution No. CC 2024-010 stating the Investment Policy for City contributions to the Retiree Health Reimbursement Arrangement (HRA) Plan and the Retiree Health Premium Supplement (HPS) Plan and repealing Resolution No. CC 2023-007.

BACKGROUND

The City Council adopted Resolution No. CC 2023-006 and Resolution No. CC 2023-007 on January 11, 2023, stating the City's Investment Policy and the Investment Policy for City contributions to the Health Reimbursement Arrangement Plan (HRA) and the Retiree Health Premium Supplement (HPS) Plan. The City reviews the Investment Policies annually and makes changes where necessary. All changes conform to California Government Codes [53600 - 53610].

DISCUSSION

Staff seeks council approval of the policy annually whether changes exist or not per California Government Code 53607, where it states that the code provides the authority for the legislative body of the local agency to invest the funds of the local agency, or to delegate the full responsibility to the treasurer of the local agency for a one-year period.

There are changes to the Investment Policy with regard to increasing the allowable investment in the Local Agency Investment Fund (LAIF), which is set by the California State Treasurer. The State Treasurer increased the LAIF deposit limit for regular accounts to $75 million from the previous $65 million. The City has reflected this change in the Investment Policy.

Section 14 - *Investment Oversight Committee* has been modified to provide clarification regarding the Oversight Committee meetings, frequency, and method by which information is provided. Investment Reports will continue to be submitted to both the City Council and the Oversight Committee on a monthly basis. The quarterly Oversight Committee meetings are to be held concurrently with the City Council meeting or may be held as a separate meeting pursuant to the direction of the Committee.

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.

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

ATTACHMENTS

1. Reso No. CC 2024-009 City Investment Policy
2. Reso No. CC 2024-010 Retiree Investment Policy

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2024-009

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE STATING THE CITY'S INVESTMENT POLICY AND REPEALING RESOLUTION NO. CC 2023-006.

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

SECTION 1. Purpose

This Resolution states the City's investment policy, which is intended to provide guidelines to the City Treasurer for the prudent investment of the City's temporary idle cash not otherwise governed by bond indentures or bond resolutions and to outline policies for maximizing the efficiency of the City's cash management system. The goal is to enhance the economic status of the City while protecting its pooled cash. These guidelines do not supersede applicable State laws and City ordinances. A Glossary of investment terms is provided at the end of the resolution for reference.

SECTION 2. Scope

This investment policy applies to the investment of all cash and various funds of the City as identified in the Annual Comprehensive Financial Report, except for the employee's retirement and deferred compensation funds and those cash assets governed by bond indentures or bond resolutions. The following is a list of funds included:

2.1 General Fund

2.2 Special Revenue Funds

2.3 Capital Project Funds

2.4 Trust and Successor Agency Funds not otherwise invested with the Trustee/Fiscal Agent

SECTION 3. Prudence

Investments shall be made with judgment and care, under the circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

3.1 Governing bodies of local agencies, or persons authorized to make investment decisions on behalf of the agency, are trustees, and therefore fiduciaries subject to the prudent investor standard. The trustee is required to consider the general

economic conditions and the anticipated needs of the agency when investing, reinvesting, purchasing, acquiring, exchanging, and selling or managing public funds.

3.2 The standard of prudence to be used by investment officials shall be the prudent person standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely manner and appropriate action is taken to control adverse developments.

SECTION 4. Objectives

The City's cash management system is designed to accurately monitor and forecast expenditures and revenues, thus enabling the City to invest funds to the fullest extent possible. The City Treasurer maintains a diversified portfolio to accomplish the primary objectives of safety, liquidity, and yield (in that order of priority).

4.1 Safety: The safety/risk associated with an investment refers to the potential loss of principal, accrued interest, or a combination of these. The City seeks to mitigate credit risk by continual monitoring of financial institutions with which it will do business and by careful scrutiny of the creditworthiness of the investment instruments as well as the institutions. Such resources as Moody's Investor, Standard & Poor's and Fitch rating services are utilized for this review. The City seeks to mitigate rate risk through diversification of instruments as well as maturities.

4.2 Liquidity: The portfolio will be structured with sufficient liquidity to allow the City to meet all anticipated cash requirements. This will be accomplished through matching maturities to expected cash needs, the State Local Agency Investment Fund (LAIF), California Asset Management Program (CAMP), and AAA/Aaa rated money market funds with immediate withdrawal provision.

4.3 Yield: A competitive market rate of return is the third objective of the investment program after the fundamental requirements of safety and liquidity have been met.

SECTION 5. Delegation of Authority

California Government Code Section 53607 provides the authority for the legislative body of the local agency to invest the funds of the local agency, or to delegate the full responsibility to the treasurer of the local agency for a one-year period. The legislative body may renew such delegation of authority to the treasurer each year.

5.1 City Council: By adoption of this policy, the City Council has authorized the City Treasurer to invest City surplus funds in accordance with California Government Code Section 53600, et. seq. and to invest Agency bond or COP proceeds in accordance with California Government Code Section 5922(d) and 53601(l). The delegation of authority to the City Treasurer shall remain in effect until it expires or is revoked,

whichever occurs first. The City Treasurer shall make a monthly report to the City Council of all transactions made pursuant to this delegation of authority.

5.2 City Treasurer: The execution of investment transactions on a daily basis will be conducted by the City Treasurer or may be delegated to the Deputy City Treasurer. The City Treasurer has established a system of controls and a segregation of responsibilities of investment functions to ensure the maintenance of internal control over the investment function.

5.3 The City Treasurer retains the authority to amend the Investment Policy, Guidelines, and Procedures at any time in order to carry out the duties as chief investment officer for the City. Notice of any such required amendment will be given to the Investment Oversight Committee and the City Council.

SECTION 6. Ethics and Conflicts of Interest

Employees involved in the investment of City funds shall refrain from personal business activity that could conflict with the proper execution of the investment program or which could impair, or appear to impair, their ability to make impartial investment decisions. The City Treasurer shall comply with the reporting requirements of the Political Reform Act of 1974 regarding disclosure of material financial interests and shall file an annual Statement of Economic Interests.

SECTION 7. Authorized Financial Dealers and Institutions

7.1 The City shall transact business only with nationally or state-chartered banks and licensed investment securities dealers. The City Treasurer shall maintain a listing of financial institutions authorized to provide investment services to the City.

7.2 Selection of financial institutions and broker/dealers authorized to engage in transactions with the City shall be at the sole discretion of the City.

7.3 The Treasurer and the Investment Oversight Committee shall obtain information from qualified financial institutions to determine if the institution makes markets in securities appropriate for the City's needs, can assign qualified sales representatives, and can provide written agreements to abide by the conditions set forth in the City of Palmdale Investment Policy. Investment accounts with all financial institutions shall be standard non-discretionary accounts and may not be margin accounts.

7.4 All financial institutions and broker/dealers who desire to become qualified bidders for investment transactions must supply to the Treasurer the following: audited financial statements, proof of National Association of Security Dealers certification, proof of state registration, broker/dealer questionnaire, and certification of having read the California Government Code Section 53600 *et seq.* and the City's Investment policy and that all securities offered to the City shall comply fully and in every instance with all provisions of the California Government Code.

7.5 The signatures of two individuals shall be required for the opening and closing of any bank account and broker account (as defined in the Palmdale Municipal Code Section 3.14.020). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide this list of accounts to the City's independent auditor.

7.6 Public deposits shall be made only in qualified public depositories within the State of California as established by State law. The Federal Deposit Insurance Corporation shall insure deposits, or, to the extent the amount exceeds the insured maximum, shall be collateralized with securities in accordance with State law.

7.7 Whenever possible, investment staff shall obtain a minimum of two quotations, preferably three, prior to entering into an investment transaction. Staff will buy or sell at the price that is most advantageous to the City and meets investment requirements. Treasury bills, treasury notes, and federal agency securities will only require one quotation due to minimal commissions.

SECTION 8. Authorized and Suitable Investments for Surplus Funds

California Government Code Section 53601 defines eligible securities for the investment of surplus funds by local agencies. Surplus funds of the City are invested in compliance with this statute and as further limited in this Investment Policy. In any event, no security may be purchased with a remaining maturity in excess of five years without specific legislative authority.

8.1 Demand deposits of up to $2,000,000 (and $2,500,000 in the aggregate) with Bank of America or Wells Fargo Bank.

8.2 Bank of America Cash Management Sweep Agreement.

8.3 U.S. Government: United States Treasury Bills, Notes, and Bonds are backed by the full faith and credit of the United States Government. There shall be no limitation as to the percentage of the portfolio invested in this category. The maturity on these investments shall not exceed five years without the prior approval of the Investment Oversight Committee.

8.4 U.S. Government: United States Federal Agency Securities are backed by the implied support of the United States Government. There shall be no limitation as to the percentage of the portfolio invested in this category. The maturity on these investments shall not exceed five years without the prior approval of the Investment Oversight Committee.

8.5 Municipal Obligations: Bonds, notes, warrants, or other evidence of indebtedness of the State of California or of any local agency within the State of California. A maximum of 10 percent may be invested in municipal obligations. The maturity on these investments shall not exceed State investment guidelines of five years without the prior approval of the Investment Oversight Committee. In addition, the issuer itself must meet the minimum State investment guidelines of having a minimum credit rating of "A" or

equivalent by two of the three major rating agencies (Moody's, Standard & Poor's, and Fitch).

8.6 Corporate Notes: Medium Term Corporate Notes, with a maximum maturity of five years may be purchased. Securities eligible for investment shall be rated A or better by Moody's or Standard & Poor's rating services. A maximum of 15 percent of the portfolio may be invested in medium-term corporate notes.

8.7 Bankers Acceptances: Bills of exchange or time drafts drawn on and accepted by commercial banks, which are eligible for purchase by the Federal Reserve System, are known as banker's acceptances. Purchases of these instruments may not exceed 180 bankers days maturity. A maximum of 2 percent may be invested in the bankers acceptances of any one commercial bank except the two banks listed in Section 8.1 above, in which case the limit, when aggregated with the funds in demand deposits in any one of those two banks, will not be more than 40 percent of the City's total invested funds.

8.8 Certificates of Deposit (CDs): Certificates of deposit or "time deposits" of up to $250,000 are federally insured. Beyond that amount, these CDs must be collateralized with the collateral held separately from the issuing institution. The value of the investment must have collateral of at least 110 percent if government securities, or collateral of at least 150 percent if mortgage-backed securities. The statute does not limit CDs; however, this Investment Policy shall limit such investments to a maximum of 25 percent of the portfolio and to a maximum of 15 percent deposited in any one institution. In addition, time deposits shall be placed in institutions meeting all capital requirements and rated" AA" or higher by two of the three major rating agencies (Moody's, Standard & Poor's, and Fitch) for any deposits over $250,000.

If a local bank does not have two ratings from two of the three rating agencies that are double AA or higher (Moody's, Standard & Poor's, and Fitch), then the City Treasurer will use alternative methods to determine the financial strength of the local bank when depositing over $250,000. The alternative methods will include a review of the latest three-year earnings trend and a review of the ratios showing bank capital as a percentage of weighted assets and average assets. These ratios are shown in the audited annual report for each bank and will be reviewed annually. The Federal Deposit Insurance Corporation (FDIC) issues standards for the determination of well-capitalized.

Investments in local banks will be limited to banks that are well capitalized as exhibited in the audited annual report. Initial investments with local banks will be no more than $250,000. Additional amounts may be invested with local banks subject to the approval of City Council. The maximum allowable investment in any local bank will be $1,000,000. The maximum allowable investment for local banks will be reviewed annually and may be adjusted up or down subject to City Council approval.

Investments in the CDARS program are permitted. CDARS, the Certificate of Deposit Account Registry Service, is an investment vehicle established to allow investing participants to have full federal insurance on deposits up to $50 million and to earn one

interest rate per deposit. A deposit is placed with a network member institution that uses CDARS to place the deposit into several certificates of deposits issued by network banks. The maximum placed into each certificate of deposit by the network member institution is $250,000 to ensure full federal insurance by the FDIC.

8.9 Mutual Funds: Shares of beneficial interest (mutual funds) issued by diversified management companies investing in securities/obligations authorized by California Government Code Section 53600, et. seq., and complying with Section 53630, are permitted investments. Section 53601(k) further defines requirements. A maximum of 15 percent of the portfolio may be so invested in funds that have the highest rating (e.g., AAA) provided by two of the three major rating agencies (Moody's, Standard & Poor's, and Fitch).

8.10 Local Agency Investment Fund (LAIF): The Local Agency Investment Fund has been established by the State Treasurer for the benefit of local agencies. The City may invest up to the maximum permitted by the LAIF.

8.11 Capital Asset Management Program (CAMP): Pooled money market investment program has been established by California public agents (board of trustees) for the benefit of local agencies. The Pool is a permitted investment for all local agencies under California Government Code Section 53601(p). The City may invest up to the maximum permitted by the CAMP.

8.12 Ineligible Investments: Investments not described herein, including but not limited to common stocks and financial futures contracts and options, are prohibited in this fund. Additionally, the Treasurer shall not invest in reverse floaters, range notes, or interest only strips that are derived from a pool of mortgages, nor may the Treasurer invest in any security that could result in zero interest accrued if held to maturity.

8.13 Permitted Investments Summary:

Investment Type	Maximum Maturity	Maximum Specified % of Portfolio	Minimum Quality Requirements
Demand Deposits with Bank of America or Wells Fargo Bank	N/A	$2 million each or $2.5 million in aggregate	N/A
Overnight banks investment pools that invest solely in Investments allowable under this policy	N/A	10%	None
U.S. Treasury bonds/notes/bills	5 years	None	None
U.S. Government Agency obligations	5 years	None	None

Municipal Obligations	5 years	10%	"A" rating
Bankers' acceptances	180 days	40%	Federal Reserve eligible
Certificates of deposit	5 years	25%	"AA" rating above $250,000 deposit
Mutual Funds	N/A	15%	"AAA" rating
Local Agency Investment Fund (LAIF) (not to exceed $75,000,000 per account)	N/A	None	None
California Asset Management Program (CAMP) (must not exceed 10% of the total CAMP pool)	N/A	None	None

SECTION 9. Authorized and Suitable Investments for Bond or COP Proceeds

California Government Code Section 5922 authorizes "Investment Securities", "Permitted Investments", or "Qualified Investments" defined in the Bond or COP documentation for each issuance. This Code Section was enacted in recognition of the unique needs inherent in the investment of these proceeds. In addition to the investments authorized for the City's surplus funds in Section 8 above, the bond indenture can expand the investments in accordance with the documents to include such investment instruments such as Investment Agreements as defined in the documentation as per California Government Codes 53601(l) and 5922(d).

SECTION 10. Collateral

The issue of collateral requirements is addressed in California Code Section 53652. All active and inactive deposits must be secured at all times with eligible securities in securities pools pursuant to Sections 53656 and 53657. Eligible securities held as collateral shall have a market value in excess of the total amount of all deposits of a depository as follows:

* Government securities, at least 10 percent in excess
* Mortgage-backed securities, at least 50 percent in excess
* Letters of credit, at least 5 percent in excess

SECTION 11. Safekeeping and Custody

All security transactions entered by the City shall be conducted on a delivery versus payment or debit checking basis, whichever is more beneficial to the City. A third-party custodian designated by the City Treasurer and evidenced by safekeeping receipts will hold securities.

SECTION 12. Diversification

To reduce portfolio risk while attaining market average rates, type and institution will suitably diversify the City's portfolio.

12.1 Security Type and Institution: With the exception of U.S. Treasury securities, U.S. Federal Agency Securities, and authorized pools, no more than 50 percent of the total portfolio will be invested in a single security type and no more than 15 percent with a single financial institution. Investments are further limited by specific language relating to each investment type as stated in Section 8 of this Policy.

12.2 Maximum Maturities: To the extent possible, the City Treasurer will attempt to match investments with anticipated cash flow requirements. The City's surplus portfolio will not be directly invested in securities that mature more than five years from the date of purchase. Reserve funds of bond or COP issues may be invested in instruments exceeding five years in accordance with bond documents adopted by the Council (maturity of such investments should coincide as nearly as practicable with the expected use of funds).

SECTION 13. Internal Control

The City Treasurer shall provide for an annual review by an external independent auditor. This review will provide internal control by assuring compliance with the City's investment policies and procedures.

SECTION 14. Investment Oversight Committee

There is hereby created an Investment Oversight Committee consisting of the City Manager, City Treasurer, City Attorney, one annually rotating Council member, and the Mayor. Members of the Committee shall serve without additional compensation and shall meet at least quarterly to determine general strategies and to monitor results. The Committee shall include in its deliberations such topics as portfolio diversification, maturity structure, potential risks to City funds, authorized depositories, brokers and dealers, the target rate of return on investments, and such other topics as it may determine or as may be directed by the City Council. Any two members of the Committee may request a special meeting. Four members shall constitute a quorum. The Committee shall establish its own rules of procedure. Minutes will be prepared for all Investment Committee meetings. The quarterly meetings may be held concurrently with a meeting of the City Council or may be held as a separate meeting. The information provided to the City Council shall be consistent with the information provided to the Investment Oversight Committee. The Committee shall be deemed to have deliberated on, and approved, the investment strategies, management and results by participation in the presentation(s) to

the City Council. Further, the minutes of the City Council shall serve as the Committee minutes, except pursuant to separate direction of the Committee.

SECTION 15. Performance Standards

The City's investment portfolio shall be maintained to obtain a market average rate of return during various economic cycles. The rate of return will consider the City's constraints on investment risk and the City's cash flow needs. The City's investment strategy is active. Given this strategy, the criteria applied by the City Treasurer to determine whether market yields are being achieved shall be the six-month United States Treasury Bill rate.

SECTION 16. Reporting

The City Treasurer shall prepare and present a monthly report to the City Manager and the City Council. This report shall be provided for all City and Successor Agency to the Community Redevelopment Agency pooled investments, as well as for Certificates of Participation, Revenue Bonds, Tax Allocation Bonds, Assessment Districts and Community Facilities District accounts that are managed by outside Fiscal Agents. The report shall contain the following information.

16.1 Cash receipts, disbursements and balances in total.

16.2 A summary of the portfolio at month end.

16.3 Information regarding interest earnings.

16.4 Reconciliation of cash disbursements.

16.5 A statement that provides the source of the market value presented.

16.6 A statement of compliance with investment policy, including a schedule of any transactions or holdings, which do not comply with this policy or with the California Government Code, including a justification for their presence in the portfolio and a timetable for resolution.

16.7 A statement of the City's ability to meet its expenditure requirements for the next six months.

16.8 Each quarter a supplement to the monthly report shall be prepared which details the following information for all City and Successor Agency to the Community Redevelopment Agency pooled investments under the management of the City.

- A listing of cost and market value of the portfolio.
- A listing of individual investment transactions during the month as required by Government Code section 53607.

- A listing showing par value, cost and accurate and complete market value of each investment type of investment, issuer, interest rate, maturity date and the weighted average maturity.

SECTION 17. Investment Policy Review

In addition to the reports described in Section 16, the City Treasurer must submit annually to the City Council, and to the Investment Oversight Committee, a statement of investment policy. This statement must be reviewed by the Investment Oversight Committee and considered by the City Council at a public meeting. Any change in the City's investment policy must also be considered by the City Council at a public meeting.

SECTION 18. Repeal

Resolution No. CC 2023-006, adopted on January 11, 2023, is hereby repealed in its entirety.

SECTION 19. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED and **ADOPTED** this 24th day of January 2024.

_____
Austin Bishop, Mayor

Approved as to form:

ATTEST:

_____
William P. Curley
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 24th day of January 2024 by the following roll call vote:

AYES: _____

NOES:_____

ABSTAIN:_____ABSENT:_____

Date: _____ _____
Rochelle Scott, Acting City Clerk

GLOSSARY

AGENCIES: Federal agency securities.

ANNUAL COMPREHENSIVE FINANCIAL REPORT (ACFR): The official annual report for the City of Palmdale. It includes combined statements and basic financial statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed Statistical Section.

ASKED: The price at which securities are offered.

BANKERS' ACCEPTANCE (BA): A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

BASIS POINT: A basis point equals one one-hundredth of 1% (.01%).

BID: The price offered for securities:

BOOK ENTRY SECURITIES: All U.S. Treasury and Federal Agencies are maintained on computerized records at the Federal Reserve now known as "wireable" securities.

BROKER: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not position. In the money market, brokers are active in markets in which banks buy and sell money and in interdealer markets.

CALIFORNIA ASSET MANAGEMENT PROGRAM: Pooled money from various California public agencies that invests in obligations of the United States Government and its agencies, high-quality, short-term debt obligations of U.S. companies and financial institutions. The Pool is a permitted investment for all local agencies under California Government Code Section 53601(p).

CDARS: The Certificate of Deposit Account Registry Service is an investment vehicle established to allow investing participants to have full federal insurance on deposits up to $50 million and to earn one interest rate per deposit. A deposit is placed with a network member institution that uses CDARS to place the deposit into several certificates of deposits issued by network banks. The maximum placed into each certificate of deposit by the network member institution is $250,000 to ensure full federal insurance by the FDIC.

COLLATERAL: Securities, evidence of deposit or other property that a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Large-denomination CDs are typically negotiable.

COMMERCIAL PAPER (CP): An unsecured promissory note with a fixed maturity no longer than 270 days. Public offerings are exempt from SEC registration. The largest issuers include General Motors Acceptance Corporation (GMAC), General Electric Capital Corporation (GECC) and other major corporations.

COUPON: (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DELIVERY VERSUS PAYMENT: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

DEBENTURE: A bond secured only by the general credit of the issuer.

DISCOUNT: The difference between the cost price of a security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

DISCOUNT SECURITIES: Non-interest-bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury bills.

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

FEDERAL AGENCY SECURITIES: Debt instruments issued by federal credit agencies; fully backed by the U.S. government guarantee but not by its full faith and credit.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

FEDERAL FUNDS: Non-interest-bearing deposits held by member banks at the Federal Reserve. Also used to denote "immediately available" funds in the clearing sense. "Fed Funds" also used to refer to these funds.

FEDERAL FUNDS RATE: The rate of interest at which Federal funds are traded. The Federal Reserve through open-market operations currently pegs this rate.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to $250,000 per deposit.

FEDERAL HOME LOAN BANKS (FHLB): The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-à-vis member commercial banks.

FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC): A U.S. Corporation and instrumentality of the U.S. government. Through its purchases of conventional mortgages, it provides liquidity to the mortgage markets, much like FNMA. FHLMC's securities are highly liquid and widely accepted. FHLMC assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing & Urban Development, H.U.D. It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL OPEN MARKET COMMITTEE (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C., 12 Regional Banks and about 5,700 commercial banks that are members of the system.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): Securities guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loans associations and other institutions. Security holder is protected by full faith and credit of the U.S. Government. Ginnie Mae securities are backed by FHA, VA or FMHM mortgages. The term pass-throughs are often used to describe Ginnie Maes.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

LOCAL AGENCY INVESTMENT FUND (LAIF): The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MASTER REPURCHASE AGREEMENT: A written contract covering all future transactions between the parties to repurchase--reverse repurchase agreements that establishes each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MEDIUM TERM CORPORATE NOTE: A corporate debt instrument that is continuously offered to investors over a period of time by an agent of the issuer. Investors can select from maturity bands of: 9 months to 1 year, more than 1 year to 18 months, more than 18 months to 2 years, etc., up to 30 years.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

OPEN MARKET OPERATIONS: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank, as directed by the FOMC, in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

PORTFOLIO: Collection of securities held by an investor.

PRIME RATE: The rate at which banks lend to their best or "prime" customers. Also known as the "reference rate."

PRUDENT PERSON RULE: An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the state (the so-called legal list). In other states, the trustee may invest in a security if it is one which would be brought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

QUALIFIED PUBLIC DEPOSITORIES: A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which was segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

REPURCHASE AGREEMENT (RP OR REPO): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Federal Reserve Bank is said to be doing RP, it is lending money that is increasing bank reserves.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the banks' vaults for protection.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SEC RULE 15C3-1: See uniform net capital rule.

SECURITIES & EXCHANGE COMMISSION: Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SETTLEMENT DATE: The date on which a trade is cleared by delivery of securities against funds. This date may be the same as the trade date or later.

TRADE DATE: The date on which a transaction is initiated or entered into by the buyer and seller.

TREASURY BILL: A non-interest bearing (discount) security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY BONDS: Long-term U.S. Treasury securities having initial maturities of more than ten years.

TREASURY NOTES: Intermediate term coupon bearing U.S. Treasury securities having initial maturities of from one to ten years.

UNIFORM NET CAPITAL RULE: Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities. This is one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

WHEN-ISSUED TRADES: Typically, there is a delay between the time a new bond is announced and sold, and the time when it is actually issued. During this interval, the security trades "wi", "when, as, and if issued."

YIELD: The rate of annual income returns on an investment, expressed as a percentage. (a) INCOME YIELD is obtained by dividing the current dollar income by the current market price for the security. (b) NET YIELD or YIELD TO MATURITY is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

YIELD TO MATURITY: The rate of return yielded by a debt security held to maturity when both interest payments and the investor's capital gain or loss on the security are taken into account.

CITY COUNCIL
CITY OF PALMDALE, CALIFORNIA
RESOLUTION NO. CC 2024-010

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALMDALE STATING THE INVESTMENT POLICY FOR CITY CONTRIBUTIONS TO THE RETIREE HEALTH REIMBURSEMENT ARRANGEMENT (HRA) PLAN AND THE RETIREE HEALTH PREMIUM SUPPLEMENT (HPS) PLAN AND REPEALING RESOLUTION NO. CC 2023-007.

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

SECTION 1. Purpose

This Resolution states the City's investment policy for contributions and earnings accumulated under the Retiree HRA Plan and the Retiree HPS Plan Trusts, which have been adopted by the City Council of the City of Palmdale to assist in meeting applicable funding requirements for the future payment of other post-employment benefit obligations (generally referred to as **"OPEB Liability"**). The Investment Policy Statement is intended to provide guidelines to the City Treasurer and the authorized Investment Advisor for the prudent investment of the City's Retiree HRA and HPS Plan contributions and earnings.

This Investment Policy Statement shall be consistent with the governing law, including the Internal Revenue Code of 1986 as amended from time to time (the "Code"), applicable provisions of Governmental Accounting Standards Board Statement Nos. 43 and 45, California laws, including applicable provisions of the California Government Code and City ordinances. A Glossary of investment terms is provided at the end of the resolution for reference.

SECTION 2. Scope

This investment policy applies to the investment of all cash and various funds of the City as identified in the adopted budget document for the purpose of funding the City OPEB Liability.

2.1 Funding sources for this purpose will include the General Fund, Successor Agency to the Community Redevelopment Agency of the City of Palmdale Funds, and Special Revenue Funds through which participants are financed.

2.2 Participant GROUPS 1, 2, and 3 are defined in the Retiree HRS and Retiree HPS Plan documents.

2.3 Investment strategies for this purpose are as follows:

a) Participant-directed investment portfolio choices (age-based custom portfolio or self-directed alternative) – This investment strategy for

contributions and earnings applies to the Retiree HRA Plan Trust and encompasses Group 2 Employees that elect the defined contribution option and Group 3 Employees. Employees in these Groups must have met the age and years of service requirements for vesting purposes.

b) Plan Sponsor directed portfolio using a 5-year Treasury benchmark – This investment strategy for contributions and earnings applies to the Retiree HRA Plan Trust and encompasses Group 2 Employees that elect the defined contribution option and Group 3 Employees. Employees in these Groups subject to this investment strategy have not yet met the age and years of service requirements for vesting purposes.

c) Plan Sponsor directed long-term diversified portfolio – This investment strategy for contributions and earnings applies to the Retiree HPS Plan Trust and encompasses eligible Group 1 Retirees and eligible Group 2 Employees that elected the defined benefit option.

SECTION 3. Prudence

Investments shall be made with judgment and care, under circumstances then prevailing, which persons of prudence, discretion, and intelligence exercise in the management of their own affairs, not for speculation, but for investment, considering the probable safety of their capital as well as the probable income to be derived.

3.1 Governing bodies of local agencies, or persons authorized to make investment decisions on behalf of the agency, are trustees, and therefore fiduciaries subject to the prudent investor standard. The trustee is required to consider the general economic conditions and the anticipated needs of the agency when investing, reinvesting, purchasing, acquiring, exchanging, and selling or managing public funds.

3.2 The standard of prudence to be used by investment officials shall be the prudent person standard and shall be applied in the context of managing an overall portfolio. Investment officers acting in accordance with the investment policy and exercising due diligence shall be relieved of personal responsibility for an individual security's credit risk or market price changes, provided deviations from expectations are reported in a timely manner and appropriate action is taken to control adverse developments.

SECTION 4. Objectives

The City's cash management system is designed to accurately monitor and forecast expenditures and revenues, thus enabling the City to invest funds to the fullest extent possible. The City Treasurer and authorized Investment Advisor maintain a diversified portfolio to accomplish the primary objectives of safety, liquidity, and yield (in that order of priority).

4.1 Safety: The safety/risk associated with an investment refers to the potential loss of principal, accrued interest, or a combination of these. The City seeks to mitigate credit risk by continual monitoring of financial institutions with which it will do business and by careful scrutiny of the creditworthiness of the investment instruments as well as

the institutions. Such resources as Moody's Investor, Standard & Poor's and Fitch rating services are utilized for this review. The City seeks to mitigate rate risk through diversification of instruments as well as maturities.

4.2 Liquidity: The portfolio will be structured with sufficient liquidity to allow the City/Agency to meet all anticipated cash requirements. This will be accomplished through matching maturities to expected cash needs and AAA/Aaa rated money market funds with immediate withdrawal provision.

4.3 Yield: A competitive market rate of return is the third objective of the investment program after the fundamental requirements of safety and liquidity have been met.

SECTION 5. Delegation of Authority

Notwithstanding Section 53601 or 53635, the governing body of a local agency may invest funds designated for the payment of retiree health benefits in any form or type of investment deemed prudent by the governing body pursuant to Section 53622.

5.1 City Council: By adoption of this policy, the City Council has authorized the City Treasurer and the authorized Investment Advisor to invest Retiree HRA and HPS Plan contributions and earnings in accordance with California Government Code Section 53622.

5.2 City Treasurer: The execution of investment transactions on a daily basis will be conducted by the authorized Investment Advisor under the direction of the City Treasurer. The City Treasurer has established a system of controls and a segregation of responsibilities of investment functions to ensure the maintenance of internal control over the investment function.

5.2 The City Treasurer retains the authority to amend the Investment Policy, Guidelines, and Procedures at any time in order to carry out the duties as chief investment officer for the City. Notice of any such required amendment will be given to the Investment Oversight Committee and the City Council.

SECTION 6. Ethics and Conflicts of Interest

Employees and authorized persons involved in the investment of City funds shall refrain from personal business activity that could conflict with the proper execution of the investment program or which could impair, or appear to impair, their ability to make impartial investment decisions. The City Treasurer shall comply with the reporting requirements of the Political Reform Act of 1974 regarding disclosure of material financial interests and shall file an annual Statement of Economic Interests.

SECTION 7. Authorized Financial Dealers and Institutions

7.1 The City shall transact business only with nationally or state-chartered banks and licensed investment securities dealers. The City Treasurer shall maintain a listing of financial institutions authorized to provide investment services to the City.

7.2 Selection of financial institutions and broker/dealers authorized to engage in transactions with the City shall be at the sole discretion of the City.

7.3 The City Treasurer, the authorized Investment Advisor, and the Investment Oversight Committee shall obtain information from qualified financial institutions to determine if the institution makes markets in securities appropriate for the City's needs, can assign qualified sales representatives, and can provide written agreements to abide by the conditions set forth in the City of Palmdale Investment Policy. Investment accounts with all financial institutions shall be standard non-discretionary accounts and may not be margin accounts.

7.4 The signatures of two individuals shall be required for the opening and closing of any bank account and broker account (as defined in the Palmdale Municipal Code Section 3.14.020). The Accounting Officer, who is independent of the investment function, shall keep a record of all opened and closed accounts. On an annual basis, the Accounting Officer shall provide this list of accounts to the City independent auditor.

SECTION 8. Authorized and Suitable Investments for Retiree HRA and HPS Plan Contributions and Earnings

California Government Code Section 53622 defines eligible securities for the investment of retiree health benefits. Retiree HRA and HPS Plan contributions and earnings of the Trusts will be invested in compliance with this statute and as further limited by this Investment Policy.

8.1 U.S. Government: United States Treasury Bills, Notes, and Bonds are backed by the full faith and credit of the United States Government. There shall be no limitation as to the percentage of the portfolio invested in this category. The maturity on these investments shall not exceed five years without the prior approval of the Investment Oversight Committee.

8.2 U.S. Government: United States Federal Agency Securities are backed by the implied support of the United States Government. There shall be no limitation as to the percentage of the portfolio invested in this category. The maturity on these investments shall not exceed five years without the prior approval of the Investment Oversight Committee.

8.3 Bankers Acceptances: Bills of exchange or time drafts drawn on and accepted by commercial banks, which are eligible for purchase by the Federal Reserve System, are known as banker's acceptances. Purchases of these instruments may not exceed 180 bankers days maturity. A maximum of 2 percent may be invested in the bankers acceptances of any one commercial bank.

8.4 Certificates of Deposit (CDs): Certificates of deposit or "time deposits" of up to $250,000 are federally insured. Beyond that amount, these CDs must be collateralized with the collateral held separately from the issuing institution. The value of the investment must have collateral of at least 110 percent if government securities, or collateral of at least 150 percent if mortgage-backed securities. Statute does not limit

CDs, however, this Investment Policy shall limit such investments to a maximum of 30 percent of the portfolio and to a maximum of 15 percent deposited in any one institution. In addition, time deposits shall be placed in institutions meeting all capital requirements and rated "AA" or higher by two of the three major rating agencies (Moody's, Standard & Poor's, and Fitch) for any deposits over $250,000.

8.5 Mutual Funds: Shares of beneficial interest (mutual funds) issued by diversified management companies investing in securities/obligations authorized by California Government Code Section 53622. A maximum of 20 percent of the portfolio may be so invested in any individual fund.

8.6 Ineligible Investments: Investments not described herein, including but not limited to common stocks and financial futures contracts and options, are prohibited in this fund. Additionally, the City Treasurer shall not invest in reverse floaters, range notes, or interest-only strips that are derived from a pool of mortgages, nor may the City Treasurer invest in any security that could result in zero interest accrued if held to maturity.

SECTION 9. Diversification

In an effort to reduce portfolio risk while attaining market average rates, type and institution will suitably diversify the Trust portfolio.

9.1 Security Type and Institution: With the exception of U.S. Treasury securities and U.S. Federal Agency Securities, no more than 50 percent of the total portfolio will be invested in a single security type and no more than 15 percent with a single financial institution. Investments are further limited by specific language relating to each investment type as stated in Section 8 of this Policy.

9.2 Maximum Maturities: To the extent possible, the City Treasurer and the authorized Investment Advisor will attempt to match investments with anticipated cash flow requirements. The Trusts' portfolio will not be directly invested in securities that mature more than five years from the date of purchase.

9.3 Diversification Parameters:

Investment Strategy	Cash	Fixed income*	Domestic Equities	Foreign Equities
Participant Directed – Self Directed	Participant Driven Allocation			
Participant Directed – Age Based	Allocation determined via actuarial age-based algorithm			
Plan Sponsor Directed – 5 Yr Treasury	0%-100%	0%-100%	0%-20%	0%-10%
Plan Sponsor Directed – LT Portfolio	0%-50%	40%-60%	40%-60%	5%-20%

*See Section 8 for specific fixed income category parameters

Domestic Equity Asset Class Parameters	Allocation
Large Cap	20%-40%
Mid Cap	10%-30%
Small Cap	5%-20%

SECTION 10. Internal Control

The City Treasurer shall provide for an annual review by an external independent auditor. This review will provide internal control by assuring compliance with the City's investment policies and procedures.

SECTION 11. Investment Oversight Committee

There is hereby created an Investment Oversight Committee consisting of the City Manager, City Treasurer, City Attorney, one annually rotating Council member, and the Mayor. Members of the Committee shall serve without additional compensation and shall meet at least quarterly to determine general strategies and to monitor results. The Committee shall include in its deliberations such topics as portfolio diversification, maturity structure, potential risks to City funds, authorized depositories, brokers and dealers, the target rate of return on investments, and such other topics as it may determine or as may be directed by the City Council Board. Any two members of the Committee may request a special meeting. Four members shall constitute a quorum. The Committee shall establish its own rules of procedure. Minutes will be prepared for all Investment Committee meetings. . The quarterly meetings may be held concurrently with a meeting of the City Council or may be held as a separate meeting. The information provided to the City Council shall be consistent with the information provided to the Investment Oversight Committee. The Committee shall be deemed to have deliberated on, and approved, the investment strategies, management and results by participation in the presentation(s) to the City Council. Further, the minutes of the City Council shall serve as the Committee minutes, except pursuant to separate direction of the Committee.

SECTION 12. Performance Standards

12.1 Mutual Funds & Separate Accounts: In populating its recommended Managed Portfolio(s), the Investment Consultant can make recommendations from publicly traded mutual funds, separate accounts, and bank collective trust funds subject to the following limitations:

d) Active and Passive (Index) Investment Management will be used together.
e) Minimum Investment Option Age will be 3 Years and Minimum Management Tenure (Asset Class Experience) will be 3 Years.
f) Minimum assets under management must be equal to or greater than $100 Million.

g) Published Expense Ratios must be equal to or less than 125% of peer group.

12.2 Managed Portfolio Performance Metrics: The Managed Portfolio(s) point specific return benchmark will be the S&P 500 Index and the Barclays Aggregate U.S. Bond Index combined to create a portfolio of equivalent allocation to the Managed Portfolio being measured.

12.3 Fixed Income & Structured Product Performance Metrics: To the extent that they are used in this plan's portfolio, individual fixed-income securities and/or structured products shall be monitored against mutual fund data related to intermediate bond peer group performance.

12.4 Mutual Fund & Separate Account Performance Metrics:

a) Investment out performance, over rolling periods of time, compared to peer group: One Year, Three Years, and Five Years – 50% of the time.
b) Point specific investment performance relative to peer group: Percentile Rank for One Year, Three Years, and Five Years – 50% or greater.
c) Point specific investment performance relative to specific asset class index over a five-year period.
d) Style Consistency will be reported as "Pass" or "Fail." The allowable period of deviation will be two quarters.
e) Sharpe Ratio and Alpha will be equal to or greater than that of peer group. Standard Deviation will not be applicable.

SECTION 13. Watchlist Review

13.1 While all of the Performance Metrics For Quarterly Investment Review are relevant to the subject of a Watchlist, none of them alone or in combination with others absolutely requires putting an Investment Option on Watchlist. With that caveat, the general chronology of this Investment Policy Statement's Watchlist shall be:

	Quarter	Quarter Following		
Formally putting an Investment Option on Watchlist	☑ 1st			
Review Watchlist Status		☑ 2nd	☐ 3rd	☐ 4th
Review Investment Option Alternatives		☐ 2nd	☑ 3rd	☐ 4th
Select Investment Option Replacement		☐ 2nd	☑ 3rd	☐ 4th

13.2 An Investment Option can be removed from Watchlist status for one of three reasons:

a) The Performance Metrics For Quarterly Investment Review of an Investment Option change so that it meets the Performance Metrics;

b) The Investment Committee understands why the Investment Option is not meeting a stated Performance Metric and is comfortable that the Investment Option is still meeting the objectives for which it was chosen; or

c) The Investment Committee replaces the Investment Option.

SECTION 14. Reporting

The authorized Investment Advisor shall prepare on a quarterly basis reports that highlight the current portfolio allocation, time-weighted performance and any transactions that occurred during the quarter. The advisor will also prepare a quarterly fiduciary review packet that analyzes the plan's current investments to its investment policy statement. The plan's trust provider will also provide monthly trust reports that outline the plan's asset allocation and any transactions that occurred during the month.

SECTION 15. Investment Policy Review

The City Treasurer must submit annually to the City Council, and to the Investment Oversight Committee, a statement of investment policy. This statement must be reviewed by the Investment Oversight Committee and considered by the City Council at a public meeting. Any change in the City's investment policy must also be considered by the City Council at a public meeting.

SECTION 16. Repeal

Resolution No. CC 2023-007, adopted on January 11, 2023, is hereby repealed in its entirety.

SECTION 17. The City Clerk shall certify to the adoption of this resolution.

PASSED, APPROVED and **ADOPTED** this 24th day of January 2024.

Approved as to form:

_____
William P. Curley III
City Attorney

_____
Austin Bishop, Mayor

ATTEST:

_____
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 24th day of January 2024 by the following roll call vote:

AYES:_____

NOES:_____

ABSTAIN:_____ABSENT: _____

Date: _____

_____
Rochelle Scott, Acting City Clerk

GLOSSARY

AGENCIES: Federal agency securities.

ANNUAL COMPREHENSIVE FINANCIAL REPORT (ACFR): The official annual report for the City of Palmdale. It includes combined statements and basic financial statements for each individual fund and account group prepared in conformity with GAAP. It also includes supporting schedules necessary to demonstrate compliance with finance-related legal and contractual provisions, extensive introductory material, and a detailed Statistical Section.

ASKED: The price at which securities are offered.

BANKERS' ACCEPTANCE (BA): A draft or bill or exchange accepted by a bank or trust company. The accepting institution guarantees payment of the bill, as well as the issuer.

BASIS POINT: A basis point equals one one-hundredth of 1% (.01%).

BID: The price offered for securities:

BOOK ENTRY SECURITIES: All U.S. Treasury and Federal Agencies are maintained on computerized records at the Federal Reserve now known as "wireable" securities.

BROKER: A broker brings buyers and sellers together for a commission paid by the initiator of the transaction or by both sides; he does not position. In the money market, brokers are active in markets in which banks buy and sell money and in interdealer markets.

COLLATERAL: Securities, evidence of deposit or other property that a borrower pledges to secure repayment of a loan. Also refers to securities pledged by a bank to secure deposits of public monies.

CERTIFICATE OF DEPOSIT (CD): A time deposit with a specific maturity evidenced by a certificate. Large-denomination CD's are typically negotiable.

COMMERCIAL PAPER (CP): An unsecured promissory note with a fixed maturity no longer than 270 days. Public offerings are exempt from SEC registration. The largest issuers include General Motors Acceptance Corporation (GMAC), General Electric Capital Corporation (GECC) and other major corporations.

COUPON: (a) The annual rate of interest that a bond's issuer promises to pay the bondholder on the bond's face value. (b) A certificate attached to a bond evidencing interest due on a payment date.

DEALER: A dealer, as opposed to a broker, acts as a principal in all transactions, buying and selling for his own account.

DELIVERY VERSUS PAYMENT: There are two methods of delivery of securities: delivery versus payment and delivery versus receipt (also called free). Delivery versus payment is delivery of securities with an exchange of money for the securities. Delivery versus receipt is delivery of securities with an exchange of a signed receipt for the securities.

DEBENTURE: A bond secured only by the general credit of the issuer.

DISCOUNT: The difference between the cost price of a security and its value at maturity when quoted at lower than face value. A security selling below original offering price shortly after sale also is considered to be at a discount.

DISCOUNT SECURITIES: Non-interest bearing money market instruments that are issued at a discount and redeemed at maturity for full face value, e.g., U.S. Treasury bills.

DIVERSIFICATION: Dividing investment funds among a variety of securities offering independent returns.

FEDERAL CREDIT AGENCIES: Agencies of the Federal government set up to supply credit to various classes of institutions and individuals, e.g., S&L's, small business firms, students, farmers, farm cooperatives, and exporters.

FEDERAL FUNDS: Non-interest bearing deposits held by member banks at the Federal Reserve. Also used to denote "immediately available" funds in the clearing sense. "Fed Funds" also used to refer to these funds.

FEDERAL FUNDS RATE: The rate of interest at which Federal funds are traded. The Federal Reserve through open-market operations currently pegs this rate.

FEDERAL DEPOSIT INSURANCE CORPORATION (FDIC): A federal agency that insures bank deposits, currently up to $250,000 per deposit.

FEDERAL HOME LOAN BANKS (FHLB): The institutions that regulate and lend to savings and loan associations. The Federal Home Loan Banks play a role analogous to that played by the Federal Reserve Banks vis-à-vis member commercial banks.

FEDERAL HOME LOAN MORTGAGE CORPORATION (FHLMC): A U.S. Corporation and instrumentality of the U.S. government. Through its purchases of conventional mortgages, it provides liquidity to the mortgage markets, much like FNMA. FHLMC's securities are highly liquid and widely accepted. FHLMC assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL NATIONAL MORTGAGE ASSOCIATION (FNMA): FNMA, like GNMA was chartered under the Federal National Mortgage Association Act in 1938. FNMA is a federal corporation working under the auspices of the Department of Housing & Urban Development, H.U.D. It is the largest single provider of residential mortgage funds in the United States. Fannie Mae, as the corporation is called, is a private stockholder-owned

corporation. The corporation's purchases include a variety of adjustable mortgages and second loans in addition to fixed-rate mortgages. FNMA assumes and guarantees that all security holders will receive timely payment of principal and interest.

FEDERAL OPEN MARKET COMMITTEE (FOMC): Consists of seven members of the Federal Reserve Board and five of the twelve Federal Reserve Bank Presidents. The President of the New York Federal Reserve Bank is a permanent member while the other Presidents serve on a rotating basis. The Committee periodically meets to set Federal Reserve guidelines regarding purchases and sales of Government Securities in the open market as a means of influencing the volume of bank credit and money.

FEDERAL RESERVE SYSTEM: The central bank of the United States created by Congress and consisting of a seven-member Board of Governors in Washington, D.C., 12 Regional Banks and about 5,700 commercial banks that are members of the system.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION (GNMA or Ginnie Mae): Securities guaranteed by GNMA and issued by mortgage bankers, commercial banks, savings and loans associations and other institutions. Security holder is protected by full faith and credit of the U.S. Government. GNMA securities are backed by FHA, VA or FMHM mortgages. The term pass-throughs are often used to describe Ginnie Mae’s.

LIQUIDITY: A liquid asset is one that can be converted easily and rapidly into cash without a substantial loss of value. In the money market, a security is said to be liquid if the spread between bid and asked prices is narrow and reasonable size can be done at those quotes.

LOCAL AGENCY INVESTMENT FUND (LAIF): The aggregate of all funds from political subdivisions that are placed in the custody of the State Treasurer for investment and reinvestment.

MARKET VALUE: The price at which a security is trading and could presumably be purchased or sold.

MASTER REPURCHASE AGREEMENT: A written contract covering all future transactions between the parties to repurchase--reverse repurchase agreements that establish each party's rights in the transactions. A master agreement will often specify, among other things, the right of the buyer-lender to liquidate the underlying securities in the event of default by the seller-borrower.

MATURITY: The date upon which the principal or stated value of an investment becomes due and payable.

MONEY MARKET: The market in which short-term debt instruments (bills, commercial paper, bankers' acceptances, etc.) are issued and traded.

OPEN MARKET OPERATIONS: Purchases and sales of government and certain other securities in the open market by the New York Federal Reserve Bank, as directed by the

FOMC, in order to influence the volume of money and credit in the economy. Purchases inject reserves into the bank system and stimulate growth of money and credit; sales have the opposite effect. Open market operations are the Federal Reserve's most important and most flexible monetary policy tool.

PORTFOLIO: Collection of securities held by an investor.

PRIME RATE: The rate at which banks lend to their best or "prime" customers. Also known as the "reference rate."

PRUDENT PERSON RULE: An investment standard. In some states the law requires that a fiduciary, such as a trustee, may invest money only in a list of securities selected by the state (the so-called legal list). In other states, the trustee may invest in a security if it is one which would be brought by a prudent person of discretion and intelligence who is seeking a reasonable income and preservation of capital.

QUALIFIED PUBLIC DEPOSITORIES: A financial institution which does not claim exemption from the payment of any sales or compensating use or ad valorem taxes under the laws of this state, which was segregated for the benefit of the commission eligible collateral having a value of not less than its maximum liability and which has been approved by the Public Deposit Protection Commission to hold public deposits.

RATE OF RETURN: The yield obtainable on a security based on its purchase price or its current market price. This may be the amortized yield to maturity on a bond or the current income return.

REPURCHASE AGREEMENT (RP OR REPO): A holder of securities sells these securities to an investor with an agreement to repurchase them at a fixed price on a fixed date. The security "buyer" in effect lends the "seller" money for the period of the agreement, and the terms of the agreement are structured to compensate him for this. Dealers use RP extensively to finance their positions. Exception: When the Federal Reserve Bank is said to be doing RP, it is lending money that is increasing bank reserves.

SAFEKEEPING: A service to customers rendered by banks for a fee whereby securities and valuables of all types and descriptions are held in the banks' vaults for protection.

SECONDARY MARKET: A market made for the purchase and sale of outstanding issues following the initial distribution.

SEC RULE 15C3-1: See uniform net capital rule.

SECURITIES & EXCHANGE COMMISSION: Agency created by Congress to protect investors in securities transactions by administering securities legislation.

SETTLEMENT DATE: The date on which a trade is cleared by delivery of securities against funds. This date may be the same as the trade date or later.

TRADE DATE: The date on which a transaction is initiated or entered into by the buyer and seller.

TREASURY BILL: A non-interest bearing (discount) security issued by the U.S. Treasury to finance the national debt. Most bills are issued to mature in three months, six months, or one year.

TREASURY BONDS: Long-term U.S. Treasury securities having initial maturities of more than ten years.

TREASURY NOTES: Intermediate term coupon bearing U.S. Treasury securities having initial maturities of from one to ten years.

UNIFORM NET CAPITAL RULE: Securities and Exchange Commission requirement that member firms as well as nonmember broker-dealers in securities maintain a maximum ratio of indebtedness to liquid capital of 15 to 1; also called net capital rule and net capital ratio. Indebtedness covers all money owed to a firm, including margin loans and commitments to purchase securities. This is one reason new public issues are spread among members of underwriting syndicates. Liquid capital includes cash and assets easily converted into cash.

WHEN-ISSUED TRADES: Typically, there is a delay between the time a new bond is announced and sold, and the time when it is actually issued. During this interval, the security trades "wi", "when, as, and if issued."

YIELD: The rate of annual income return on an investment, expressed as a percentage. (a) INCOME YIELD is obtained by dividing the current dollar income by the current market price for the security. (b) NET YIELD or YIELD TO MATURITY is the current income yield minus any premium above par or plus any discount from par in purchase price, with the adjustment spread over the period from the date of purchase to the date of maturity of the bond.

YIELD TO MATURITY: The rate of return yielded by a debt security held to maturity when both interest payments and the investor's capital gain or loss on the security are taken into account.

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **ECONOMIC AND COMMUNITY DEVELOPMENT**

DISTRICT: **ALL**

SUBJECT: **APPROVE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE CITY OF PALMDALE, COUNTY OF LOS ANGELES AND LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY FOR THE COOPERATION, COLLABORATION, AND NEGOTIATION OF JOINT RESPONSIBILITIES TO ESTABLISH THE CENTER FOR TRANSPORTATION TECHNOLOGY EXCELLENCE**

RECOMMENDATION

Staff recommends that the City Council:

1. Approve Agreement No. A-8676, a Memorandum of Understanding (MOU) by and between the City of Palmdale (City), County of Los Angeles (County) and Los Angeles County Metropolitan Transportation Authority (Metro); and

2. Authorize the City Manager or their designee to execute the Agreement, including minimal and/or non-substantiative changes.

BACKGROUND

Following the passage of Measures R and M, Metro's capital and fleet program has expanded extensively. Despite efforts to double the mileage of rail infrastructure and significantly reformulate buses to support the agency and region's zero emission goals, Metro's delivery of transit vehicles and infrastructure are impacted by limited access to vehicle and system level testing opportunities, a skilled and trained workforce, qualified vendors, and suitable research and development facilities.

A facility specifically designed to address these needs is not only of specific interest to Metro, but to many other transit agencies, particularly in the western United States, where nearly 13,000 rail cars and 16,000 buses are expected to be procured over the next 20 years. In addition, such a facility could include space for manufacturing, which would support the local and nation goal of reestablishing domestic transit vehicle manufacturing and create a significant number of jobs and economic development throughout the surrounding area.

Over the past few years, Metro, in collaboration with the County has sought to identify a suitable location for this type of facility, which is referred to as the Center for Transportation Technology Excellence (Center). Following extensive stakeholder input regarding the priority components of such a facility, a review of best practices, and a vetting of potential sites, property owned by the Los Angeles World Airports (LAWA) in Palmdale and unincorporated County, has been identified as a viable site.

DISCUSSION

An MOU has been developed that outlines the shared objectives between the City, County, and Metro, to collaboratively lead this effort. The MOU provides a framework for establishing a suitable governance model, as well as advancing a land use strategy and financial plan. Since the project site is primarily located within the city limits, the City will be directly involved in developing a strategy to address entitlement issues, including but not limited to, land use/planning and environmental regulations, with local, state and federal authorities. In addition, the City will coordinate and collaborate with local and regional stakeholders to advance the project.

The Center is envisioned to be developed in two components, including an approximately seven-mile track loop and approximately 500,000 square feet of testing, research and training facilities, as well as approximately 1,500,000 square feet of manufacturing facilities. The proposed project is anticipated to create more than 114,000 jobs and $11.5 billion in economic impact to the region.

FISCAL IMPACT

$0; there is no fiscal impact associated with this action.

STRATEGIC PLAN

Goal III: Invest in infrastructure to improve community livability.

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

Prepared by:	Luis Garibay, Director of Economic and Community Development
Certified as to availability of Funds:	Janelle Samson, Director of Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P. Curley, III, City Attorney

ATTACHMENT

1. Agreement No. A-8676

MEMORANDUM OF UNDERSTANDING

BETWEEN THE LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY, THE COUNTY OF LOS ANGELES, AND THE CITY OF PALMDALE

FOR COOPERATION, COLLABORATION, AND NEGOTIATION OF JOINT RESPONSIBILITIES

TO ESTABLISH THE CENTER FOR TRANSPORTATION TECHNOLOGY EXCELLENCE

PREAMBLE

This Memorandum of Understanding ("MOU") is made effective as of _____, 2024 ("Effective Date"), by and between the Los Angeles County Metropolitan Transportation Authority ("Metro" or "LACMTA"), the County of Los Angeles ("LA County"), and the City of Palmdale ("Palmdale"), (individually a "Party" and collectively the "Parties"). The Parties desire to enter into this MOU to set forth the terms and conditions upon which the Parties will collaborate towards establishment of an entity with an envisioned mandate to establish a transportation-related testing, research, and manufacturing facility known as the Center for Transportation Technology Excellence ("Center" or "CTTE").

RECITALS

A. WHEREAS, transportation is a critical factor that influences healthy, vibrant communities and powers successful economies;

B. WHEREAS, Metro is poised to dramatically transform the transportation infrastructure of the region by expanding the rail network from eight lines to fifteen lines over the next 40 years;

C. WHEREAS, despite high demand for sustainable transit infrastructure, specifically in zero emissions vehicles, and significant state and federal transit funding, there are shared challenges across the nation and locally, that inhibit optimal progress, including limited access to vehicle and system level manufacturing and testing, a trained, skilled workforce, vendors, and adequate research and development facilities;

D. WHEREAS, over 13,000 railcars and over 16,000 buses are expected to be procured over the next 20 years across the western United States;

E. WHEREAS, creating a facility where rolling stock and buses could be fully manufactured within the Los Angeles County region would ensure that residents benefit from the high-quality jobs;

F. WHEREAS, in October 2018, the LA County Board of Supervisors unanimously approved a motion directing the LA County Chief Executive Office ("CEO") to work in partnership with

Metro's Chief Executive Officer to help identify a package of incentives to assist in creating a rolling stock manufacturing facility within Los Angeles County, and to prepare a workforce investment plan for a new rolling stock manufacturing facility emphasizing local job training, hiring, internship and apprenticeship opportunities;

G. WHEREAS, on December 2018, the LA County Board of Supervisors directed the County's CEO to support proposals that would assist LA County and Metro in joint efforts to site a rail manufacturing and testing facility within LA County's geographic boundaries;

H. WHEREAS, Metro has engaged industry, academic, and workforce leaders, regarding the opportunity to co-locate and collaborate on the design and operation of transit-focused research, training and testing facilities;

I. WHEREAS, following extensive stakeholder input regarding the priority components of such a facility, a review of best practices, and a vetting of potential sites, Metro has determined that property owned by Los Angeles World Airports ("LAWA"), located within the boundaries of the City of Palmdale and unincorporated LA County, is a viable site for the proposed Center;

J. WHEREAS, Metro staff have developed a preliminary site plan, assessed project benefits and completed initial due diligence on the site, including a preliminary land use analysis and environmental and infrastructure assessment;

K. WHEREAS, the proposed Center is located within a community defined by Metro as an "Equity Focus Community" and its development and operation is anticipated to not only further efforts to expedite the delivery of transit technology and solutions that would benefit low-income and disadvantaged riders, but also create workforce and economic opportunities in an area of Los Angeles County that would benefit from additional investment and opportunities;

L. WHEREAS, in April 2023, the Metro Board of Directors directed their Chief Executive Officer to engage LA County, Palmdale, the City of Los Angeles and LAWA, with the intent to execute a Master Cooperative Agreement to memorialize a shared interest and commitment to explore the feasibility of locating the proposed Center on such property, inclusive of an assessment of any federal regulatory considerations, and advance site control, entitlement, environmental clearance, governance, and financing strategies for the Center, and this MOU is envisioned to provide the potential framework for a future Master Cooperative Agreement;

M. WHEREAS, Metro formed the Transit Tech Center Consortium ("Consortium"), which includes LA County and the City of Palmdale, and submitted an application in August 2023 for a Strategy Development Grant and designation as a Technology Hub with the US Economic Development Administration's Regional Technology and Innovation Hubs Program;

N. WHEREAS, Metro, LA County, and Palmdale wish to memorialize their shared interest in development of the Center and to govern the relationship between them regarding pre-development activities associated with constructing the Center; and

O. WHEREAS, the Parties, through this MOU, wish to confirm their intent to negotiate a governance structure which exercises the Parties' mutual powers and commitment to collaborate on the design, build, financial strategy, delivery, operations and maintenance of the Center.

NOW, THEREFORE, in consideration of the above Preamble and Recitals, which are incorporated by reference herein, and of the mutual promises and agreements contained hereinafter, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

AGREEMENT

1. PARTIES

(a) No Transfer or Assignment Without Consent

No Party shall convey, transfer, or assign any of its interests or obligations under this MOU, without the prior written consent of all other Parties. All provisions of this MOU shall be binding upon and inure to the benefit of any duly authorized successor, transferee or assignee to this MOU.

(b) Additional Parties

Additional Parties may join into this MOU. The addition of a Party or Parties to this MOU will become effective only upon the unanimous consent of the current Parties and execution of a written amendment to the MOU.

(c) No Third-Party Beneficiaries

Only the expressly designated Parties, or their duly authorized successors-in-interest, transferees, or assignees, are beneficiaries of this MOU. There are no third-party beneficiaries and this MOU is not intended and shall not be construed to benefit or be enforceable by any other entity or person whatsoever.

(d) Independent Relationship of Parties

This MOU shall not be construed to have established a joint powers authority, special district, community development corporation, non-profit corporation, or similar arrangement by the Parties. No Party shall undertake or assume any obligation or duty of another Party with respect to this MOU, unless specified in this MOU. No Party shall have authority to act as an agent of the other or to bind the other to any obligation or duty.

2. TERM / EARLY TERMINATION

The term of this MOU shall commence on the Effective Date, as set forth hereinabove, and shall remain in full force and effect through culmination of pre-development activities, as that term is referenced in Section 3 ("Termination Date").

Any Party may terminate this MOU, mutually or unilaterally, with or without cause, at any time

prior to the Termination Date. In the event of a unilateral termination by a Party, the termination will become effective thirty (30) days after submission/transmission of written notice to the other Parties. Said notices shall otherwise comply with the procedural requirements for notices set forth hereunder.

3. GOALS OF THE PARTIES UNDER THIS MOU

The purpose of this MOU is to govern the relationship between Metro, LA County, and Palmdale regarding pre-development activities for the Center, including the following:

(a) Developing a "Governance Strategy" and/or governance structure for the entity developing the Center.

(b) Developing protocols associated with internal engagement among the Parties.

(c) Determining members' commitments regarding information/data sharing, etc.

(d) Determining specifics of appointment of a Regional Innovation Officer to oversee the effort.

(e) Developing protocols associated with the Parties' engagement with stakeholders and community members, a broad communications strategy, and coordination on any communication with the media.

(f) Developing a financial plan to advance the project, including identification of potential financial incentives and programs and collaboration on future grant opportunities, with the potential involvement of the LA County Treasurer and Tax Collector, the LA County Department of Economic Opportunity, the LA County Development Authority, and other departments and agencies as deemed appropriate.

(g) Coordinate collaboration with the Antelope Valley Economic Development & Growth Enterprise and other Transit Tech Center Consortium members to advance the project.

(h) Identifying a specific site for the Center and develop a site plan.

(i) Developing a project description.

(j) Developing a strategy to address entitlement issues, including but not limited to, land use/planning and environmental regulations, with local, state and federal authorities, as may be applicable.

(k) Developing roles and responsibilities of the Parties in regard to executing an Exclusive Negotiation Agreement with LAWA.

(l) Determining recommendations to each of the members' governing bodies regarding respective funding and staffing contributions to support pre-development activities.

4. MUTUAL COMMITMENTS OF ALL PARTIES UNDER THIS MOU

(a) Negotiation of Governance Structure

The Parties shall cooperatively work together to negotiate and execute a governance structure and enabling agreement (Agreement), to support the delivery of the Center. The Agreement shall address all items necessary and appropriate for establishment, including but not limited to the terms set forth in Attachment 1.

(b) Termination of Negotiations

The Parties enter into this MOU to memorialize their mutual commitment to exercise good faith efforts to successfully negotiate an agreement and deliver the Center to benefit the public. Notwithstanding, until such time as an Agreement is approved by their respective governing bodies, any Party may terminate negotiations under this MOU at any time for any reason upon reasonable written notice to the other Parties. Prior to terminating negotiations, the terminating Party shall notify the other Parties of its intention to terminate, and the Parties shall meet and confer to discuss their respective concerns. The suspension or termination of negotiations shall not give rise to liability to the other Parties.

(c) Confidentiality and Common Interest

The Parties acknowledge and agree that consideration, drafting, and negotiation of an Agreement is a mutual undertaking that requires the cooperation of the Parties' respective legal counsel and representatives. The Parties, and their respective advisors and consultants, shall work together in confidence, and shall take all reasonable steps to protect the confidentiality of their advice and counsel, to the extent permissible by law regarding information disclosure such as the California Public Records Act, law regarding attorney work product and attorney-client communications, and law regarding the "Common Interest Doctrine." To the extent consistent with relevant law, the Parties shall maintain security and control over all documents and emails containing proposals, correspondence, documents, information and data that is generated by any Party in connection with the Parties' activities under this MOU ("Confidential Information"), and shall ensure that all of its advisors and consultants at any level maintain the confidentiality, security and control over any Confidential Information. The Parties shall inform all their officers, agents, subcontractors and others providing services hereunder of the confidentiality requirements under this MOU. If a Party gains access to personally identifiable information ("PII"), as broadly defined by Federal and State laws, in the records of another Party, said Party shall maintain the confidentiality of such records and information in accordance with all applicable Federal, State, and local laws and regulations. Unless mutually agreed in writing by all Parties or unless required by a Court of competent jurisdiction, no Party shall divulge any Confidential Information or PII to the media, any member of the public, or any other party.

The Parties acknowledge that any commitments or obligations regarding confidentiality of information under this MOU shall not supersede any legal responsibilities under the California Public Records Act or other generally applicable laws and regulations. Acting in good faith, each Party will comply with the California Public Records Act, as it determines legally appropriate in

its sole discretion. To the extent a Party may object to another Party's release of information pursuant to the California Public Records Act, the objecting Party may commence litigation to enjoin said disclosure by the other Party.

Notwithstanding any contrary provision in this MOU, this section is a binding agreement among the Parties and this section's terms shall survive termination or expiration of the MOU.

5. INDIVIDUAL COMMITMENTS OF EACH PARTY UNDER THIS MOU

(a) Individual Commitments Specific to Metro

(i) Metro may hire/appoint a Regional Innovation Officer, in coordination with LA County and Palmdale.

(ii) Designation of key staff; commitment to meet regularly.

(iii) Utilization of program management consultants to assist in the coordination and administration of activities associated with the goals of the MOU.

(iv) Utilization of environmental services bench to select a consultant that can lead the CEQA/NEPA/Entitlements Process.

(b) Individual Commitments Specific to LA County

(i) Designation of key staff; commitment to meet regularly.

(ii) Support the advancement of environmental clearances, entitlement and pre-development activities.

(iii) Leveraging the resources of the Department of Economic Opportunity to lead workforce development and other related efforts.

(c) Individual Commitments Specific to Palmdale

(i) Designation of key staff; commitment to meet regularly.

(ii) Support the advancement of environmental clearances, entitlement and pre-development activities.

6. INDEMNIFICATION

Each Party shall indemnify the other Parties, to the extent that and in proportion to, a Party's negligence or willful misconduct causes loss or damage, or liability for third-party loss or damage, to another Party. Such mutual and proportionate indemnification by each Party shall extend to the other Parties' governing boards, executives, administrators, managers, attorneys or any other direct or indirect employees or agents (collectively, "Indemnitees") for the liability, loss, damage and

expense (including reasonable attorneys' fees) sustained by a Party arising out of negligence or willful misconduct by another Party in relation to this Agreement.

7. NOTICES

The following individuals and their successors are designated by each Party as its authorized representative(s) for implementation of this MOU. All correspondence and notices relative hereto shall be considered delivered when received by the duly designated individual(s) at the following addresses:

Metro:
Chief Executive Office
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012, 14th Floor
Attention: Stephanie Wiggins, Nicoe Englund and Sharon Gookin
Email: englundn@metro.net, gookins@metro.net

LA County:
Chief Executive Office
Attention: Assistant CEO, Asset Management
Email: assetmgt@ceo.lacounty.gov

Palmdale:
Attention: Ronda Perez, Luis Garibay
38300 Sierra Highway, Suite A
Palmdale, CA 93550
Email: rperez@cityofpalmdale.org, lgaribay@cityofpalmdale.org

8. TIME OF ESSENCE

Time is of the essence for each provision of this MOU of which time is an element.

9. GOVERNING LAW AND VENUE

The validity, interpretation and performance of this MOU shall be determined in accordance with the laws of the State of California. Venue for any action commenced to enforce any right under the MOU shall be filed in the Superior Court of the County of Los Angeles.

10. INTERPRETATION

This MOU shall be construed according to its fair meaning and as if prepared by both Parties. Titles and captions are for convenience only and shall not constitute a portion of this MOU. As used in this MOU, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others wherever and whenever the context so dictates. As used in this MOU, the word "includes or "including" means including without limitation, the word "or" is

not exclusive and the words “herein,” “hereof,” “hereto” and “hereunder” refer to this MOU as a whole. Unless the context otherwise requires, references herein: (a) to articles, paragraphs, sections and exhibits mean the articles, paragraphs, sections and exhibits that are part of this MOU as amended, supplemented or modified from time to time to the extent permitted by the provisions thereof and by this MOU, (b) to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented or modified from time to time to the extent permitted by the provisions thereof and by this MOU, and (c) to a statute means such statute as amended, supplemented or replaced from time to time. The exhibits, schedules, addenda, and attachments that are attached to this MOU are made a part of this MOU.

11. CONSTRUCTION OF TERMS

This MOU has been jointly prepared by all of the Parties. Therefore, this MOU shall not be construed against any one Party on the basis of such Party drafting this MOU or any specific provision(s) herein.

12. ENTIRE AGREEMENT

This MOU supersedes all prior agreements either oral or written, between the parties with respect to the subject of this MOU. Each Party to this MOU acknowledges that no representations, inducements, promises, or agreements, or otherwise, have been made by any Party which is not embodied herein.

13. AMENDMENTS AND MODIFICATIONS

Any amendment, modifications, or extensions to this MOU shall be in writing and will be deemed effective only upon full execution by all of the Parties.

14. SEVERABILITY

If any specific provision(s) of this MOU is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions will continue in full force and effect without being impaired or invalidated in any way.

15. WAIVER

No waiver of any provision of this MOU shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought. No waiver of any right or remedy with respect to any occurrence or event shall be deemed a waiver of any right or remedy with respect to any other occurrence or event.

16. EXECUTION / COUNTERPARTS

This MOU may be executed in any number of counterparts, each of which when so executed shall be deemed to be original, but altogether shall constitute but one and the same agreement, and it is also understood and agreed that separate counterparts of this MOU may be separately executed by

the Parties, all with the same full force and effect as though the same counterpart has been executed simultaneously by all of the Parties.

[SIGNATURES FOLLOW ON NEXT PAGE]

By their signatures below, the Parties have entered into and agreed to and accepted the terms and conditions of this Memorandum of Understanding.

LOS ANGELES COUNTY METROPOLITAN TRANSPORTATION AUTHORITY ("LACMTA" / "METRO")	**COUNTY OF LOS ANGELES**
BY _____	BY _____
NAME: _____	NAME: _____
POSITION: _____	POSITION: _____
Date: _____	Date: _____

CITY OF PALMDALE
BY _____
NAME: _____
POSITION: _____
Date: _____

ATTACHMENT 1

OPERATIONAL DOCUMENTS TO BE DEVELOPED

1 Administrative Code

2 Bylaws

3 Conflict of Interest Code

4 Insurance coverage plan

5 Initial budget for the entity, showing sources and uses of funds

6 Plans for audit compliance, project controls and risk management

7 Organizational plan identifying:

(a) required employees and job descriptions, such as Chief Innovation Officer ("CIO"), Chief Executive Officer ("CEO"), Chief Financial Officer ("CFO")/Director of Finance, Treasurer, Chief Engineer/Director of Engineering and Construction, Controller, Risk Manager, administrative support;
(b) consultant roles and scopes of work;
(c) to whom each position will report; and
(d) when each position needs to be phased

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **PUBLIC WORKS DEPARTMENT**

DISTRICT: **ALL**

SUBJECT: **ACCEPT A DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY (CALRECYCLE) GRANT FOR THE REPLACEMENT OF 11 OR MORE DRINKING FOUNTAINS WITH DUAL BOTTLE-FILLING DRINKING STATIONS LOCATED AT VARIOUS CITY PARKS IN THE AMOUNT OF $92,183**

RECOMMENDATION

Staff recommends that the City Council accept a CalRecycle grant for the replacement of 11 or more drinking fountains, with new dual bottle-filling drinking stations, at various City parks and facilities in the amount of $92,183.

BACKGROUND

At the October 18, 2023, Council meeting, Council approved a staff report authorizing the Director of Public Works to sign all necessary documents for submission of a grant from CalRecycle, and if awarded the grant, staff would bring the grant award back to Council for acceptance and authorization.

CalRecycle administers funding programs for several recycling and waste-related programs. This includes assisting organizations with establishing convenient beverage container recycling and litter abatement projects to promote increased recycling of beverage containers throughout California and to reduce beverage container litter in the waste stream.

DISCUSSION

The City of Palmdale was recently awarded a grant for the replacement of 11 or more drinking fountains with new dual bottle-filling drinking stations. The water fountain replacements include both floor and wall-mounted fountains. The goal of this project is to support the California Beverage Container Recycling and Litter Reduction Act by implementing dual bottle-filling stations for the Palmdale community, encouraging them to utilize reusable water containers at the filling stations and to become less dependent on one-time-use beverages. This project will provide next-generation practice solutions that will re-invent the minds of the members of our community to be environmentally conscious. The table below outlines the proposed fountain changeouts.

Replacement Locations	
Marie Kerr Park	1 – Floor
Domenic Massari	1 – Floor
Pelona Vista	1 – Floor
MKP Rec Center	1 – Wall
Oasis Rec Center	1 – Wall
Amphitheater	2 – type to be determined
Drytown	3 – type to be determined
Legacy Commons	1 – Wall

FISCAL IMPACT

$92,183; CalRecycle has awarded the City $92,183 through its Beverage Container Recycling Competitive Grant program. The grant will cover in its entirety the purchase of the units and their installation using a third-party contractor. A project account will be created upon approval by the Council.

STRATEGIC PLAN

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 Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P. Curley, III, City Attorney

ATTACHMENTS

Atch 1 Proposed New Fountain

Atch 1 Proposed New Fountain





City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **PUBLIC WORKS DEPARTMENT**
MAINTENANCE DIVISION

DISTRICT: **ALL**

SUBJECT: **APPROVE AGREEMENT WITH SAMSARA, INC., UTILIZING SOURCEWELL COOPERATIVE CONTRACT, FOR WEB-BASED FLEET TELEMATICS SOFTWARE AND EQUIPMENT IN AN AMOUNT NOT TO EXCEED $300,000 OVER A FIVE-YEAR CONTRACT**

RECOMMENDATION

Staff recommends that the City Council:

1. Approve Agreement No. A-8571 with Samsara, Inc., utilizing Sourcewell Cooperative Contract No. 020221-SAM, for web-based fleet telematics software and equipment in an amount not to exceed $300,000 over a five-year contract; and,
2. Authorize the City Manager or her designee to execute Agreement No. A-8571 with Samsara, Inc., including minimal and/or non-substantial changes.

BACKGROUND

Public Works Fleet Maintenance currently uses Enterprise Asset Management (EAM) for fleet asset management of the City's approximately 250 municipal vehicles and equipment. Enterprise Asset Management is a web-based software that fleet maintenance uses to track data for various fleet maintenance and repair activities to ensure operational safety and prolong asset life cycle. However, Enterprise Asset Management does not have the ability to provide telematics. Telematics is the technology used to monitor a wide range of information relating to an individual vehicle or an entire fleet. Telematics software provides vehicle performance, GPS location, fuel efficiency, vehicle speed and RPM data, and idle and power-take-off (PTO) times. It also provides safety data such as breaking/stopping suddenly, aggressive accelerating, and onboard diagnostics, which send engine alerts in real-time to fleet maintenance staff.

Public Works Fleet Maintenance has determined that implementing fleet telematics will positively impact staff, budget, and operations, improve employee safety and efficiency in field operations, and help prevent costly repairs and excessive vehicle or equipment downtime.

DISCUSSION

City staff reviewed and had demonstrations with three (3) companies: Samsara, Inc., Verizon, and Michelin. It was determined that Samsara, Inc. provided the tools and software that the City was looking for. The fleet telematics software will allow the City to:

- Access real-time data for decision support of operating crews and equipment, especially during wet weather events and disasters.
- Perform inspections for verifiable and regulatory-compliant electric reports that increase vehicle uptime and lower maintenance costs.
- Monitor vehicle idling, speeding, and hard braking or accelerating that may eliminate non-productive driving behaviors that result in immediate fuel efficiency and savings and improve operator safety.
- Improve vehicle/driver and equipment maintenance communication to allow data-driven real-time vehicle servicing and diagnostics reporting, which leads to more efficient and effective maintenance, repair planning, and staff time allocation.
- Meet Advanced Clean Fleets requirements and exemptions.
- Enable insurance discounts through safe driving monitoring.

The Meet and Confer process with Teamsters Union Local 911 was conducted in December 2023, and all agreed that this was good for the organization. The City has agreed not to utilize telematics data on city fleet vehicles to initiate disciplinary actions. Only as part of an active investigation that warrants management review can the telematics data be used to reconstruct events or validate claims. Further, any reasonable use of the telematics data, specifically for coaching or training resources and disciplinary actions, will be consistent with the existing City procedures and policies. The telematics data will be utilized to enhance efficient vehicle routing and support operational logistics. There will be limited access to the system. Administration Rights will be assigned to Superintendents, the Maintenance Services Manager, the Director of Public Works, and Human Resources.

FISCAL IMPACT

$300,000; By entering into an agreement with Samsara, Inc., the City will receive the best available pricing from Samsara, Inc. The City is utilizing cooperative pricing with Samsara, Inc. through Sourcewell Contract No. 020221-SAM.

Sufficient funds for the equipment and web-based software to sustain these services over the contract term are budgeted in Fleet Maintenance Account No. 15433006-732100.

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.

Prepared by:	Lynn Glidden, P.E., Director of Public Works
Certified as to availability of Funds:	Janelle Samson, Director of Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P. Curley, III, City Attorney

ATTACHMENTS

Agrmt No. A-8571 Samsara Inc.
Samsara, Inc. Sourcewell Contract No. 020221

MEMO TO UTILIZE SOURCEWELL COOPERATIVE AGREEMENT 020221-SAM/ A-8571 BETWEEN

THE CITY OF PALMDALE AND SAMSARA INC.

The City of Palmdale has agreed to the terms and conditions of the above-stated contract with SAMSARA INC. (herinafter called "CONTRACTOR).

The parties agree to the use of Cooperative Contract 020221-SAM/A-8571.

The city shall pay the CONTRACTOR an amount not to exceed THREE HUNDRED THOUSAND dollars ($300000) for the completion of all the work and services, which sum shall include all costs or expenses incurred by CONTRACTOR, payable as follows:
Please see EXHIBIT A Scope of Work and EXHIBIT B Quotes for Equipment and Services EXHIBIT C Fee Schedule

The term of this Contract is FIVE (5) YEARS, commencing on the effective date, with CITY reserving the option to extend the agreement for 0 additional terms of one year each.

CITY OF PALMDALE:

SIGNATURE AREA

Ronda Perez
City Manager
38300 Sierra Highway
CITY OF PALMDALE
Palmdale, CA 93550

SIGNATURE AREA

SAMSARA INC.

SIGNATURE AREA

ADDRESS FOR NOTICE:

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
City Attorney

ATTEST: SIGNATURE AREA

Roxanne Faber
Acting City Clerk

Samsara Scope of Work:

Samsara license subscription

Samsara's fleet tracking solution includes hardware accessories and a per-gateway license. Gateway licenses provide all ongoing elements of the service, including:

- Real-time location and vehicle telematics
- Dashboard access with unlimited administrator accounts
- Driver App for iOS and Android devices with unlimited driver accounts
- Over-the-air software feature upgrades
- API access related to integration features with 3rd party systems - Maintenance and phone support.

Samsara does not include hidden costs in its licenses. If you want access to Samsara's full set of fleet features--including but not limited to Wi-Fi hotspot and ELD capabilities--you will need to upgrade your license. Samsara reserves the right to audit the usage of features unrelated to the solution as well as remove them from the Samsara Dashboard.

Samsara Hardware.

Samsara does not charge for hardware components that require a subscription. Examples of these components are Vehicle Gateways (VG), Cameras (CM), Camera Connector (CC), and Asset Gateways (AG).

Samsara does charge a one-time annual cost for hardware products that do not require a subscription. Examples are Panic button, Tap card reader, and Environmental monitor.

Samsara Support.

Your Samsara Subscription includes 24/7/365 live Customer Support by Samsara badged employees. Additionally, customers have access to our live chat and knowledge base, which has a wealth of training and knowledge-based articles. Please see our Hardware warrant for more information: https://www.samsara.com/support/hardware-warranty.

Implementation support

Data Import

- Samsara will import all relevant data into the Samsara SaaS environment.
- The City will provide all relevant data to Samsara for import into the Samsara SaaS environment.
- Data to be provided from the City to Samsara includes but is not limited to;

    - Vehicle and Equipment ID numbers
    - Vehicle and Equipment VIN numbers
    - Vehicle and Equipment License Plate Numbers
    - Roster of Driver's Names
    - Roster of Driver's License Numbers
    - Department Names

Dashboard Configuration

Samsara will assist the City of Palmdale with the following Dashboard configuration support:

- **Admin Dashboard Configuration and Settings**

Review Samsara dashboard configuration settings and functionality, including but not limited to:

- Organization-Wide Settings
- Managing Dashboard Users / Admins
- Tags
- Activating and Managing Hardware
- Addresses / Geofences
- Managing Driver Accounts

The City is responsible for installing the Hardware and ongoing maintenance of any Equipment. Depending on the City's intended use of the Products, the City may require professional installation of the Hardware or ongoing professional maintenance of any Equipment. If the City cannot install the Hardware or conduct such ongoing maintenance, or if the City is uncertain that city fleet maintenance staff has the requisite skills and understanding, the City agrees to consult with a qualified installer or maintenance professional. If the City chooses to pursue professional installation with a qualified installer, The City is responsible for such additional costs. Improper installation of the Hardware or maintenance of the Equipment can lead to damage to such Equipment, or dangerous or life-threatening conditions can cause property damage, bodily injury, and/or death.

The City may notify Samsara if the City did not order the correct Hardware cables for Hardware installation. For more information on Samsara's Cable Exchange Policy, please visit https://www.samsara.com/support/hardware-warranty.

Training

The following areas of configuration within the Samsara dashboard will be covered during the configuration guidance session(s) and training enablement sessions. Provide up to 6 hours of virtual train-the-trainer sessions on the following topics to administrators and trainers. Unused training hours do not roll over or accrue.

- **Admin Dashboard Functionality**
  - Review basic navigation of the Samsara dashboard, including Fleet overview and trip history, Proximity, Reports, Alert incidents, and Support.
- **Asset Tracking**
  - Review trailers, powered assets, and unpowered asset tracking capabilities, including temperature sensors, door monitors, and OEM integrations if applicable, and associated reports (i.e., utilization, dormancy, equipment)
- **Safety Overview**
  - Review the dash cam specific reports and functionality, including Safety inbox for harsh events, Safety report/score, Safety coaching workflow, Dash Cam Report, Video retrieval, etc.
  - Review vehicle gateway specific reports and functionality, including Harsh event detection, speeding, and safety report/score.
- **Admin Driver App**
  - Review the Samsara Driver App, including Sign in / Out, Vehicle selection, DVIR, Messages, Documents,
- **Fuel and Maintenance Overview**
  - Review the maintenance tab, including Maintenance status, Maintenance logs, managing and resolving DVIRs, Creating and managing Preventative Maintenance Schedules
  - Review the fuel and energy tab, including Fuel and energy overview, Fuel purchases, IFTA, and Driver efficiency.

Training Enablement

Provide on-demand access to Samsara Academy video tutorials available 24/7

- Enroll in relevant courses.
- Access directly from your Samsara Dashboard
- Available to every dashboard user in your organization

Provide unlimited access to Samsara Knowledge Base articles and weekly live webinars:

- Getting Started with Samsara
- Settings & Alerts Essentials
- Cameras & Safety Essentials
- US Compliance Essentials
- Samsara for US Drivers
- Routing & Dispatch Essentials
- Asset Tracking Essentials

Samsara Inc
1 De Haro Street
San Francisco, CA 94107
www.samsara.com

QUOTE #Q-963429

Issued 11-08-2023

Expires 02-12-2024

Prepared For:
City of Palmdale
38300 Sierra Hwy
Palmdale, California
93550

Prepared By:
Taylor Gershman
taylor.gershman@samsara.com

Quote Summary

	Subtotal
Hardware and Accessories	$0.00
Licenses License Term – 36 Months	

Shipping and Handling	Pending
Upfront Hardware Sales Tax	$0.00
Annual License Sales Tax	$5,138.88
First Year Payment	**$55,274.28**
Payments Beginning Year Two	**$55,274.28**

If shipping is "Pending" - Amount is pending due to size of order; Shipping and Handling subject to change.
If Sales tax is “Pending” – Final amount will be provided prior to payment
*3% processing fee charged on credit card transactions (fee waived for ACH (credit or debit), check, or wire)
*Sales tax subject to change

Samsara Inc
1 De Haro Street
San Francisco, CA 94107
www.samsara.com

SHIP TO Adam Dyer
39110 3rd Street East
Palmdale, California, 93550
United States

Hardware and Accessories	Quantity	Net Unit Price	Total Price
VG54 Aux Cable CBL-VG-CAUX	156	$0.00	$0.00
Vehicle IoT Gateway, model VG54 HW-VG54-NA	142	$0.00	$0.00
Enhanced VG Series OBDII J1962 L-mount cable CBL-VG-COBDII-Y1	140	$0.00	$0.00
Forward-facing dash-camera, series 3. HW-CM31	33	$0.00	$0.00
AG52 Powered Asset Gateway HW-AG52	17	$0.00	$0.00
CBL-AG-BPWR CBL-AG-BPWR	17	$0.00	$0.00
Vehicle IoT Gateway, model VG54, for Heavy Duty Vehicles HW-VG54-NAH	14	$0.00	$0.00
Enhanced VG Series J1939 or J1708 (9-pin) CBL-VG-CJ1939	13	$0.00	$0.00
AG26 HW-AG26	8	$0.00	$0.00
AG J1939 9pin cable CBL-AG-A9PIN	7	$0.00	$0.00
Enhanced VG Series direct-wire non-diagnostic power cable CBL-VG-CPC	2	$0.00	$0.00
Enhanced VG Series J1939 cable for Volvo/Mack OBDII connectors CBL-VG-CJ1939-VM	1	$0.00	$0.00
9-pin Caterpillar cable CBL-AG-ACT9	1	$0.00	$0.00
		Hardware Due	$0.00

Licenses	Quantity	Annual Unit Price	Total Annual Price
License for Asset Gateways LIC-AG2-ENT	8	$214.20	$1,713.60

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License for Basic Powered Asset Tracker LIC-AG-PWR-BASIC	17	$167.40	$2,845.80
License for Forward-Facing Dash Camera LIC-CM1-ENT	33	$360.00	$11,880.00
		Annual License Due	$16,439.40

Bundles	Quantity	Annual Unit Price	Total Annual Price
License for Vehicle Gateways - Public Sector Only, No WiFi, No ELD LIC-VG-PS	156	$216.00	$33,696.00
		Annual License Due	$33,696.00



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Thank you for considering Samsara for your fleet.

Samsara provides real-time visibility, business-relevant tools, and powerful analytics that enable customers to increase the productivity of their fleets and reduce operating costs. A solution for your fleet is proposed below.

What is included?

Samsara's fleet tracking solution includes hardware accessories and a per-gateway license. Gateway licenses provide all ongoing elements of the service, including:

- Real-time location and vehicle telematics
- Dashboard access with unlimited administrator accounts
- Driver App for iOS and Android devices with unlimited driver accounts
- Over-the-air software feature upgrades
- API access as it relates to features for integration with 3rd party systems
- Maintenance and phone support

Samsara does not include hidden costs in its licenses. If you want access to Samsara's full set of fleet features--including but not limited to WiFi hotspot and ELD capabilities--you will need to upgrade your license. Samsara reserves the right to audit usage of features unrelated to the solution as well as remove them from the Samsara Dashboard.

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Payment Terms

This order form includes a license fee for the Samsara Software associated with the Hardware to be paid annually and, if applicable, a one-time Hardware cost to be paid annually (Net-30). The annual fees are payable by recurring transfer. All transfers are subject to a 3% processing fee, unless the transfer is done via ACH (credit or debit), check, or wire, in which case the 3% processing fee will be waived. Late payments are subject to 1.5% per month late fee. If license payments are delinquent by 60 days, Samsara may suspend the Service until late payments are remitted.

License Term

The license term for the Samsara Software licenses purchased under this Order Form begins on the day Samsara activates the applicable Samsara Software license by providing you a claim number and access to the Hosted Software ("License Start Date"). If Hardware associated with a then-unactivated Samsara Software license will be shipped to you under this Order Form, such Samsara Software license will be activated on the day the Samsara Hardware ships. Notwithstanding the foregoing, if you are renewing the license term for a previously-activated Samsara Software license under this Order Form, the License Start Date for the renewal license term shall be the day that Samsara extends your access to the Hosted Software for the renewal license term. Samsara Hardware requires a valid license to function.

Samsara may ship Hardware under this Order Form subject to a schedule as mutually agreed between the Parties or as determined by Samsara. To the extent such Hardware is associated with then-unactivated Samsara Software licenses, the Samsara Software license term for each such Hardware device will start on the day that device ships regardless of the shipment schedule for the other such Hardware devices. If all such Hardware is shipped in one shipment, the license term for all such Hardware will be the full license term under this Order Form. If such Hardware is shipped in multiple shipments, only the license term of such Hardware in the initial shipment will be such full license term. The license term of the remaining such Hardware shipped after the initial shipment will be set to match the then-remaining license term of the initial shipment, so that the license term for all such Hardware under this Order Form expires on the same date. The total cost of the licenses for such Hardware shipped after the initial shipment will be pro-rated based on their actual license term, rounded up to the nearest month, as compared to the full license term under this Order Form. Certain payment amounts under this Order Form assume that the entire order is fulfilled at the same time and are subject to potential reduction based on the actual schedule of order fulfillment.

Support and Warranty

Samsara stands behind its Products. Hardware Products that require a valid license to function come with a warranty that lasts as long as you maintain a valid license for such Hardware. All other Hardware Products, such as accessories, come with a one-year warranty, unless otherwise specified on the relevant Samsara data sheet. During the warranty period, Hardware exhibiting material defects will be replaced pursuant to our Hardware Warranty & RMA policy at www.samsara.com/support/hardware-warranty. Additional support information can be found at www.samsara.com/support.

Terms

Unless otherwise set forth herein, your use and access of the Hardware, Products, and Services specified herein are governed by Samsara's terms of service found at https://www.samsara.com/legal/public-sector-customers-platform-terms-of-service, unless the Parties have entered into a separate terms of service agreement and/or a separate terms of service agreement is attached to this Order Form, in which case such separate terms of service

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agreement shall govern (the “Terms of Service”). You agree to be bound by the Terms of Service, and any capitalized terms not defined herein shall have the meaning set forth in the Terms of Service. You further agree that any other Order Forms you enter into for the purchase of Products shall also be governed by the Terms of Service unless otherwise set forth in the applicable Order Form. For clarity, unless otherwise agreed by the Parties or approved by Samsara, the pricing and payment terms under this Order Form shall not apply to any such other Order Forms.

The continuation of this Order Form one (1) year after the license start date and annually thereafter is contingent upon the appropriation of sufficient funds by Customer. If sufficient funds fail to be appropriated by Customer to provide for the continuation of the Order Form for Customer’s then-subsequent fiscal year, Customer may terminate this Order Form with prior written notice effective as of the later of the date of the beginning of such subsequent fiscal year and the end of the then-current annual license period. If Customer so terminates this Order Form, Samsara shall be entitled to payment of and for: all amounts due as of the date of termination; deliverables in progress; liabilities, fees, or costs caused by such termination including for obligations that extend beyond the date of termination; and reasonable Order Form close-out costs.



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Notification of Confidentiality

Except as legally required under applicable public records request laws, provided that you use reasonable efforts to provide Samsara with advance notice of any such disclosure, you agree that the pricing and payment terms specified in this Order Form shall (i) be held in strict confidence; (ii) not be disclosed to any Samsara competitor or other entity, except as pre-approved in writing by Samsara; and (iii) not be used except to evaluate the suitability of the Samsara Products for your business. You will immediately notify Samsara in the event of any unauthorized use or disclosure under these terms. Violation of these obligations will cause irreparable harm to Samsara for which Samsara may obtain compensatory and timely injunctive relief from a court, as well as any other remedies that may be available, including recovery of all reasonable attorney's fees and costs incurred in seeking such remedies. Your obligations specified herein shall last until the pricing and payment terms herein are, through no fault or action by you, public. This Order Form is a legally binding agreement between you ("Customer") and Samsara Inc. ("Samsara"). IN WITNESS WHEREOF, Customer has caused this Order Form to be executed by its duly authorized representative.

I confirm acceptance of this Order Form on behalf of the Customer identified herein and represent and warrant that I have full and complete authority to bind the Customer to this Order Form, including all terms and conditions herein. Please confirm acceptance of this Order Form by signing below:

Signature: _____

Print Name: _____

Date: _____

Title: _____

Product Name	Description	Product Code	Discount	List Price (Monthly)	Discounted Price to Sourcewell (Monthly)	List Price (Annual)	Discounted Price to Sourewell (Annual)	Annual Recurring Cost or One-Time/Replacement Cost
License for Asset Gateways	License for AG2-series gateways, includes support, software updates, hosted service, and cellular connectivity	LIC-AG2-ENT	15%	$19.00	$16.15	$228.00	$193.80	Annual Recurring Cost
Cargo Monitor License (ENT)	Wireless cargo sensor license for sensing the presence of cargo in an enclosed trailer or container.	LIC-CRGO-ENT	15%	$4.00	$3.40	$48.00	$40.80	Annual Recurring Cost
Door Monitor License (ENT)	License for wireless door sensor for swing and roll-up doors	LIC-DM11-ENT	15%	$4.00	$3.40	$48.00	$40.80	Annual Recurring Cost
License for Case SiteWatch integration	License subscription for integrating with Case construction SiteWatch Telematics system	LIC-OEM-CAS	15%	$12.00	$10.20	$144.00	$122.40	Annual Recurring Cost
License for Caterpillar VisionLink OEM	Software subscription for reading location and diagnostics from Caterpillar's VisionLink embedded telematics hardware, with no Samsara hardware necessary.	LIC-OEM-CAT	15%	$11.67	$9.92	$140.00	$119.00	Annual Recurring Cost
License for Site Camera Stream	Annual license for site camera stream	LIC-SC1	5%	$10.00	$9.50	$120.00	$114.00	Annual Recurring Cost
License for Samsara Dome Camera	Annual License for Samsara Dome Cameras	LIC-SC11	5%	$25.00	$23.75	$300.00	$285.00	Annual Recurring Cost
License for Samsara Bullet Camera	Annual License for Samsara Bullet Cameras	LIC-SC21	5%	$25.00	$23.75	$300.00	$285.00	Annual Recurring Cost
License 16TB Storage Expansion for SG1	Additional 16TB storage for SG1	LIC-SG-STRG16	5%	$41.67	$39.58	$500.00	$475.00	Annual Recurring Cost
License for Site Gateway	License for Site Gateway SG1-G	LIC-SG1-G	5%	$245.00	$232.75	$2,940.00	$2,793.00	Annual Recurring Cost
License for Site Gateway w/ Extended Storage	License for Site Gateway SG1-G32	LIC-SG1-G32	5%	$286.67	$272.33	$3,440.00	$3,268.00	Annual Recurring Cost
License for Site Gateway Lite	Annual License for Site Gateway Lite	LIC-SG1x	5%	$150.00	$142.50	$1,800.00	$1,710.00	Annual Recurring Cost
Cellular License for Site Camera Stream	Cellular license for SC-series cameras or 3rd party cameras	LIC-SC-CELL	5%	$10.00	$9.50	$120.00	$114.00	Annual Recurring Cost
WiFi Hotspot - 1GB Total Data	License for 1GB total WiFi data for VG-series vehicle gateway priced at $10/month	LIC-1GB-WIFI-DATA	15%	$10.00	$8.50	$120.00	$102.00	Annual Recurring Cost
WiFi Hotspot - 2GB Total Data	License for 2GB total WiFi data for VG-series vehicle gateway priced at $30/month	LIC-2GB-WIFI-DATA	15%	$30.00	$25.50	$360.00	$306.00	Annual Recurring Cost
License for powered Asset Trackers	Enterprise license for the AG46P powered asset tracker. This includes support, software updates, hosted service, and cellular connectivity.	LIC-AG4P-ENT	15%	$12.00	$10.20	$144.00	$122.40	Annual Recurring Cost
License for Unpowered Asset Trackers	License for AG4-series unpowered asset tracker (including the AG46) and powered asset tracker (including the AG46P). This includes support, software updates, hosted service, and cellular connectivity.	LIC-AG4-ENT	15%	$10.00	$8.50	$120.00	$102.00	Annual Recurring Cost
Camera Connector License	License for the Samsara Camera Connector (ACC-CM-ANLG). Provides the ability to connect analog camera feeds (up to 4) to our Cloud Dashboard for instant video retrieval and 360 degree camera review on events.	LIC-CM-ANLG	15%	$25.00	$21.25	$300.00	$255.00	Annual Recurring Cost
License for Environmental Monitors	12-month license for EM-series environmental monitors, includes support, software updates, and hosted cloud service	LIC-EM-ENT	15%	$8.00	$6.80	$96.00	$81.60	Annual Recurring Cost
Safety Event Review	Harsh event video review service (option for enterprise fleets with >500 vehicle)	LIC-SVC-CM-Review-ENT	15%	$5.00	$4.25	$60.00	$51.00	Annual Recurring Cost
License for Vehicle Gateways	License for VG-series gateways, includes support, software updates, hosted service, and cellular connectivity. The Vehicle Gateway provides live GPS tracking, FMCSA-registered ELD capabilities, engine diagnostics, a built-in WiFi hotspot, driver workflows, advanced analytics, customizable reports, and mobile app access for fleet admins and drivers.	LIC-VG-ENT	15%	$39.00	$33.15	$468.00	$397.80	Annual Recurring Cost
WiFi Hotspot - 500MB Additional Data, 12MO	500MB additional WiFi data for VG-series vehicle gateway (12MO)	LIC-WIFI-DATA	15%	$10.00	$8.50	$120.00	$102.00	Annual Recurring Cost
License for Ford OEM (Enterprise)	Software subscription for reading diagnostics from Ford embedded telematics with ELD capabilities.	LIC-OEM-FORD	15%	$39.00	$33.15	$468.00	$397.80	Annual Recurring Cost
License for industrial asset gateway (IG15)	License for industrial asset gateway (IG15) only	LIC-IG15-ENT	15%	$30.00	$25.50	$360.00	$306.00	Annual Recurring Cost
License for Vehicle Gateways - Public Sector Only, No WiFi, No ELD	Vehicle Gateway License without ELD and without WiFi that should be sold to Public Sector customers within a singled bundled price.	LIC-VG-PS	15%	$23.00	$19.55	$276.00	$234.60	Annual Recurring Cost

GM Onstar OEM data integration	OEM integration with General Motors (GM)	LIC-OEM-GM	15%	$39.00	$33.15	$468.00	$397.80	Annual Recurring Cost
License for John Deere VisionLink OEM	Software subscription for reading location and diagnostics from John Deere's JDLink embedded telematics hardware, with no Samsara hardware necessary.	LIC-OEM-JD	15%	$12.00	$10.20	$144.00	$122.40	Annual Recurring Cost
License for Komatsu Komtrax Integration	Software subscription for reading location and diagnostics from Komatsu's Komtrax embedded telematics hardware, with no Samsara hardware necessary.	LIC-OEM-KOM	15%	$12.00	$10.20	$144.00	$122.40	Annual Recurring Cost
License for Navistar Gateway Integration	Software subscription for reading diagnostics from Ford embedded telematics, with no Samsara hardware necessary.	LIC-OEM-NVI	15%	$39.00	$33.15	$468.00	$397.80	Annual Recurring Cost
License for Volvo Construction CareTrack Integration	License subscription for integrating with Volvo Construction's CareTrack Telematics system	LIC-OEM-VCT	15%	$12.00	$10.20	$144.00	$122.40	Annual Recurring Cost
License for Vermeer Telematics integration	License subscription for integrating with Vermeer Telematics	LIC-OEM-VER	15%	$12.00	$10.20	$144.00	$122.40	Annual Recurring Cost
License for Dual-Facing Camera	License for dual-facing dash cam, includes support, software updates, and hosted cloud service Full HD video with Infrared LED for night vision Built-in audio speaker supports optional in-cab alerts for driver coaching. Advanced edge computing allows for live scene analysis and object detection. On-demand video available for up to 100 hours of drive time.	LIC-CM2-ENT	15%	$55.00	$46.75	$660.00	$561.00	Annual Recurring Cost
License for Forward-Facing Dash Camera	License for forward-facing dash cam, includes support, software updates, and hosted cloud service. Full HD video with low-light recording for night vision. Built-in audio speaker supports optional in-cab alerts for driver coaching. Advanced edge computing allows for live scene analysis and object detection. On-demand video available for up to 75 hours of drive time.	LIC-CM1-ENT	15%	$39.00	$33.15	$468.00	$397.80	Annual Recurring Cost
Live Streaming	Monthly Live Streaming License (10 hours of live streaming per camera per month)	LIC-CM-STRM	15%	$5.00	$4.25	$60.00	$51.00	Annual Recurring Cost
Camera Connector	Accessory to connect analog backup or side cameras	ACC-CM-ANLG	15%	$16.58	$14.10	$199.00	$169.15	One-Time/Replacement Cost
Camera Connector for Provision DVRs	--REQUIRED FOR PROVISION DVRs--Modified camera connector without inline isolator	ACC-CM-ANLG-M	15%	$16.58	$14.10	$199.00	$169.15	One-Time/Replacement Cost
Wireless Cargo Sensor	Wireless cargo sensor for sensing the presence of cargo in an enclosed trailer or container	ACC-CRGO	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
Wireless Door Monitor	Wireless door sensor for swing and roll-up doors	ACC-DM11	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
Worldwide 12V 4A AC/DC Power Supply	12V 4A AC/DC power supply with 100V-240V worldwide input voltage	ACC-4A12-WW	15%	$1.17	$0.99	$14.00	$11.90	One-Time/Replacement Cost
Auxiliary Input Hub	USB accessory to accommodate eight additional auxiliary inputs to the Vehicle Gateway	ACC-AUX	15%	$4.08	$3.47	$49.00	$41.65	One-Time/Replacement Cost
Samsara Panic Button	Vehicle Gateway panic/event button accessory. When pushed, the button immediately sends an alert to managers with captured video footage (for customers equipped with a Samsara AI dash cam). This accessory plugs directly into the Vehicle Gateway.	ACC-BPB	15%	$4.08	$3.47	$49.00	$41.65	One-Time/Replacement Cost
Privacy Button	EA version of the privacy button. The button currently hides the GPS coordinates and has no effect on the video. The button has an LED indicating the privacy mode status. It requires a VG to be mounted.	ACC-BPR	15%	$5.00	$4.25	$60.00	$51.00	One-Time/Replacement Cost
ID Card	Passenger ID Cards;	ACC-CARD	15%	$0.21	$0.18	$2.50	$2.13	One-Time/Replacement Cost
Engine Immobilizer	Remotely disable and enable engine.	ACC-EI	15%	$6.58	$5.60	$79.00	$67.15	One-Time/Replacement Cost
Driver ID Token	Wireless Driver ID token for use with a VG gateway to identify drivers in vehicles.	ACC-DRIVERID	15%	$0.83	$0.71	$9.99	$8.49	One-Time/Replacement Cost
ID Card Reader	ID Card Reader for use with VG34	ACC-IDRDR	15%	$16.58	$14.10	$199.00	$169.15	One-Time/Replacement Cost

Array Antenna w/ cellular, GPS	Array Antenna w/ cellular and passive GPS. Compatible with IG15 hardware.	ACC-AANT-CG	15%	$12.42	$10.55	$149.00	$126.65	One-Time/Replacement Cost
Wall adapter PSU and Cable	Wall Adapter PSU Plug to wire cable Din Rail Ziplock + Samsara brand label	ACC-IG-CWPS	15%	$12.42	$10.55	$149.00	$126.65	One-Time/Replacement Cost
CM inward camera-lens cover	CM32 lens cover, which blocks the inward-facing lense only	ACC-CM3-CVR1	15%	$0.83	$0.71	$10.00	$8.50	One-Time/Replacement Cost
CM3x Mounting Bracket	CM3x Mounting Bracket (incl. VHB Tape and set of mounting screws)	ACC-CM3-MNT	15%	$0.83	$0.71	$9.99	$8.49	One-Time/Replacement Cost
CM Dual-lens cover	CM31 and CM32 lens cover, which blocks both the forward and inward-facing lenses (for use in areas where cameras are forbidden)	ACC-CM3-CVR2	15%	$0.83	$0.71	$10.00	$8.50	One-Time/Replacement Cost
Vehicle IoT Gateway, model VG54, for use with FirstNet	Enhanced Vehicle IoT Gateway for use in North America, providing full support for the AT&T FirstNet Network. Requires CBL-VG-Cxx class cables.	HW-VG54-FN	15%	$10.75	$9.14	$129.00	$109.65	One-Time/Replacement Cost
Vehicle IoT Gateway, model VG54	Enhanced Vehicle IoT Gateway for use in North America. Requires CBL-VG-Cxx class cables.	HW-VG54-NA	15%	$14.92	$12.68	$179.00	$152.15	One-Time/Replacement Cost
Vehicle IoT Gateway, model VG54, for Heavy Duty Vehicles	Enhanced Vehicle IoT Gateway for use in North America, for Heavy Duty vehicles only. Requires CBL-VG-Cxx class cables.	HW-VG54-NAH	15%	$10.75	$9.14	$129.00	$109.65	One-Time/Replacement Cost
Site Camera Arm Mount	Arm mount accessory for site camera	ACC-SC-MNT-A1	5%	$11.92	$11.32	$143.00	$135.85	One-Time/Replacement Cost
Site Camera Junction Box Mount	Junction box mount accessory for site camera	ACC-SC-MNT-J1	5%	$4.75	$4.51	$57.00	$54.15	One-Time/Replacement Cost
Site Camera Pole Mount	Pole mount accessory for site camera	ACC-SC-MNT-P1	5%	$9.33	$8.87	$112.00	$106.40	One-Time/Replacement Cost
IG15 Industrial Asset Gateway	Samsara industrial asset gateway with external cellular and GPS antenna connections, battery backup, and ruggedized enclosure.	HW-IG15	15%	$25.00	$21.25	$300.00	$255.00	One-Time/Replacement Cost
IG15 Individual Antenna	Individual Antennas (w/ LTE and GPS)	ACC-IANT-CG				$149.00		
Forward-facing dash-camera, series 3.	Forward-facing AI Dash Cam	HW-CM31	15%	$24.92	$21.18	$299.00	$254.15	One-Time/Replacement Cost
Dual-facing dash-camera, series 3.	Dual-facing AI Dash Cam	HW-CM32	15%	$33.25	$28.26	$399.00	$339.15	One-Time/Replacement Cost
AG26 Gateway	Samsara powered asset gateway with cellular connectivity, real-time GPS location, and compatibility with wireless sensors and 3rd party integrations	HW-AG26	15%	$24.92	$21.18	$299.00	$254.15	One-Time/Replacement Cost
AG46 Unpowered Asset Tracker	Samsara pocket sized unpowered asset tracker with cellular connectivity, GPS logging and weatherproof, ruggedized enclosure	HW-AG46	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
AG46P Gateway	Samsara powered asset gateway for basic trailer tracking with cellular connectivity and real-time GPS location	HW-AG46P	15%	$12.42	$10.55	$149.00	$126.65	One-Time/Replacement Cost
Wireless Environmental Monitor	Samsara wireless environmental monitor for temperature and humidity	HW-EM21	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
Site Camera - Dome	Domed site camera - 5 megapixels	HW-SC11	5%	$58.33	$55.42	$700.00	$665.00	One-Time/Replacement Cost
Site Camera - Bullet - High Temperature	Bullet site camera - 5 megapixels - High Temperature	HW-SC21-HT	5%	$58.33	$55.42	$700.00	$665.00	One-Time/Replacement Cost
Site Camera - Bullet	Bullet site camera - 5 megapixels	HW-SC21	5%	$58.33	$55.42	$700.00	$665.00	One-Time/Replacement Cost
Site Gateway	AI network video recorder with support for up to 25 streams and 30 days of video storage.	HW-SG1-G	5%	$750.00	$712.50	$9,000.00	$8,550.00	One-Time/Replacement Cost
Site Gateway w/ Extended Storage	AI network video recorder with support for up to 25 streams and 32TB of storage	HW-SG1-G32	5%	$0.00	$0.00	$0.00	$0.00	One-Time/Replacement Cost
Site Gateway Lite	AI network video recorder with support for up to 8 streams and 30 days of video storage.	HW-SG1x	5%	$416.67	$395.83	$5,000.00	$4,750.00	One-Time/Replacement Cost
AG26 14-pin Caterpillar cable	This 14-pin caterpillar connector allows us to read engine diagnostics from caterpillar equipment with 14-pin port	CBL-AG-ACT14	15%	$4.08	$3.47	$49.00	$41.65	One-Time/Replacement Cost

AG26 CAT 9-pin cable	This 9-pin connector allows us to read engine diagnostics from caterpillar equipment with 9-pin port	CBL-AG-ACT9	15%	$4.08	$3.47	$49.00	$41.65	One-Time/Replacement Cost
AG26 J1939 9-pin cable bundle	This 9-pin connector allows us to read engine diagnostics equipment with J1939 9-pin port	CBL-AG-A9PIN	15%	$4.08	$3.47	$49.00	$41.65	One-Time/Replacement Cost
AG26 AOPEN (open wire) Cable	An open wire cable used to connect across any powered equipment to pull engine diagnostics over CAN. This cable is the alternative to the A9PIN cable when the equipment does not have a common 9pin port. This cable can also be used with CAT equipment if the ACT9 and the ACT14 cables do not match the port in the equipment.	CBL-AG-AOPEN	15%	$4.08	$3.47	$49.00	$41.65	One-Time/Replacement Cost
AG26 APWR Cable	Connects AG to powered equipment enabling logs of engine hours with the ability to track power take off.	CBL-AG-APWR	15%	$4.08	$3.47	$49.00	$41.65	One-Time/Replacement Cost
AG26 ARTK (Thermo King) Cable	AG 7-way cable specifically for reefer control capabilities on select Thermo King and connects the AG to a TK reefer via an officially supported 3rd party access module designed by TK toallow consistent 3rd party access and control of the reefer unit.	CBL-AG-ARTK	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
AG26 ATPM cable	AG 7-way cable specifically for tire pressure monitoring (requires TPM integration)	CBL-AG-ATPM	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
AG24 7-Way Y-Cable for European Trailers	Asset Gateway Cable with 7-Way Y-Cable for power from European Dry Van Trailers	CBL-AG-AEPC	15%	$5.75	$4.89	$69.00	$58.65	One-Time/Replacement Cost
AG Carrier VT Reefer Cable	AG cable for Carrier Vector model reefers.	CBL-AG-ARCR-VT	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
AG Carrier X4 Reefer Cable	AG cable for Carrier X4 model reefers.	CBL-AG-ARCR-X4	15%	$8.25	$7.01	$99.00	$84.15	One-Time/Replacement Cost
VG54 Aux Cable	Breakout Cable for Auxiliary inputs on VG54	CBL-VG-CAUX	15%	$1.25	$1.06	$15.00	$12.75	One-Time/Replacement Cost
Enhanced VG Series FMS cable	Enhanced VG Series cable for connecting to FMS interfaces	CBL-VG-CFMS	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series Tachograph Cable - Heavy Goods Vehicles	Enhanced VG Series Tachograph Cable for Heavy Goods Vehicles	CBL-VG-CHGV	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series Isuzu cable	Enhanced VG Series Isuzu cable	CBL-VG-CIZU	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series J1708 (6-pin)	Enhanced VG Series J1708 (6-pin) cable	CBL-VG-CJ1708	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series J1939 or J1708 (9-pin)	Enhanced VG Series J1939 or J1708 (9-pin) cable.	CBL-VG-CJ1939	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series J1939 cable for Volvo/Mack OBDII connectors	Enhanced VG Series J1939 cable for 2013+ Volvo/Mack vehicles with OBDII connection	CBL-VG-CJ1939-VM	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced Universal OBD-Y2 Cable	Enhanced Universal OBD-Y2 Cable	CBL-VG-COBDII-Y0S	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series OBDII J1962 L-mount cable	Enhanced VG Series OBDII J1962 L-mount cable	CBL-VG-COBDII-Y1	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series OBDII J1962 L-mount cable for Ram Promaster and similar	Enhanced VG Series OBDII J1962 L-mount cable for use with vehicles which use secondary CAN on pins 1 and 9 (including Ram Promaster)	CBL-VG-COBDII-Y2	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced VG Series direct-wire non-diagnostic power cable	Enhanced VG Series direct-wire non-diagnostic power cable	CBL-VG-CPC	15%	$1.58	$1.35	$19.00	$16.15	One-Time/Replacement Cost
VG54 Wall Power Adapter	VG54 connector for use with ACC-2A12-WW power adapter (included) for powering a VG54 from a standard wall outlet. Also compatible with ACC-BDH and ACC-BDHE	CBL-VG-CPWR	15%	$0.50	$0.43	$6.00	$5.10	One-Time/Replacement Cost
VG Carrier Supra Reefer Cable	Cable to connect EU Carrier Supra families of reefers to a Vehicle Gateway via USB.	CBL-VG-CRCR-Y1	15%	$7.92	$6.73	$95.00	$80.75	One-Time/Replacement Cost
Enhanced VG Series RP1226 Cable	Enhanced VG Series RP1226 cable for use with 2019+ Peterbilt, Freightliner, Volvo, Mack or Kenworth vehicles equipped with an RP1226 port.	CBL-VG-CRP1226	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
OBDII J1962 plus CAN C cable for VG54	Cable with two connectors: one OBD connector and one CAN C connector for back of tachograph. Cable for VANs with tachograph	CBL-VG-CTDC-Y0	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced Tesla Model 3/Y 2019+ Cable	VG54 Cable for Tesla 3/Y	CBL-VG-CTSLA3-19	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced Tesla Model 3/Y 2019+ Cable	VG54 Cable for Tesla 3/Y	CBL-VG-CTSLA3Y-19	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced Tesla Model X/S 2016+ Cable	VG54 Cable for Tesla X/S 2016+	CBL-VG-CTSLAXS-16	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced Tesla Model X/S 2016+ Cable and Enhanced Tesla Model 3/Y 2017-18 Cable	VG54 Cable for Teslas (Enhanced Tesla Model X/S 2016+ Cable and Enhanced Tesla Model 3/Y 2017-18 Cable)	CBL-VG-CTSLAXS-18	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost
Enhanced Heavy Duty VG Series J1939 cable for year and model-specific PACCAR engines	Enhanced Heavy Duty VG Series J1939 cable for MX-13 and PX-9 engines from specific years	CBL-VG-HJ1939-PAC	15%	$3.25	$2.76	$39.00	$33.15	One-Time/Replacement Cost

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Solicitation Number: 020221

CONTRACT

This Contract is between Sourcewell, 202 12th Street Northeast, P.O. Box 219, Staples, MN 56479 (Sourcewell) and Samsara Inc., 1990 Alameda Street, 5th Floor, San Francisco, CA 94103 (Vendor).

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

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

1. TERM OF CONTRACT

A. EFFECTIVE DATE. This Contract is effective upon the date of the final signature below.

B. EXPIRATION DATE AND EXTENSION. This Contract expires March 26, 2025, unless it is cancelled sooner pursuant to Article 22. This Contract may be extended up to one additional one-year period upon request of Sourcewell and with written agreement by Vendor.

C. SURVIVAL OF TERMS. Articles 11 through 14 survive the expiration or cancellation of this Contract.

2. EQUIPMENT, PRODUCTS, OR SERVICES

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

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

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

B. WARRANTY. Vendor will extend to the Participating Entity the return and warranty terms set forth in Vendor's Hardware Warranty and RMA Policy, subject to the related limitations set forth therein. Vendor's dealers and distributors must agree to assist the Participating Entity in reaching a resolution in any dispute over warranty terms with the manufacturer.

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

3. PRICING

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

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

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

A. SHIPPING AND SHIPPING COSTS. All delivered Equipment and Products must be properly packaged. Damaged Equipment and Products may be rejected. If the damage is not readily apparent at the time of delivery, Vendor must permit the Equipment and Products to be returned within 30 days of the date of delivery at no cost to Sourcewell or its Participating Entities. Participating Entities reserve the right to inspect the Equipment and Products at a reasonable time after delivery where circumstances or conditions prevent effective inspection of the Equipment and Products at the time of delivery.

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

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

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

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

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

4. PRODUCT AND PRICING CHANGE REQUESTS

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

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

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

5. PARTICIPATION, CONTRACT ACCESS, AND PARTICIPATING ENTITY REQUIREMENTS

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

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

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

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

6. PARTICIPATING ENTITY USE AND PURCHASING

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

Vendor's acceptable forms of payment are included in Attachment A. Participating Entities will be solely responsible for payment and Sourcewell will have no liability for any unpaid invoice of any Participating Entity. By accessing the Contract, Participating Entities agree not to file any claims or causes of action against Sourcewell, or otherwise seek to hold Sourcewell, including

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its agents and employees, liable in connection with Vendor's Equipment, Products, and Services.

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

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

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

1. The Participating Entity fails to receive funding or appropriation from its governing body at levels sufficient to pay for the goods to be purchased, provided that such termination will be effective as of the date of the beginning of the period for which funds have not been appropriated;
2. Federal, state, or provincial laws or regulations prohibit the purchase or change the Participating Entity's requirements; or
3. Vendor commits any material breach of this Contract or the additional terms agreed to between the Vendor and a Participating Entity, and such breach continues for a period of 30 days following receipt of written notice to cure.

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

7. CUSTOMER SERVICE

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

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

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

8. REPORT ON CONTRACT SALES ACTIVITY AND ADMINISTRATIVE FEE PAYMENT

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

The Report must contain the following fields:

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

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

The Vendor will submit payment to Sourcewell for the percentage of administrative fee stated in the Proposal multiplied by the total sales of all Equipment, Products, and Services purchased by Participating Entities under this Contract during each calendar quarter. Payments should note the Vendor's name and Sourcewell-assigned contract number in the memo; and must be

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mailed to the address above "Attn: Accounts Receivable" or remitted electronically to Sourcewell's banking institution per Sourcewell's Finance department instructions. Payments must be received no later than 45 calendar days after the end of each calendar quarter.

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

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

9. AUTHORIZED REPRESENTATIVE

Sourcewell's Authorized Representative is its Chief Procurement Officer.

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

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

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

B. ASSIGNMENT. Neither the Vendor nor Sourcewell may assign or transfer any rights or obligations under this Contract without the prior consent of the parties and a fully executed assignment agreement, except in the case of a merger, acquisition, or sale of all or substantially all of the assets of Vendor. Such consent will not be unreasonably withheld.

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

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

E. CONTRACT COMPLETE. This Contract contains all negotiations and agreements between Sourcewell and Vendor. No other understanding regarding this Contract, whether written or

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oral, may be used to bind either party. For any conflict between the attached Proposal and the terms set out in Articles 1-22, the terms of Articles 1-22 will govern.

F. RELATIONSHIP OF THE PARTIES. The relationship of the parties is one of independent contractors, each free to exercise judgment and discretion with regard to the conduct of their respective businesses. This Contract does not create a partnership, joint venture, or any other relationship such as master-servant, or principal-agent.

11. LIABILITY

Vendor must indemnify, save, and hold Sourcewell, including its agents and employees, harmless from any claims or causes of action, including attorneys' fees, arising out of the breach of this Contract by the Vendor or its agents or employees; this indemnification includes injury or death to person(s) or property alleged to have been caused by some defect in the Equipment, Products, or Services under this Contract to the extent the Equipment, Product, or Service has been used according to its specifications. In no event will Vendor be liable to Sourcewell for incidental, special, exemplary, or consequential damages, including lost profits, loss of data or goodwill, service interruption, computer damage or system failure, or the cost of substitute services. Vendor's indemnification and liability obligations to a Sourcewell Participating Entity will be as set forth in Vendor's Terms of Service, subject to the limitations set forth therein.

Vendor's indemnification and hold harmless obligations under this Section 11 and Section 13 below are contingent upon: (a) Sourcewell providing Vendor with prompt written notice of a claim; (b) Sourcewell providing reasonable cooperation to Vendor, at Vendor's expense, in the defense and settlement of such claim; and (c) Vendor having sole authority to defend or settle such claim. Notwithstanding subsection (c) of this provision, Sourcewell may employ, at its sole cost and expense, separate counsel of its own choosing, but in no event Vendor will be liable for any damages or liability arising out of Sourcewell's employment of its own counsel.

12. GOVERNMENT DATA PRACTICES

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

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

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13. INTELLECTUAL PROPERTY, PUBLICITY, MARKETING, AND ENDORSEMENT

A. INTELLECTUAL PROPERTY

1. *Grant of License.* During the term of this Contract:

   a. Sourcewell grants to Vendor a royalty-free, worldwide, non-exclusive right and license to use theTrademark(s) provided to Vendor by Sourcewell in advertising and promotional materials for the purpose of marketing Sourcewell's relationship with Vendor.

   b. Vendor grants to Sourcewell a royalty-free, worldwide, non-exclusive right and license to use Vendor's Trademarks in advertising and promotional materials for the purpose of marketing Vendor's relationship with Sourcewell.

2. *Limited Right of Sublicense*. The right and license granted herein includes a limited right of each party to grant sublicenses to its and their respective distributors, marketing representatives, and agents (collectively "Permitted Sublicensees") in advertising and promotional materials for the purpose of marketing the Parties' relationship to Participating Entities. Any sublicense granted will be subject to the terms and conditions of this Article. Each party will be responsible for any breach of this Article by any of their respective sublicensees.

3. *Use; Quality Control.*

   a. Sourcewell must not alter Vendor's Trademarks from the form provided by Vendor and must comply with Vendor's removal requests as to specific uses of its trademarks or logos.

   b. Vendor must not alter Sourcewell's Trademarks from the form provided by Sourcewell and must comply with Sourcewell's removal requests as to specific uses of its trademarks or logos.

   c. Each party agrees to use, and to cause its Permitted Sublicensees to use, the other party's Trademarks only in good faith and in a dignified manner consistent with such party's use of the Trademarks. Upon written notice to the breaching party, the breaching party has 30 days of the date of the written notice to cure the breach or the license will be terminated.

4. As applicable, Vendor agrees to indemnify and hold harmless Sourcewell against any and all suits, claims, judgments, and costs instituted or recovered against Sourcewell by any person on account of the use of any Equipment or Products by Sourcewell or its Participating Entities supplied by Vendor in violation of applicable patent or copyright laws ("IP Claim"). Vendor will have no liability under this section to the extent that any IP Claim results from: (a) modifications to the Equipment or Products made by a party other than Vendor or a party acting on Vendor's behalf; (b) the combination, operation or use of the Equipment or Products with equipment, devices, software or data not supplied by Vendor nor reasonably contemplated by this Contract; (c) a party's failure to use updated or modified versions of the Equipment or Products provided by Vendor to avoid a claim; (d) Vendor's compliance with any designs, specifications or plans provided by Sourcewell or a Participating Entity; or (e) use of the Products other than in accordance with this Contract, any additional terms agreed between Vendor and a Participating Entity, or any

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documentation provided by Vendor. Vendor's indemnification and liability obligations to a Sourcewell Participating Entity will be as set forth in Vendor's Terms of Service, subject to the limitations set forth therein.

5. Termination. Upon the termination of this Contract for any reason, each party, including Permitted Sublicensees, will have 30 days to remove all Trademarks from signage, websites, and the like bearing the other party's name or logo (excepting Sourcewell's pre-printed catalog of vendors which may be used until the next printing). Vendor must return all marketing and promotional materials, including signage, provided by Sourcewell, or dispose of it according to Sourcewell's written directions.

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

C. MARKETING. Any direct advertising or marketing campaigns with Participating Entities regarding Vendor's Sourcewell Contract must be approved by Sourcewell. Materials should be sent to the Sourcewell Contract Administrator assigned to this Contract.

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

14. GOVERNING LAW, JURISDICTION, AND VENUE

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

15. FORCE MAJEURE

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

16. SEVERABILITY

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

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17. PERFORMANCE, DEFAULT, AND REMEDIES

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

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

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

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

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

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

18. INSURANCE

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

1. *Workers’ Compensation and Employer’s Liability.*
Workers’ Compensation: As required by any applicable law or regulation.

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

Minimum limits:
$500,000 each accident for bodily injury by accident
$500,000 policy limit for bodily injury by disease
$500,000 each employee for bodily injury by disease

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

Minimum Limits:
$1,000,000 each occurrence Bodily Injury and Property Damage
$1,000,000 Personal and Advertising Injury
$2,000,000 aggregate for Products-Completed operations
$2,000,000 general aggregate

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

Minimum Limits:
$1,000,000 each accident, combined single limit

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

Minimum Limits:
$2,000,000

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

Minimum limits:

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$2,000,000 per occurrence
$2,000,000 annual aggregate

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

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

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

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

D. WAIVER OF SUBROGATION. Vendor waives and must require (by endorsement or otherwise) all its insurers to waive subrogation rights against Sourcewell and other additional insureds for losses paid under the insurance policies required by this Contract or other insurance applicable to the Vendor or its subcontractors. The waiver must apply to all deductibles and/or self-insured retentions applicable to the required or any other insurance maintained by the Vendor or its subcontractors. Where permitted by law, Vendor must require similar written express waivers of subrogation and insurance clauses from each of its subcontractors.

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

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19. COMPLIANCE

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

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

20. BANKRUPTCY, DEBARMENT, OR SUSPENSION CERTIFICATION

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

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

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

Participating Entities that use United States federal grant or FEMA funds to purchase goods or services from this Contract may be subject to additional requirements including the procurement standards of the Uniform Administrative Requirements, Cost Principles and Audit Requirements for Federal Awards, 2 C.F.R. § 200. Participating Entities may also require additional requirements based on specific funding specifications. Within this Article, all references to “federal” should be interpreted to mean the United States federal government. The following list only applies when a Participating Entity accesses Vendor’s Equipment, Products, or Services with United States federal funds.

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

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regulations at 41 C.F.R. § 60, “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.” The equal opportunity clause is incorporated herein by reference.

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

C. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT (40 U.S.C. § 3701-3708). Where applicable, all contracts awarded by the non-federal entity in excess of $100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations (29 C.F.R. § 5). Under 40 U.S.C. § 3702 of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence. This provision is hereby incorporated by reference into this Contract. Vendor certifies that during the term of an award for all contracts by Sourcewell resulting from this procurement process, Vendor must comply with applicable requirements as referenced above.

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

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

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

G. BYRD ANTI-LOBBYING AMENDMENT, AS AMENDED (31 U.S.C. § 1352). Vendors must file any required certifications. Vendors must not have used federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Vendors must disclose any lobbying with non-federal funds that takes place in connection with obtaining any federal award. Such disclosures are forwarded from tier to tier up to the non-federal award. Vendors must file all certifications and disclosures required by, and otherwise comply with, the Byrd Anti-Lobbying Amendment (31 U.S.C. § 1352).

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

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

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

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

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

22. CANCELLATION

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

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Sourcewell

DocuSigned by:
Jeremy Schwartz
C0FD2A139D06489...

By: _____

Jeremy Schwartz

Title: Chief Procurement Officer

4/1/2021 | 1:57 PM CDT

Date: _____

Samsara Inc.

DocuSigned by:
Adam Eltoukhy
022A22405912470...

By: _____

Adam Eltoukhy

Title: VP & General Counsel

4/1/2021 | 12:47 PM PDT

Date: _____

Approved:

DocuSigned by:
Chad Coauette
7E42B8F817A64CC...

By: _____

Chad Coauette

Title: Executive Director/CEO

4/1/2021 | 7:57 PM CDT

Date: _____

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RFP 020221 - Fleet Management Technologies with Related Software Solutions

Vendor Details

Company Name:	Samsara Networks Inc
Does your company conduct business under any other name? If yes, please state:	Samsara
Address:	1990 Alameda St 5th Floor San Francisco, CA 94103
Contact:	Brian Glowiak
Email:	brian.glowiak@samsara.com
Phone:	860-680-2388
Fax:	860-680-2388
HST#:	47-3100039

Submission Details

Created On:	Friday January 08, 2021 12:36:01
Submitted On:	Tuesday February 02, 2021 15:13:45
Submitted By:	Hannah Bennett
Email:	hannah.bennett@samsara.com
Transaction #:	9af6e246-5365-482f-a9fd-4c3e157b3b47
Submitter's IP Address:	52.119.119.247

Specifications

Table 1: Proposer Identity & Authorized Representatives

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

Line Item	Question	Response *	
1	Proposer Legal Name (and applicable d/b/a, if any):	Samsara Networks Inc.	*
2	Proposer Address:	Samsara Networks Inc., 1990 Alameda Street, 5th Floor, San Francisco, CA, 94103	*
3	Proposer website address:	www.samsara.com	*
4	Proposer's Authorized Representative (name, title, address, email address & phone) (The representative must have authority to sign the "Proposer's Assurance of Compliance" on behalf of the Proposer and, in the event of award, will be expected to execute the resulting contract):	Adam Eltoukhy, VP & General Counsel 1990 Alameda Street 5th Floor San Francisco, CA 94103. adam.eltoukhy@samsara.com	*
5	Proposer's primary contact for this proposal (name, title, address, email address & phone):	Brian Glowiak, Regional Sales Manager, Public Sector 1234 Samsara Miami, FL 33101 Brian.Glowiak@Samsara.com 860-680-2388	*
6	Proposer's other contacts for this proposal, if any (name, title, address, email address & phone):	Courtney McGowan, Director, Public Sector 1234 Samsara Miami, FL 33101 Courtney@Samsara.com	

Table 2: Company Information and Financial Strength

Line Item	Question	Response *	

7	Provide a brief history of your company, including your company's core values, business philosophy, and industry longevity related to the requested equipment, products or services.	Samsara is the global leader in Industrial IoT. Our mission is to increase the efficiency, safety, and sustainability of the operations that power our economy. Samsara's portfolio of complete Internet of Things ("IoT") solutions combine hardware, software, and cloud to bring real-time visibility, analytics, and AI to operations. Since Sanjit Biswas and John Bicket founded Samsara in 2015, the company has grown to over 1400 employees with major offices in San Jose, Atlanta, and London with headquarters in San Francisco and today we serve over 24,000 customers across diverse industries, including transportation, logistics, field services, passenger transit, waste management, food and beverage, oil & gas, utilities, construction, state and local gov, and manufacturing. Our core company values are 1. Obsess over customers 2. Adopt a growth mindset 3. Build for the long term. Samsara is a privately held company led by Sanjit Biswas, CEO & Co-Founder, and John Bicket, CTO & Co-Founder, both of whom sit on the Board. Sanjit and John are joined on the board by Marc Andreessen, Founding Partner, Andreessen Horowitz, and Hemant Taneja, Managing Director, General Catalyst. Prior to Samsara, our leadership team worked together for over a decade. The Samsara leadership team previously founded Meraki (now part of Cisco Systems), the cloud-managed networking leader that powers over 2 million networks worldwide. Much of our expertise in building large-scale cloud systems, obsessing over customer feedback to quickly innovate and grow our solutions, security, simplicity, ease of use, etc. carried over to Samsara and contributes to our explosive growth, success, and leadership in this space. Samsara's full executive team can be viewed here at https://www.samsara.com/about Samsara's core competencies include vehicle telematics, driver safety, asset tracking, mobile workflow, remote site visibility, and industrial process controls - all in an integrated, open, real-time, cloud platform. We have one of the strongest engineering teams in the world and are unparalleled in our ability to hear a customer problem statement and then design and build advanced technology as a solution fit. In the past year, we've doubled our customer and employee base and launched in 10 new countries. Most importantly, we are continuing to invest heavily in innovative and cost-effective ways to help our customers increase the efficiency, safety, and sustainability of their operations while also helping them meet and exceed the expectations of the customers and citizens they serve.	*
8	What are your company's expectations in the event of an award?	In the event of an award, Samsara's expectations are to enable our Public Sector sales teams to help our prospective customers take the easiest path to purchase through this contract. As stated in the pre-bid meeting by Sourcewell representatives, being able to leverage the Sourcewell contract is a massive benefit to all parties involved and can save months of time and effort as compared to going through a full RFP process with each and every city/county/state. This especially rings true in the current environment we have all been exposed to in the wake of Covid-19. Early retirements, furloughs, hiring freezes, etc., are all challenges we've seen in the market and it's become more difficult for agencies to find the time and resources to go through a true internal RFP process. Additionally, Samsara is very excited at the potential to be a part of Sourcewell's approved contract because there have been times where our sales team has had the request to use Sourcewell to purchase Samsara, however, we have had to use other cooperative contracts to earn their business to bypass an RFP. Sourcewell is typically the first contract that is mentioned in our discussions and we would love to leverage this as it seems to be the preferred option for many of our customers in the Public Sector.	*
9	Demonstrate your financial strength and stability with meaningful data. This could include such items as financial statements, SEC filings, credit and bond ratings, letters of credit, and detailed reference letters. Upload supporting documents (as applicable) in the document upload section of your response.	Please find Samsara's Dun & Bradstreet report attached. Samsara has raised over $930 million in equity financing to date, most recently raising $400 million in May 2020 at a $5.4 billion valuation, and Samsara maintains sufficient capital to provide services to its over 20,000 customers. Samsara is also number 25 on the Forbes Cloud 100 list (https://www.forbes.com/cloud100/#369e41325f94) and number 4 on the LinkedIn Top Startups List for 2020 (https://www.linkedin.com/pulse/linkedin-top-startups-2020-50-us-companies-rise-jessi-hempel/) We would be happy to provide more information on a call, if desired.	*
10	What is your US market share for the solutions that you are proposing?	Samsara has secured the title of the fastest-growing fleet technology company in the industry, with over 20,000 customers of different sizes and industries.	*
11	What is your Canadian market share for the solutions that you are proposing?	Samsara has secured the title of the fastest-growing fleet technology company in the industry, with over 20,000 customers of different sizes and industries, including throughout Canada.	*
12	Has your business ever petitioned for bankruptcy protection? If so, explain in detail.	No	*

13	How is your organization best described: is it a manufacturer, a distributor/dealer/reseller, or a service provider? Answer whichever question (either a) or b) just below) best applies to your organization. a) If your company is best described as a distributor/dealer/reseller (or similar entity), provide your written authorization to act as a distributor/dealer/reseller for the manufacturer of the products proposed in this RFP. If applicable, is your dealer network independent or company owned? b) If your company is best described as a manufacturer or service provider, describe your relationship with your sales and service force and with your dealer network in delivering the products and services proposed in this RFP. Are these individuals your employees, or the employees of a third party?	Samsara would be best described as a SaaS provider. Samsara makes builds and designs all of its own hardware (gateways, dashcams, sensors, security cameras, industrial gateways and monitors, accessories, and more) and also all of its own software. This gives Samsara a unique edge because our products and software are extremely easy to use, seamlessly integrated, and help our customers consolidate platforms and simplify their operations. Our hardware and software are both created in house by badged Samsara Engineering and Development team members. Samsara sells its products mostly directly by our own sales team, and also through multiple partners with varying geographic coverage. These partners are external third parties and are not Samsara employees.	*
14	If applicable, provide a detailed explanation outlining the licenses and certifications that are both required to be held, and actually held, by your organization (including third parties and subcontractors that you use) in pursuit of the business contemplated by this RFP.	Samsara is registered on the FMCSA's ELD list.	*
15	Provide all "Suspension or Debarment" information that has applied to your organization during the past ten years.	Neither Samsara Networks Inc. nor its subsidiaries have been suspended or debarred in the past ten years.	*

Table 3: Industry Recognition & Marketplace Success

Line Item	Question	Response *	
16	Describe any relevant industry awards or recognition that your company has received in the past five years	Please find below a list of awards and certifications: - 2019 LinkedIn Top Startups - #3 - 2019 Cloud 100 - Forbes - 2019 Top Startup - LinkedIn - 2019 International Business Awards - Company of the Year in Transportation (Gold), Most Innovative Tech Company of the Year (Silver), Hardware Networking for CM32 (Gold), IoT Analytics Solution for CM32 (Bronze) - 2018 Top CEO, Sanjit Biswas, Small to Medium Business - Glassdoor - 2018 Top Startups - LinkedIn 2018 American Business Awards - New Product of the Year in Transportation (Gold), Most Innovative Tech Company of the Year (Silver) - 2018 People's Choice American Business Award - B2B Products 2018 Internet of Things 50 - The Channel Co CRN Top 10 Fleet Management Solutions Providers 2017 - Logistics Tech Outlook 20 Fastest-Growing IoT Companies - Insight Success Magazine - 2017 Emerging Vendors - The Channel Co CRN	*
17	What percentage of your sales are to the governmental sector in the past three years	2%	*
18	What percentage of your sales are to the education sector in the past three years	1%	*
19	List any state, provincial, or cooperative purchasing contracts that you hold. What is the annual sales volume for each of these contracts over the past three years?	GSA, PEPPM, MAPC. The annual sales volume for these contracts is $1,207,982.66.	*
20	List any GSA contracts or Standing Offers and Supply Arrangements (SOSA) that you hold. What is the annual sales volume for each of these contracts over the past three years?	We currently have GSA contracts with entities from cities or counties from the following states: Florida, Texas, California, Georgia, South Carolina, Colorado, and Virginia. The annual sales volume for these contracts is $1,207,982.66.	*

Table 4: References/Testimonials

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

Entity Name *	Contact Name *	Phone Number *	
City and County of Denver	Brad Salazar	720-865-3905	*
City of Sacramento	Mark Stevens	916-808-5869	*
City of Tallahassee	David Nichols	850.891.5238	*

Table 5: Top Five Government or Education Customers

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

Entity Name	Entity Type *	State / Province *	Scope of Work *	Size of Transactions *	Dollar Volume Past Three Years *	
[Confidential]	Government	Florida - FL	Vehicle Gateways, Unpowered Asset Gateways, Environmental Monitors, Street Sweeper Tracking	$1.76M	$1.05M	*
[Confidential]	Government	Massachusetts - MA	Vehicle Gateways (VG34), Powered Asset Gateways (AG26), Dash Cams (CM32), Environmental Monitors (EM21), Snow Plow/Spreader Tracking	$2.78M	$1.66M	*
[Confidential]	Government	California - CA	Vehicle Gateways (VG34), Powered Asset Gateways (AG26), Unpowered Asset Gateways (AG46)	$2.78M	$1.66M	*
[Confidential]	Government	Colorado - CO	Vehicle Gateways (VG34), Powered Asset Gateways (AG26), Dash Cams (CM32), Environmental Monitors (EM21), Snow Plow/Spreader Tracking, Sweeper Tracking	$3.15M	$781K	*
[Confidential]	Government	Colorado - CO	Vehicle Gateways (VG34), Powered Asset Gateways (AG26), Dash Cams (CM32), Snow Plow/Spreader Tracking	$1.9M	$400K	*

Table 6: Ability to Sell and Deliver Service

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

Line Item	Question	Response *	
23	Sales force.	Samsara is broken down into separate business units - Fleet, Industrial, and Connected Sites. On the Fleet side, we have 122 Account Development Representatives, 229 Account Executives, and 28 Regional Sales Managers. On the Industrial/Sites side, we have 9 Account Executives and 1 Regional Sales Manager.	*
24	Dealer network or other distribution methods.	Samsara has over 100 partners, referring to those who are qualified to resell our product, across all business units (fleet, industrial, connected sites). These partners are not employed by Samsara, nor are they required to submit a certain number of leads/generate a certain amount of revenue per quarter. Our most successful partners (i.e. CDW), fall under the "IT systems distributor" industry. We don't have a geographical hub for our partners- we have one in just about every state, distributed evenly across the US.	*
25	Service force.	As of January 2021, Samsara's Technical Support team has 82 team members located within the US, and 3 in the UK. Of the 82, 59 are full-time employees, and the remainder are contractors. In 2020, Samsara was extremely proud to achieve a less than 5 minute wait time to connect with a customer service representative. For the majority of the year, this was actually less than 1 minute.	*
26	Describe in detail the process and procedure of your customer service program, if applicable. Include your response-time capabilities and commitments, as well as any incentives that help your providers meet your stated service goals or promises.	Samsara provides its customers with 24/7 service via phone, email/case, and webchat. Response time capabilities (SLA's) and commitments can be found here: https://www.samsara.com/hosted-software-sla Contacting support can be found here: https://www.samsara.com/support/contact Training Webinars and Videos can be found here: https://www.samsara.com/support/training	*
27	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in the United States.	Samsara is fully capable and willing to provide products and services to Sourcewell participating entities in the United States.	*
28	Describe your ability and willingness to provide your products and services to Sourcewell participating entities in Canada.	Samsara is fully capable and willing to provide products and services to Sourcewell participating entities in Canada.	*
29	Identify any geographic areas of the United States or Canada that you will NOT be fully serving through the proposed contract.	Samsara is well equipped to provide its services across all industries and sectors. Samsara has a global presence and there are no areas of the United States or Canada in which we would not be serving through the proposed contract.	*
30	Identify any Sourcewell participating entity sectors (i.e., government, education, not-for-profit) that you will NOT be fully serving through the proposed contract. Explain in detail. For example, does your company have only a regional presence, or do other cooperative purchasing contracts limit your ability to promote another contract?	Samsara is well equipped to provide its services across all industries and sectors. Samsara has a global presence and there are no sectors in which we would not be serving through the proposed contract. There are no existing contracts which would limit our ability to promote another contract.	*
31	Define any specific contract requirements or restrictions that would apply to our participating entities in Hawaii and Alaska and in US Territories.	There are no additional contract requirements or restrictions that would apply to participating entities in HI, AK, or US Territories.	*

Table 7: Marketing Plan

Line Item	Question	Response *	
32	Describe your marketing strategy for promoting this contract opportunity. Upload representative samples of your marketing materials (if applicable) in the document upload section of your response.	Our strategies to promote new offerings typically include blog posts, development of sales assets, updates on social media, emails to customers, and press outreach as appropriate. We'd like to partner with Sourcewell to finalize the messaging, scope, and timing of joint marketing activities. Examples of materials from a recent promotion include the links below (also attached as a PDF to this submission): - Launched blog post: https://www.samsara.com/blog/samsara-and-edulog-announce-integrated-solution-for-student-transportation - Press Coverage: https://stnonline.com/industry-releases/samsara-and-edulog-announce-integrated-solution-for-student-transportation/ - Case Study: https://samsara.showpad.com/share/zBtWW5Dd7DDoA5Q2ZkHGr	*
33	Describe your use of technology and digital data (e.g., social media, metadata usage) to enhance marketing effectiveness.	Samsara carefully monitors performance on our own domains, email, social media channels, and paid channels. We gather data across every stage of our customers' journey and establish internal benchmarks to ensure that we're optimizing and improving our performance. Examples of our approach include: - Search engine optimization; ensuring that webpages and written content include top-performing keywords relevant to our solutions - Website analytics; adjusting content and performance to minimize bounce rate & increase traffic - Social media; monitoring engagement with posts on LinkedIn, Facebook, and Twitter. Use of targeted ads to engage with prospects. - Email; we monitor delivery success rates, unsubscribe rates, open rates, and click rates to maximize messaging impact while minimizing reader fatigue	*
34	In your view, what is Sourcewell's role in promoting contracts arising out of this RFP? How will you integrate a Sourcewell-awarded contract into your sales process?	We are happy to work with Sourcewell to determine a mutually beneficial co-marketing plan. When it comes to integrating Sourcewell-awarded contracts into our sales process, there are two approaches: - If we are speaking with a client who is already on the Sourcewell membership list, we will be certain to promote our contract with that client. - If we are speaking with a client who does not yet procure through Sourcewell, we can provide collateral to our sales teams to educate those clients about Sourcewell. We are happy to share Sourcewell-provided resources about the benefits of purchasing through the cooperative.	*
35	Are your products or services available through an e-procurement ordering process? If so, describe your e-procurement system and how governmental and educational customers have used it.	We do have an online webstore, but as of now, its use is limited to our existing customers. The webstore can be used for replacement hardware, accessory and cable transactions for all customers. Only certain customers can utilize the webstore for additional net-net purchases. Our existing governmental and education customers can use our webstore in the same manner as above.	*

Table 8: Value-Added Attributes

Line Item	Question	Response *	

36	Describe any product, equipment, maintenance, or operator training programs that you offer to Sourcewell participating entities. Include details, such as whether training is standard or optional, who provides training, and any costs that apply.	Samsara utilizes the Train the trainer approach, and in most deployments, we provide 6 deep drive instructor-led trainings in a virtual format covering the following topics: - Admin Dashboard Settings Training - Admin Dashboard Functionality Training - Safety for Dash Cams Overview - Admin Driver App - Admin Fleet App - Routes, Dispatching, and Workflow Overview - Maintenance Overview We also have a library of On-demand training videos available 24/7 via the Samsara dashboard itself available to all the customers at no charge. With every deployment, each Samsara customer will always receive 24/7 customer support (phone, email/case, chat), on-demand access to the Samsara Training Center, and access to the online knowledge base. Service and Support Benefits such as Pre-Sale Pilot Management, Tailored ROI Analysis, Consultations, Setup & Configurations, Implementation Kick Offs, Plans, and Workshops, End-to-End Program Management, Business Reviews, Dedicated Technical Account Managers, and more are all offered and are based on overall annual spend. The abovementioned additional services are included for Samsara customers at no additional cost as their annual spend meets the required threshold.	*
37	Describe any technological advances that your proposed products or services offer.	Samsara's mission is to increase the efficiency, safety, and sustainability of the operations that power our economy. Our complete portfolio of Internet of Things ("IoT") solutions combine hardware, software, and cloud to bring real-time visibility, analytics, and AI to operations. Today, over 20,000 customers around the world -- from state and local governments to schools and Fortune 500 enterprises -- use Samsara to simplify their operations, consolidate vendors, prevent accidents and increase overall safety, automate manual processes, and improve real-time visibility across multiple departments, sites, agencies, and more. Samsara's growing suite of solutions includes vehicle telematics, driver safety, mobile workflow and compliance, asset tracking, smart cameras, and industrial process controls - all in an integrated, open, real-time platform. Customer feedback is at the center of our product development process. In 2020 alone, Samsara launched more than 200 product updates to help customers adapt to new operational challenges. All of these new features and functionalities were pushed to our customers free of charge and over the air. This is a huge differentiator with Samsara; we do not try to nickel and dime our customers with increases in pricing when new features are rolled out. If our customers have the hardware that supports our new features, they simply get these free of charge and can choose to use or not use them at their leisure. For example, in late Winter 2020 (March), all of Samsara's customers who had previously purchased our Dashcams were automatically eligible to use a plethora of new A.I. features free of charge. All they had to do was turn on a toggle with a simple click in their dashboard and they could immediately access features like distracted driving detection (texting, smoking, eating, looking away from the road), tailgating, forward collision warnings, rolling through stop signs and red lights, seatbelt usage, mask-wearing policies, among other items. While many of our customers were already using these Dashcams (CM31 & CM32) for well over a year, they were ecstatic to be able to leverage all of our new features without paying additional yearly fees, and without needing to replace any hardware or do any additional work from on their end. This is what our customers come to expect over time with Samsara and is what we strive to deliver. The following link is also a part of Samsara's submission as a PDF document: https://www.samsara.com/blog/favorite-product-updates-2020	*

38	Describe any “green” initiatives that relate to your company or to your products or services, and include a list of the certifying agency for each.	A core value of ours is building for the long term, and sustainability is a key part of that. We are committed to building best in class products that help our customers reduce their environmental footprint, and we have the same goal for our own business practices. Customer examples are annual reductions in fuel of over $40m per annum across our customer base due to eco-drive initiatives and reductions in idle times. We also have also made a big investment in capabilities to manage EV fleets and their unique challenges. Samsara has published an internal page for "green" initiatives. This page includes links for environmental groups to support/donate, various Earth Day projects/ideas, and other environmentally related topics. Furthermore, the Samsara recognition platform allows employees to accrue points and donate directly to agencies such as The Nature Conservancy and Greenpeace. In addition, Samsara offices in CA are Cal Green, SF6 and SJ1 are LEED certified, Samsara’s Workplace Design and Build Guidelines call for high-efficiency lighting and power systems, sustainable materials and locally-sourced materials when available.	*
39	Identify any third-party issued eco-labels, ratings or certifications that your company has received for the equipment or products included in your Proposal related to energy efficiency or conservation, life-cycle design (cradle-to-cradle), or other green/sustainability factors.	Samsara is proud to be recognized as a leader in sustainability. In 2020, Samsara was honored by the Business Intelligence Group as a company that has made sustainability an integral part of its business practices. More can be read below and here - https://www.bintelligence.com/sustainability-awards The most precious asset all businesses share is our Earth. The efforts individuals and businesses make to sustain this vital resource is not only necessary, but it also makes good business sense. Seeking recognition for your Earth-friendly work is also smart business. We applaud you for taking the first step in setting your business apart from your competitors. The Sustainability Awards program provides the opportunity for your organization to receive global recognition by a panel of volunteer judges who themselves are leaders and experts in business. The Sustainability Awards will honor those who have made sustainability an integral part of their business practice. We welcome nominations from businesses of all sizes, locations and maturity. We offer increased exposure for the exemplary accomplishments of leaders, initiatives and organizations working to reduce the impact of their business on our environment.	*
40	Describe any Women or Minority Business Entity (WMBE), Small Business Entity (SBE), or veteran owned business certifications that your company or hub partners have obtained. Upload documentation of certification (as applicable) in the document upload section of your response.	Samsara does not hold these certifications.	*

41	What unique attributes does your company, your products, or your services offer to Sourcewell participating entities? What makes your proposed solutions unique in your industry as it applies to Sourcewell participating entities?	Samsara is an integrated platform that improves safety and increases efficiency and sustainability for operationally complex businesses, governments, and other entities. We connect data points from sensors and cameras (all built in-house by Samsara) across our customer's operations (ie: fleet, worksites, and infrastructure) with AI-powered, secure, cloud-based software. Because Samsara is unique in having developed and built all of our hardware and software in-house, State and Local agencies, as well as schools and Universities, are choosing our platform because we help consolidate their vendors and move them to a simple, intuitive, powerful platform all in one pane of glass. This is true across the rest of our business units as well. What used to take perhaps 3 vendors (one for AVL/GPS, another for assets/maintenance, another for dashcams/safety) now can be done with one company at a best-in-class level across all products. In addition to our Fleet business, we're also helping our customers monitor their remote sites, wells, pumps, and other locations that can reduce the need for manual check-ins with our Industrial Gateways. We're constantly listening to what our customers are asking for, and have also since developed another product called Site Visibility which can quickly bring all of your existing camera streams directly into your Samsara Dashboard by utilizing the existing equipment which has already been paid for. For example, if a state, city, county, school district, university, or any organization already has security cameras installed throughout their operations today, there's a great chance they can pull in those camera streams directly into Samara without needing to replace any existing infrastructure - a true game-changer for any organization who wants to bring real-time visibility from their vehicles and sites into the same dashboard. We also can provide our own security cameras if needed if the system needs a full replacement. Because all camera streams can run through our platform, we can layer our A.I. on top of the stream within our Dashboard which unlocks alerts, notifications, people and movement detection, and much more. Curious to see who was the last person who walked through your facility with an orange shirt on? You can find this footage with just a few clicks and in a matter of seconds. Samsara is much more than just a GPS or AVL provider, it is a platform where our customers can start slow and grow into our products and services from whatever starting point they wish, at their own pace. Samsara is often chosen because our customers know we are a tech company, first and foremost, that can move quickly and take feedback seriously to make the overall product better based on real-world problems our customers are sharing with us.	*

Table 9: Warranty

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

Line Item	Question	Response *	
42	Do your warranties cover all products, parts, and labor?	Samsara Hardware Products that require a valid license to function shall come with a warranty that lasts for as long as you maintain a valid license for such Hardware. During the warranty period, Hardware exhibiting material defects will be replaced. More information on the Hardware warranty can be found here: https://www.samsara.com/support/hardware-warranty Labor is not included in the product warranty.	*
43	Do your warranties impose usage restrictions or other limitations that adversely affect coverage?	No.	*
44	Do your warranties cover the expense of technicians' travel time and mileage to perform warranty repairs?	No. If there is an issue with any of our products and it is covered under warranty, Samsara will overnight a new device to the customer and our products are extremely easy to install so the great majority of our customers will simply swap out the products themselves.	*
45	Are there any geographic regions of the United States or Canada (as applicable) for which you cannot provide a certified technician to perform warranty repairs? How will Sourcewell participating entities in these regions be provided service for warranty repair?	There are no geographic regions of the United States or Canada in which Samsara can send our certified installers, however, as previously mentioned the installation is not covered in the warranty, only the product itself is. Our products are designed to be extremely easy to install, everything being plug and play. If Samsara provides the initial installation, it is expected we will be training existing employees how to do what is typically a 10-minute simple process for installations or replacements. Very little vehicle or technical knowledge is needed to do the majority of our installations/replacements.	*
46	Will you cover warranty service for items made by other manufacturers that are part of your proposal, or are these warranties issues typically passed on to the original equipment manufacturer?	No. All products mentioned in this proposal are built by Samsara employees and this unique approach is a differentiator because we create and build all of our own hardware and software. We do not rely on other manufacturers' hardware as part of our offering. Because of this, Samsara is able to offer seamless, plug and play integration of all of our products which relays back to a simple, intuitive, dashboard where our customers have a true 360-degree view of their operations.	*
47	What are your proposed exchange and return programs and policies?	Samsara offers a no-questions-asked return policy up to 30 days post purchase as outlined in the Samsara Hardware Warranty & RMA Policy, found at https://www.samsara.com/support/hardware-warranty. During the hardware warranty period, devices exhibiting material defects will be replaced pursuant to the RMA process outlined in the Hardware Warranty & RMA Policy	*
48	Describe any service contract options for the items included in your proposal.	All product update releases are performed over the air without any interruption to our customers' service. Samsara's Hosted Software runs on a scalable and redundant cloud computing infrastructure used by the world's largest enterprises. Samsara's distributed software architecture spreads computation across multiple physical servers and replicates stored data across multiple physical storage devices. As a result, no single hardware failure can affect service availability and because of this we are pleased to offer our customers a 99.99% uptime SLA.	*

Table 10: Payment Terms and Financing Options

Line Item	Question	Response *	
49	What are your payment terms (e.g., net 10, net 30)?	Net 30	*
50	Describe any leasing or financing options available for use by educational or governmental entities.	Samsara can provide monthly, annual, or upfront payment options pending internal credit review of the participating entity.	*
51	Briefly describe your proposed order process. Include enough detail to support your ability to report quarterly sales to Sourcewell as described in the Contract template. For example, indicate whether your dealer network is included in your response and whether each dealer (or some other entity) will process the Sourcewell participating entities' purchase orders.	Samsara will handle the complete order process from start to finish including quoting, processing, shipping, invoicing, product activation, implementation, and customer support. With each Samsara order from our customers, deliveries for our hardware are typically made within 3 business days of the signed quote or purchase order being received. In the past in order to procure Samsara via Sourcewell, Samsara has relied on 3rd party companies who have an existing relationship with Sourcewell. In the near term, there will still be some entities who continue to choose to use our 3rd party providers to procure Samsara (i.e. via CDW). However, if awarded, going forward we will be looking to sell Samsara directly off the Sourcewell contract versus leveraging 3rd party providers. The benefit of being able to purchase Samsara directly off the Sourcewell contract versus going through a 3rd party benefits the customer first and foremost because this will zero-out the reseller fees typically associated with procuring Samsara through a 3rd party. In this event, Samsara would be fully capable of providing quarterly sales to Sourcewell as described in the contract template because we would control access to this data rather than it going through our dealer network. In the event our dealer network processes a Samsara purchase order, the typical workflow for this is the end customer will cut a PO to the reseller dealer network and this would trigger a payment to Samsara from the reseller/dealer. Upon receipt, Samsara will release the shipment and provide tracking information to the appropriate point of contact. In this instance, the dealer network would process the Sourcewell participating entities' purchase orders.	*
52	Do you accept the P-card procurement and payment process? If so, is there any additional cost to Sourcewell participating entities for using this process?	Yes, we accept P-card transactions through a secure checkout link that can be provided by an account manager, or via the Samsara online web store which our customers can access directly from their dashboard. All credit or debit cards used will automatically have a 3% processing fee attached to them, and this fee is only applicable to this payment method. Other payment methods such as check, wire, ACH transfers, will not incur any processing fees.	*

Table 11: Pricing and Delivery

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

Line Item	Question	Response *	

53	Describe your pricing model (e.g., line-item discounts or product-category discounts). Provide detailed pricing data (including standard or list pricing and the Sourcewell discounted price) on all of the items that you want Sourcewell to consider as part of your RFP response. If applicable, provide a SKU for each item in your proposal. Upload your pricing materials (if applicable) in the document upload section of your response.	Samsara offers line-item discounts on a case by case basis. Typical considerations when offering line-item discounts include overall size and scope of the project, ability to pay upfront in full versus annual or monthly, and a customers' openness to partner with Samsara on things like case studies, video testimonials, webinars, or being a reference to other similar entities. Please see attached for list pricing as well as the Sourcewell discounted price within the excel pricing document. Within the excel pricing document, we wanted to make it clear which line items represent a one-time cost or product replacement cost versus an annual recurring cost for licenses/software charges. Column J shows this designation, please let us know if you have further questions there. Samsara does not charge for hardware during an initial contract, and the hardware is covered under full warranty for the duration of the time a customer is actively paying for the software license associated with that hardware. In the event a piece of hardware would not be covered under warranty (i.e. a driver deliberately scratched the lens of a camera) we would use the one-time/replacement cost in order to have that hardware replaced. Our most up to date warranty information can be found at https://www.samsara.com/support/hardware-warranty	*
54	Quantify the pricing discount represented by the pricing proposal in this response. For example, if the pricing in your response represents a percentage discount from MSRP or list, state the percentage or percentage range.	Samsara is offering a 5% discount to MSRP pricing for Sourcewell entities wishing to leverage their existing Sourcewell relationship to purchase Samsara. Please see the attached master price list for these prices. Note this is simply the starting point from a pricing perspective. Sourcewell entities would be eligible for deeper discounts depending on their total rollout, scope, and other items determined during the sales cycle.	*
55	Describe any quantity or volume discounts or rebate programs that you offer.	Quantity and volume discounts are given to our customers, on a case by case basis, and can be discussed in further detail as interested agencies begin to inquire what a Samsara deployment might look like in practice for their particular scope and delivery. Quantity and volume discounts would be discussed with an Account Executive or Regional Sales Manager during the purchasing process.	*
56	Propose a method of facilitating “sourced” products or related services, which may be referred to as “open market” items or “nonstandard options”. For example, you may supply such items “at cost” or “at cost plus a percentage,” or you may supply a quote for each such request.	Samsara offers a robust marketplace highlighting pre-built integrations that our customers can take advantage of at no additional cost from Samsara. In some instances, the partners listed on our marketplace may have their own fees associated with certain integrations, however, Samsara does not charge extra for an existing pre-built integration. In the event a customer wants to explore building a new integration, a quote will be supplied for each such request and cost shall be determined on a case by case basis. This also could be a custom success or support program that a customer might request above and beyond our typical implementation and success programs. Anything in this capacity would be reviewed by our respective teams in conjunction with the customer to determine the overall effort and cost needed to satisfy the request on a case by case basis. With regard to installations, the majority of Samsara's customers choose to self-install as our products are extremely easy to use and are plug and play right out of the box. An installation of a Vehicle Gateway and Dashcam could take as little as 10 minutes. In the event a customer requires an installation, Samsara has a network of certified installers who can be leveraged for these instances.	*

57	Identify any element of the total cost of acquisition that is NOT included in the pricing submitted with your response. This includes all additional charges associated with a purchase that are not directly identified as freight or shipping charges. For example, list costs for items like pre-delivery inspection, installation, set up, mandatory training, or initial inspection. Identify any parties that impose such costs and their relationship to the Proposer.	- Applicable taxes - Shipping & handling - Installation (if applicable) - Most Samsara customers perform their own installations as our products are designed to be "plug and play" right out of the box. For those customers who choose to not self-install, Samsara has a network of certified installers who will work with Samsara and the customer to scope out the project in its entirety and then provide a detailed implementation plan tailored to that particular install. No installation is the same and therefore the cost of installation will vary on a case-by-case basis. - Custom integrations not already covered at no additional cost: see samsara.com/marketplace	*
58	If freight, delivery, or shipping is an additional cost to the Sourcewell participating entity, describe in detail the complete freight, shipping, and delivery program.	Samsara uses FedEx Freight for shipping and this is a separate cost required to be paid by the customer in addition to the products and services purchased. The process is as follows: - Customer sends final vehicle and asset lineup to Samsara - Samsara Order Operations will retrieve the cost of shipping from FedEx Freight to be added to the quote based on the size and destination of the order. - All shipments are FOB origin, freight is pre-paid and added to the Customer's invoice.	*
59	Specifically describe freight, shipping, and delivery terms or programs available for Alaska, Hawaii, Canada, or any offshore delivery.	Alaska, Hawaii, Canada, Mexico, and EMEA would follow the same process as listed in Table 11, Question 6, which is also listed below: - Customer sends final vehicle and asset lineup to Samsara - Samsara Order Operations will retrieve the cost of shipping from FedEx Freight to be added to the quote based on the size and destination of the order. - All shipments are FOB origin, freight is pre-paid and added to the Customer's invoice.	*
60	Describe any unique distribution and/or delivery methods or options offered in your proposal.	In line with Samsara's first-class customer support experience, our customers appreciate how we take feedback seriously and ensure quick resolution to potential issues that may arise. In the event a piece of hardware is not properly functioning, Samsara will overnight a replacement unit and send a free return shipping label for the malfunctioning unit. This is offered to all of our customers and their feedback is extremely positive for this, considering most did not receive this type of service with their previous vendors.	*

Table 12: Pricing Offered

Line Item	The Pricing Offered in this Proposal is: *	Comments
61	c. better than the Proposer typically offers to GPOs, cooperative procurement organizations, or state purchasing departments.	Pricing provided in this submission represents a 5% discount to MSRP for what Samsara typically offers as its starting point with government, education, and non-profit organizations. Deeper discounts will be available to participating Sourcewell entities based on the size and scope of their desired rollout.

Table 13: Audit and Administrative Fee

Line Item	Question	Response *	
62	Specifically describe any self-audit process or program that you plan to employ to verify compliance with your proposed Contract with Sourcewell. This process includes ensuring that Sourcewell participating entities obtain the proper pricing, that the Vendor reports all sales under the Contract each quarter, and that the Vendor remits the proper administrative fee to Sourcewell.	If awarded a Contract, Samsara will leverage its business systems to track sales with Participating Entities under the Contract to satisfy quarterly reporting obligations and remittance of the administrative fee. Samsara has experience with such reporting for similar contracting vehicles (e.g., GSA).	*
63	Identify a proposed administrative fee that you will pay to Sourcewell for facilitating, managing, and promoting the Sourcewell Contract in the event that you are awarded a Contract. This fee is typically calculated as a percentage of Vendor's sales under the Contract or as a per-unit fee; it is not a line-item addition to the Member's cost of goods. (See the RFP and template Contract for additional details.)	Samsara agrees to pay Sourcewell a 2% administrative fee of total sales for facilitating, managing, and promoting the Sourcewell Contract in the event we are awarded a Contract.	*

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

Line Item	Question	Response *	
64	Provide a detailed description of the equipment, products, and services that you are offering in your proposal.	Samsara is an integrated platform that improves safety and increases efficiency and sustainability for operationally complex businesses, governments, and other entities. We connect data points from sensors and cameras (all built in-house by Samsara) across our customer's operations (ie: fleet, worksites, and infrastructure) with AI-powered, secure, cloud-based software. Because Samsara is unique in having developed and built all of our hardware and software in-house, State and Local agencies, as well as schools and Universities, are choosing our platform because we help consolidate their vendors and move them to a simple, intuitive, powerful platform all in one pane of glass. This is true across the rest of our business units as well. What used to take perhaps 3 vendors (one for AVL/GPS, another for assets/maintenance, another for dashcams/safety) now can be done with one company at a best-in-class level across all products. In addition to our Fleet business, we're also helping our customers monitor their remote sites, wells, pumps, and other locations that can reduce the need for manual check-ins with our Industrial Gateways. We have also developed another product called Site Visibility which can quickly bring all of your existing camera streams directly into your Samsara Dashboard by utilizing the existing camera equipment which has already been paid for. For example, if a state, city, county, school district, university, or any organization already has security cameras installed throughout their operations today, there's a great chance they can pull in those camera streams directly into Samara without needing to replace any existing infrastructure - a true game-changer for any organization who wants to bring real-time visibility from their vehicles and sites into the same dashboard. We also can provide our own security cameras if the system needs a full replacement. Because all camera streams can run through our platform, we can layer our A.I. on top of the stream within our Dashboard which unlocks alerts, notifications, people & movement detection, and much more. Curious to see who was the last person who walked through your facility with an orange shirt on? You can find this footage with just a few clicks and in a matter of seconds. Samsara is much more than just a GPS or AVL provider, it is a platform where our customers can start slow and grow into our products and services from whatever starting point they wish and at their own pace. Samsara is often chosen because our customers know we are a tech company, first and foremost, that can move quickly and take feedback seriously to make the overall product better based on real-world problems our customers are sharing with us. Samsara's offerings within in this proposal include vehicle telematics (everything from AVL to preventative maintenance to vehicle inspections and more), driver safety, asset tracking, mobile workflow, remote site visibility, and industrial process controls. All products can be included in an integrated, open, real-time, cloud platform. Samsara is offering products and services that span the following (please see attached master product list and product specification sheets for detailed information on pricing and capabilities): Fleet - Telematics - Real-time GPS Fleet Tracking - Fuel & Maintenance - Trailer Tracking	

- Reefer Monitoring
- Equipment (powered and unpowered) Tracking
- Electric Vehicles

- Safety and Cameras
  - A.I. Dashcams
  - Driver Safety Programs
  - Coaching Workflows
  - Safety Event Review
- Connected Driver
  - Driver Workflow
  - Custom Documents
  - Messaging
  - Routing & Dispatch
  - Compliance
  - Driver Vehicle Inspection Reports (DVIR)
- Platform & Partnerships
  - Single Vendor Platform - consolidate and simplify your operations and vendors into one platform
  - App Marketplace - pre-built integrations with Samsara and your 3rd party apps
  - Experts Marketplace - get help from our verified integration and implementation experts
  - OEM Telematics - integrations with industry-leading OEMs such as John Deere, Caterpillar, Ford, International, Volvo, Mack
- Industry-Specific Solutions
  - Transportation & Logistics
  - Food & Beverage
  - Construction
  - Higher Education
  - K-12 School Transportation
  - State & Local Government
  - Passenger Transit
  - Field Service Fleets

Infrastructure

- SCADA - Samsara offers a cloud-based full end to end SCADA solution and can also be run alongside existing systems to make previously inaccessible data more actionable.
  - HMI Dashboards for Equipment, Oilfield, Wastewater, and Water Operations
  - Alarms & Notifications
  - Reporting
  - Mobile Access from anywhere to prevent downtime
  - Custom KPIs
- Industrial IOT
  - Remote Monitoring
  - Condition Monitoring
  - Industrial Gateways - Samsara Industrial Gateways provide a direct link between your equipment and our cloud-based remote monitoring platform. This seamless integration of hardware and software gives you out-of-the-box visibility, so you can monitor and control industrial equipment in the most remote locations.

Site Visibility

- Samsara Site Visibility integrates with existing security cameras for easy installation. Simply plug in the Site Gateway to your network and set up the cloud VMS (video management software) in under 10 minutes. In a few clicks, you can detect and add existing IP camera streams into the Samsara Dashboard. Use these streams to create custom views, share footage, and gain on-the-go visibility from your phone.
- Our hybrid-cloud architecture revolutionizes traditional video monitoring, combining on-the-go visibility with a powerful on-premise gateway and ruggedized, high-definition cameras. If customers already have their own cameras, we can integrate with those too.
- Our Site Gateway allows customers to automatically turn their existing IP cameras into an advanced AI camera in a matter of minutes.
- Key Benefits Include:
  - Access from anywhere - Everything you'd want from a security camera system, plus secure and granular user access from any web browser or from the mobile application.
  - Security - Immediately respond to unusual activity (such as theft) and reduce the time spent investigating. Have & find evidence easily when you need it. Intuitive timeline navigation and enhanced search features streamline incident investigation, such as a theft or a worker injury.
  - Safety - Leverage intelligent detection and powerful search to identify workplace hazards. Catch & prevent incidents in the moment. Be immediately notified of unusual or unsafe activity through intelligent detection and alerting—no need to actively monitor your security cameras.
  - Efficiency - Identify process or operational inefficiencies with powerful AI insights

		and proactive alerts.	
65	Within this RFP category there may be subcategories of solutions. List subcategory titles that best describe your products and services.	Please see the bulleted items listed in Table 14A line item 64 for the main categories and subcategories of the products and services offered by Samsara.	*

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

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

Line Item	Category or Type	Offered *	Comments	
66	Fleet management information systems	(•) Yes ( ) No	Samsara's platform is able to be used as an FMIS for our customers. For those customers who are already using an existing FMIS such as something like an Assetworks, Samsara can integrate with these systems to do things such as but not limited to: syncing Samsara Vehicle Gateway and Asset Gateway data like trip history, engine runtimes, fault code analysis and odometer data, automatically trigger work orders to be created based on vehicle inspection reports and maintenance data in Samsara, and service requests can be sent directly to technicians.	*
67	Fleet technology related hardware solutions	(•) Yes ( ) No	Samsara makes builds and designs all of its own hardware (vehicle and asset gateways, dashcams, sensors, security cameras, industrial gateways and monitors, accessories, and more) and also builds all of its own software. This gives Samsara a unique edge because our products and software are extremely easy to use, seamlessly integrated, and help our customers consolidate platforms and simplify their operations. Our hardware and software are both created in house by badged Samsara Engineering and Development team members.	*
68	Fleet related software solutions	(•) Yes ( ) No	Samsara makes builds and designs all of its own hardware (vehicle and asset gateways, dashcams, sensors, security cameras, industrial gateways and monitors, accessories, and more) and also builds all of its own software. This gives Samsara a unique edge because our products and software are extremely easy to use, seamlessly integrated, and help our customers consolidate platforms and simplify their operations. Our hardware and software are both created in house by badged Samsara Engineering and Development team members.	*
69	Telematics, fleet monitoring, asset tracking, and geofencing solutions	(•) Yes ( ) No	All items listed are covered by Samsara's offering.	*
70	Motor pool and fleet sharing solutions	(•) Yes ( ) No	Samsara has worked with various cities, counties, and agencies with regard to supporting fleet pooling services in certain capacities. By using the Samsara Driver App, employees can submit digital documents to report reasons for vehicle use, passengers, odometer readings, or any other information you want to capture including pictures, barcode scans, signatures, and document scans. There are numerous ways to understand who is driving which vehicle in real-time: 1) by logging into a vehicle via the Samsara Driver App, 2) if using Samsara Dash Cams (CM32) they will assign drivers automatically as soon as they start a vehicle, 3) with RFID ID card readers and RFID cards, and 4) with bluetooth keychain tokens.	*

71	Integrated video solutions	(•) Yes ( ) No	Fast Company's 2020 World Changing Ideas Awards were announced in April 2020, honoring the businesses, policies, projects, and concepts that are actively engaged and deeply committed to flattening the curve when it comes to the climate crisis, social injustice, or economic inequality. A panel of eminent judges selected winners and finalists from a pool of more than 3,000 entries across transportation, education, food, politics, technology, and more. Samsara's AI Dash Cam received an honorable mention in the AI and Data category for its critical role in protecting drivers. Additionally, specifically speaking about Samsara's integrated AI Dashcams, in September 2020 this product received two Gold Stevie 2020 International Business Awards for both the IoT Analytics Solution and the Hardware Solution of the Year. According to this year's Stevie® Award judges, Samsara's unified platform and customer-first approach differentiates the company from others in the market. Recent updates to the platform include advanced AI safety features, such as preventative in-cab alerts, and electric vehicle reporting capabilities. With Samsara, customers gain complete operational visibility, so they can save time, save money, and keep their workers safe. More than 3,800 nominations from organizations of all sizes and in virtually every industry were submitted this year for consideration in a wide range of categories. Stevie Award winners were determined by the average scores of more than 250 executives worldwide who participated in the judging process from July through early September. Samsara's dual-facing AI dash cam provides fleet managers with the information they need to protect their drivers and their fleet from incidents on the road. These cameras use embedded AI and real-time computing power to interpret road scenes and driver behavior to detect distraction, near collisions, tailgating, and traffic violations for even more visibility into safety incidents and risks. Simply put, these cameras save lives. In addition to Samsara's award-winning Dashcams, we also offer our customers a Site Visibility solution, which is a hybrid Video Monitoring Solution that allows our customers to bring their existing security camera streams directly into Samsara's dashboard and layer Samsara's AI on top of the streams. This makes any ordinary IP camera an immediate AI-powered smart camera with a slew of features that were not previously available without Samsara.	

Table 15: Industry Specific Questions

Line Item	Question	Response *	
72	If you are awarded a contract, provide a few examples of internal metrics that will be tracked to measure whether you are having success with the contract.	If awarded, internal metrics will be developed and tracked within Samsara's internal CRM. Metrics such as total opportunities created tagged with Sourcewell as a path to purchase, win rate, and the scope of rollout provided in closed won deals would be tracked. This would be further broken down by region and segment, all the way to the individual rep level. These data points combined with other items are crucial for Samsara's continued growth as we continue to add headcount and expand our Public Sector teams.	*
73	Describe your approach to data privacy in regard to your proposed solution(s).	At Samsara, all of our products are built from the ground up with privacy in mind. We firmly believe that your data belongs to you and that protecting it is one of our most important responsibilities. To that end, we hold data security and privacy to the highest standards and invest continuously in our infrastructure and processes to provide you with the most secure solutions in the industry. We're committed to being transparent about our security practices and helping you understand our approach. Our Global Approach to Privacy: Whether you operate in the United States or Europe, Samsara has you covered. We support compliance with GDPR and CCPA requirements, among others. * European Union: Samsara supports compliance with the GDPR. The EU General Data Protection Regulation (GDPR), effective 25 May 2018, is a regulation that strengthens data protection for all individuals in the European Union (EU). The GDPR places requirements on the way organizations and companies must collect, store, and process personal data. It also addresses the movement of such personal data outside the EU and stipulates the controls and safeguards which must be in place to do so. As a complete telematics solution, Samsara products must sometimes collect, store, and use an array of personal data, including video footage. When designing and improving our products and features, Samsara has carefully considered data protection in order to help ensure personal data is processed in accordance with its legal requirements. Data is therefore processed in a transparent way and is retained only as is necessary, with appropriate safeguards in place to secure and protect it.	

Under the GDPR, Samsara will serve as the data processor in our customer relationships in order to process personal data provided by the customer. Under our agreements, customers will always have the power and control over their data. Within our products, Samsara also provides certain functionality to help customers with their compliance with applicable legal requirements.

Samsara has always believed in the importance of securely and thoughtfully handling customer data and will continue to protect customer data in accordance with all applicable legal requirements, including the GDPR.

For more information about how Samsara supports compliance with the GDPR in your region, please contact your representative for access to our privacy white papers for the United Kingdom and Ireland, Netherlands, Germany, France, and Spain. If you do not have a representative, please contact sales@samsara.com or reach out through our website.

* California: Samsara supports compliance with the CCPA. The California Consumer Privacy Act of 2018 (CCPA) was enacted into law on June 28, 2018, and many of its provisions went into effect on January 1, 2020. The CCPA grants California residents certain rights with respect to their ability to know and access the personal information that businesses collect about them. Those rights include the right to say no to the sale of their personal information. However, please note that Samsara does not sell personal information. Our Privacy Policy [https://www.samsara.com/support/privacy] describes how Samsara may collect and use personal data consistent with other CCPA-related rights when we act as a “business” (as defined under the CCPA).

When we process personal information provided by our customers, Samsara acts as a “service provider” (as defined under the CCPA). In that capacity, we only process and transfer the personal information of our customers and our customers’ end-users for the purpose of performing our rights and obligations under our existing contract(s) with our customers and for no other commercial purpose.

How We Protect PrivacyProduct:

Samsara’s products are designed to help customers balance their business needs against privacy needs. Our hardware and software products include customizable control measures, features and tools to protect customer data.

Samsara’s commitment to privacy is reflected in our products’ features and your ability to customize many of our products to fit your specific needs and country-specific regulations. For example, Samsara dashcams enable strong privacy controls for customers to utilize, including:

Limited data captured and uploaded: Only video relating to safety events and video specifically requested by a customer is stored on the cloud / available in the dashboard;

Limited data retention: only 40 to 60 hours of recorded footage is available on any dashcam by default, with customizable data-retention features for footage sent to the cloud;

Restricted data access: Customers can set permissions so videos may be viewed only on a need-to-know basis (for example, a customer may restrict viewing permissions to safety managers);

Strong security: Samsara uses industry standard standards and protocols to protect data in transit (including TLS 1.2 and 256 AES encryption) and at rest (including FIPS 140-2 compliant encryption standards);

Physical lens caps: to cover either inward-facing lens only or inward- and outward-facing lenses.

EU data center: EU-customers’ data is stored in Ireland using Amazon AWS, which is rated as the leader in cloud security by research firm Forrester.

Policies and Safeguards:

Samsara is committed to transparency around how we hold and use personal data. Company-wide policies, contractual terms and other safeguards emphasize our responsibility to protect customer data and to stay compliant with the law.

Privacy Policy: Samsara may collect personal data in support of its business. For more information about how Samsara may collect and use such personal data,

		please see our Privacy Policy. DPA: Under the GDPR, Samsara will serve as the data processor for our customers, who in turn act as the data controller. To learn more about how Samsara processes customer data as part of this controller-to-processor relationship and our customer contracts, please see our DPA here. Data Transfers: To comply with EU data protection legislation on international data transfer mechanisms, we self-certify under the EU-US Privacy Shield and the Swiss-US Privacy Shield as set by the U.S. Department of Commerce. These frameworks were developed to establish a way for companies to comply with data protection requirements when transferring personal data from the European Union, UK, and Switzerland to the United States. To the extent these frameworks are deemed invalid or no longer apply to Samsara, we agree to abide by and process your data in accordance with the European Commission approved Standard Contractual Clauses we include within our Data Protection Addendum to provide adequate protection for such personal data transfers. DPIA: The GDPR requires organizations to undertake a data protection impact assessment (DPIA) where using new technologies is likely to result in a high risk to individuals. Samsara can provide supporting materials to help demonstrate your compliance with carrying out such DPIAs where you believe they are required before using our products. Marketing Communications: Samsara collects personal data for marketing purposes only pursuant to GDPR and other applicable local laws. Marketing communications are easily opted out of at any time via this page or through the unsubscribe feature on our emails. Security: Protecting our customers' privacy and respecting confidential information is fundamental to our core values. Samsara products are built from the ground up with security and privacy in mind. As part of our commitment to privacy and security, we've adopted the highest standards and also conduct regular audits pursuant to the Service Organization Controls (SOC 2) reporting process to ensure our customers' data is safe and available. Security Practices: Samsara implements the highest industry standards for encryption, storage, privacy, network, and endpoint security. Audits: Samsara regularly conducts security audits to ensure our systems are properly safeguarded. For example, our SOC 2 reports include descriptions of our software infrastructure and the processes we have in place to keep our customers' data safe and available. We also engage independent entities to conduct application-, infrastructure-, and hardware-level penetration tests at least annually. Incident Response: We have implemented a data breach and incident response plan. In case of an incident involving your customer data, we will inform you per the terms of your agreement with us. Learn More: To learn more about Samsara's commitment to upholding the highest security standards, please visit www.samsara.com/security	

Exceptions to Terms, Conditions, or Specifications Form

Only those Proposer Exceptions to Terms, Conditions, or Specifications that have been accepted by Sourcewell have been incorporated into the contract text.

Proposer's Affidavit

PROPOSER AFFIDAVIT AND ASSURANCE OF COMPLIANCE

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

1. The Proposer is submitting this Proposal under its full and complete legal name, and the Proposer legally exists in good standing in the jurisdiction of its residence.

2. The Proposer warrants that the information provided in this Proposal is true, correct, and reliable for purposes of evaluation for contract award.

3. The Proposer, including any person assisting with the creation of this Proposal, has arrived at this Proposal independently and the Proposal has been created without colluding with any other person, company, or parties that have or will submit a proposal under this solicitation; and the Proposal has in all respects been created fairly without any fraud or dishonesty. The Proposer has not directly or indirectly entered into any agreement or arrangement with any person or business in an effort to influence any part of this solicitation or operations of a resulting contract; and the Proposer has not taken any action in restraint of free trade or competitiveness in connection with this solicitation. Additionally, if Proposer has worked with a consultant on the Proposal, the consultant (an individual or a company) has not assisted any other entity that has submitted or will submit a proposal for this solicitation.

4. To the best of its knowledge and belief, and except as otherwise disclosed in the Proposal, there are no relevant facts or circumstances which could give rise to an organizational conflict of interest. An organizational conflict of interest exists when a vendor has an unfair competitive advantage or the vendor’s objectivity in performing the contract is, or might be, impaired.

5. The contents of the Proposal have not been communicated by the Proposer or its employees or agents to any person not an employee or legally authorized agent of the Proposer and will not be communicated to any such persons prior to Due Date of this solicitation.

6. If awarded a contract, the Proposer will provide to Sourcewell Participating Entities the equipment, products, and services in accordance with the terms, conditions, and scope of a resulting contract.

7. The Proposer possesses, or will possess before delivering any equipment, products, or services, all applicable licenses or certifications necessary to deliver such equipment, products, or services under any resulting contract.

8. The Proposer agrees to deliver equipment, products, and services through valid contracts, purchase orders, or means that are acceptable to Sourcewell Members. Unless otherwise agreed to, the Proposer must provide only new and first-quality products and related services to Sourcewell Members under an awarded Contract.

9. The Proposer will comply with all applicable provisions of federal, state, and local laws, regulations, rules, and orders.

10. The Proposer understands that Sourcewell will reject RFP proposals that are marked "confidential" (or "nonpublic," etc.), either substantially or in their entirety. Under Minnesota Statutes Section 13.591, subdivision 4, all proposals are considered nonpublic data until the evaluation is complete and a Contract is awarded. At that point, proposals become public data. Minnesota Statutes Section 13.37 permits only certain narrowly defined data to be considered a "trade secret," and thus nonpublic data under Minnesota's Data Practices Act.

11. Proposer its employees, agents, and subcontractors are not:

    a. Included on the “Specially Designated Nationals and Blocked Persons” list maintained by the Office of Foreign Assets Control of the United States Department of the Treasury found at: https://www.treasury.gov/ofac/downloads/sdnlist.pdf;

    b. Included on the government-wide exclusions lists in the United States System for Award Management found at: https://sam.gov/SAM/; or

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

☑ By checking this box I acknowledge that I am bound by the terms of the Proposer's Affidavit, have the legal authority to submit this Proposal on behalf of the Proposer, and that this electronic acknowledgment has the same legal effect, validity, and enforceability as if I had hand signed the Proposal. This signature will not be denied such legal effect, validity, or enforceability solely because an electronic signature or electronic record was used in its formation. - Adam Eltoukhy, General Counsel, Samsara Networks Inc.

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

○ **Yes** ◉ **No**

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

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

File Name	I have reviewed the below addendum and attachments (if applicable)	Pages
Addendum_10_Fleet_Mgmt_Tech_RFP_020221 Tue January 26 2021 04:32 PM	☑	2
Addendum_9_Fleet_Mgmt_Tech_RFP_020221 Mon January 25 2021 05:09 PM	☑	2
Addendum_8_Fleet_Mgmt_Tech_RFP_020221 Wed January 20 2021 04:19 PM	☑	1
Addendum_7_Fleet_Mgmt_Tech_RFP_020221 Tue January 19 2021 12:21 PM	☑	1
Addendum_6_Fleet_Mgmt_Tech_RFP_020221 Mon January 18 2021 01:39 PM	☑	1
Addendum_5_Fleet_Mgmt_Tech_RFP_020221 Thu January 14 2021 01:16 PM	☑	2
Addendum 4_Fleet_Mgmt_Tech_RFP_020221 Thu January 14 2021 01:12 PM	☑	3
Addendum 3_Fleet_Mgmt_Tech_RFP_020221 Thu January 14 2021 01:05 PM	☑	1
Addendum 2_Fleet_Mgmt_Tech_RFP_020221 Fri January 8 2021 01:17 PM	☑	1
Addendum 1_Fleet_Mgmt_Tech_RFP_020221 Fri January 8 2021 01:17 PM	☑	1

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AMENDMENT #1
TO
CONTRACT # 020221-SAM

THIS AMENDMENT is effective upon the date of the last signature below by and between **Sourcewell** and **Samsara Inc.** (Vendor).

Sourcewell awarded a contract to Vendor to provide Fleet Management Technologies with Related Software Solutions to Sourcewell and its Participating Entities, effective April 1, 2021, through March 26, 2025 (Contract).

The parties agree that Section 6.B. ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM of the Contract is deleted in its entirety and replaced with the following:

> ADDITIONAL TERMS AND CONDITIONS/PARTICIPATING ADDENDUM. In order to purchase from Vendor under this Contract, Participating Entity agrees that its purchase order shall be subject to Vendor's then-current Terms of Service at https://www.samsara.com/legal/public-sector-customers-platform-terms-of-service/. Additional terms and conditions to a purchase order or other required transaction documentation, in addition to such Terms of Service, may be negotiated between a Participating Entity and Vendor, such as job or industry-specific requirements, legal requirements (e.g., affirmative action or immigration status requirements), or specific local policy requirements. Some Participating Entities may require the use of a Participating Addendum, the terms of which will be worked out directly between the Participating Entity and the Vendor, but the Participating Entity agrees this Participating Addendum shall at least include such Terms of Service. Any negotiated additional terms and conditions must never be less favorable to the Participating Entity than what is contained in this Contract.

Except as amended above, the Contract remains in full force and effect.

Sourcewell

DocuSigned by:
By: Jeremy Schwartz
C0FD2A139D06489...
Jeremy Schwartz, Director of Operations/CPO

Date: 9/16/2023 | 10:31 AM CDT

Approved:

DocuSigned by:
By: Chad Coauette
48BAF71B0894454...
Chad Coauette, Executive Director/CEO

Date: 9/16/2023 | 9:52 PM CDT

Samsara Inc.

DocuSigned by:
By: Adam Eltoukhy
CA0F91C94F054E4...
Adam Eltoukhy

Title: Executive Vice President, Chief Legal Officer

Date: 9/15/2023 | 11:50 AM PDT

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **PUBLIC WORKS DEPARTMENT**
CAPITAL IMPROVEMENT PROGRAM DIVISION

DISTRICT: **3**

SUBJECT: **AWARD CONSTRUCTION AGREEMENT WITH R.C. BECKER AND SON, INC. FOR PN 741, AVENUE S-8 AND 40TH STREET EAST ROUNDABOUT PROJECT, FOR $3,545,778 FOR A TERM OF 150 WORKING DAYS FROM THE DATE OF THE NOTICE TO PROCEED**

RECOMMENDATION

Staff recommends that the City Council:

1. Approve Agreement No. A-8159 to R.C. Becker and Son, Inc. for PN 741, Avenue S-8 & 40th Street East Roundabout Project, for $3,545,778; and,

2. Authorize the budget adjustment to the project due to increased federal funding and associated match; and,

3. Authorize the City Manager or her designee to execute Agreement No. A-8159 with R.C. Becker and Son, Inc., including non-substantial changes.

BACKGROUND

Project No. 741, Avenue S-8 and 40th Street East Roundabout Project was awarded a grant in 2016 from the Caltrans Highway Safety Improvement Program (HSIP) to provide for the removal of the existing 4-way stop intersection at Avenue S-8 and 40th Street East and the construction of a new roundabout to serve all directions of travel. Additional improvements include new curb, gutter, sidewalk, ADA ramps, bike lanes, raised medians, drainage improvements, streetlights, signing and striping, xeriscape landscaping, and a center pedestal for future public art. Phase 1 of the project provided for the relocation of a waterline that was in conflict with the roundabout. This phase of the project was completed in July 2022.

DISCUSSION

On September 28, 2023, the project was advertised electronically through PlanetBids. Over 885 vendors were notified. Fifty-six (56) vendors downloaded the bid documents for review, with eleven (11) vendors registered as prime contractors (including one local presence).

On October 18, 2023, two (2) contractors attended the non-mandatory pre-bid meeting.

On November 6, 2023, two (2) bids for this project were received and are summarized below:

Bidder	Location	Amount
1. R.C. Becker and Son, Inc.	Santa Clarita, CA	$3,545,778.33
2. C.A. Rasmussen, Inc.	Chino, CA	$4,116,626.00

Bids received were higher than the estimated construction cost; however, individual bid items were generally competitive with current construction costs. In December 2023, the City was able to secure an additional $469,580 in HSIP grant funding to be used for construction.

Upon reviewing the bids and checking references, R.C. Becker and Son, Inc. was the lowest responsive, responsible bidder, and staff recommends awarding PN 741 to R.C. Becker and Son, Inc. for $3,545,778.33. The construction timeline is expected to take approximately nine (9) months from the Notice to Proceed date.

Please note that this item was originally intended to be presented for award at the City Council meeting on December 20, 2023. As the council agenda was modified for the January 2024 meetings, it was found that, per the contract documents, the bid bond would expire on January 5, 2024. Upon the advice of the City Attorney, the City asked the lowest bidder to provide the City with a letter of commitment to hold their bid prices and follow the bid requirements. The City received this letter of commitment on December 13, 2023.

FISCAL IMPACT

$3,936,940; The project is funded in Account No. S0066. There are sufficient funds for this project based on additional funding provided by Caltrans (HSIP grant) and associated City Match (Measure R Local Return).

The fiscal impact and remaining account balance can be seen in the following table:

Scope of Work	Cost
Agreement No. A-8159 for Construction	$3,545,778
Construction Contingency (8%)	$283,662
Construction Inspection	$20,000
Material Testing	$40,000
Labor Compliance	$17,500
Administration	$30,000
Total	$3,936,940

Account Number	Adjusted Balance	Total Project Costs	Remaining Balance
S0066240-1076 (Grant)	$2,581,591	$2,581,591	-0-
S0066218 (Measure R)	$1,566,416	$1,355,349	$211,067
Total	$4,148,007	$3,936,940	$211,067

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 Operations
Approved by: Ronda Perez, City Manager
Approved as to form: William P. Curley, III, City Attorney

ATTACHMENTS

Draft Agrmt No. A-8159 with R.C. Becker and Son, Inc.
Exh A Site Map

AGREEMENT NO. A- 8159
CONSTRUCTION CONTRACT
BETWEEN THE CITY OF PALMDALE AND R.C. BECKER AND SON, INC.

THIS CONTRACT (“Contract”) is made and entered into by and between City of Palmdale, a public entity ("City"), and R.C. BECKER AND SON, INC., a CALIFORNIA S-CORPORATION ("Contractor"). Contractor and City are collectively referred to herein as the “parties.” This Contract shall become effective on the date of the last signatory.

1 Scope of Work

Contractor shall complete the Project in accordance with this Contract. Contractor shall furnish all materials and perform all work required for the completion of the following Project:

City Project No. 741 \ Federal Project No. HSIPL 5378 (044), the Avenue S-8 and 40th Street East Roundabout Project, which includes the removal / demolition of existing intersection control at the intersection of Avenue S-8 and 40th Street East, construction of a new roundabout at the intersection, construction of additional improvements including curb, gutter and sidewalk, ADA ramps, bike lanes, landscaping, raised medians, minor drainage improvements, installation of new LED streetlights, signing & striping, and other miscellaneous improvements.

2 Standard Specifications

Standard Specifications for City projects are those contained in the 2021 Greenbook edition of the "Standard Specifications for Public Works Construction" (the "Greenbook"). Except as otherwise expressly provided herein, the Standard Specifications shall control the general provisions, construction materials, and construction methods for this Contract (except as amended by the Plans for the Project), the General Specifications for the Project, the Special Provisions for the Project, any technical specifications for the Project, and any other contract documents.

3 Compensation

City shall pay Contractor the total, all-inclusive, NOT-TO-EXCEED amount of Three Million Five Hundred Forty Five Thousand, Seven Hundred Seventy Eight Dollars and Thirty Three Cents ($3545778.33) for the construction of the Project. This amount shall cover all expenses for labor, materials, and any and all other costs incurred by Contractor to satisfactorily construct the Project. Unless otherwise provided in the bid documents or agreed upon by the parties, Contractor shall submit detailed, monthly invoices for work actually performed.

4 Completion Date

The construction of the Project shall commence upon Contractor being given a written notice to proceed, and shall be completed within one hundred fifty (150) working days of said notice.

5 Payment and Performance Bonds; Guaranty

Unless otherwise expressly provided in the bid documents, prior to commencing work, Contractor shall provide a payment bond and performance bond, each in an amount equal to 100% of the Contract price. The bond forms required to be executed are attached hereto and incorporated by reference herein. Pursuant to the bid documents for this Project, the Contractor is required to provide a written guaranty of Contractor's work. In furtherance thereof, Contractor shall execute the written form of Guaranty attached hereto and incorporated by reference herein.

6 Licenses

At all times during the term of this Contract, Contractor shall possess a valid and current Class A Contractor's License to perform the required work ("Work"). Contractor's DIR registration number is 1000001096. Contractor hereby certifies that it holds the required license(s).

7 Subcontracting

Subject to any self-performance requirements herein, Contractor may subcontract any portion of the work required by this Contract to other persons or firms, and Contractor submitted with its bid a list of those subcontractors who will perform work in an amount in excess of one-half of one percent (1%) of the Contractor's total bid, in compliance with the Subletting and Subcontracting Fair Practices Act, California Public Contract Code § 4100, et seq. Only such listed subcontractors may perform on this Project.

8 Non-Assignability

Neither this Contract nor any rights, title, interest, duties or obligations under this Contract may be assigned, transferred, conveyed or otherwise disposed of by Contractor without the prior written consent of City.

9 Administration

This Contract will be administered by the Public Works Department of the City. The Director of Public Works or his or her designee shall be considered the Project Administrator and shall have the authority to act for the City under this Contract.

10 Indemnification

To the maximum extent permitted by law, Contractor shall indemnify, protect, defend and hold harmless the City, its Board of Director, the City's officers, employees, agents, volunteers, and representatives (“Indemnitees”) with respect to any and all claims, suits, actions, stop notices, liabilities and/or damages, including related expenses, attorney's fees and costs, based on, arising out of, or in any way related to the work undertaken by Contractor pursuant to this Contract, and in connection with the Project.

11 Liability Insurance

11.1 Without limiting Contractor's indemnification of City, as described in paragraph 10, and unless modified by City, Contractor shall obtain, provide and maintain, at its own expense, during the term of this Contract, a policy or policies of insurance, satisfactory to the City, from insurance carriers admitted to do business in the State of California and rated in A.M. Best’s Insurance Guide with a rating of A:VII or better, which contain the coverage described below.

11.1.1 Commercial General Liability
- $5,000,000.00 limit on a per occurrence basis
- $10,000,000.00 general aggregate limit

11.1.2 Commercial Automobile Liability
- $10,000,000.00 combined single limit including owned, non-owned and hired automobile coverage

11.1.3 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

11.1.4 Pollution/Environmental Liability*
- $5,000,000.00 limit on a per occurrence basis

11.2 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.

11.3 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.

11.4 Said Certificates of Insurance shall provide that thirty (30) days' prior written notice of cancellation shall be given to the City in the event of cancellation and/or reduction in coverage of any nature.

11.5 The required policies of insurance shall be endorsed to waive all rights of subrogation. Contractors waives all rights of subrogation.

11.6 Acceptable Proof of Insurance:

A. 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.

B. 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.

C. *When pollution/environmental 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.

11.7 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.

11.8 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.

11.9 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.

11.10 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 11 will not be impacted and/or limited by such deviation.

12 State Labor Code

12.1 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.

12.2 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.

12.3 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.

12.4 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.

12.5 Pursuant to Labor Code Section 1771.4, the Project is subject to compliance monitoring and enforcement by the California Department of Industrial Relations.

12.6 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.

12.7 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.

12.8 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.

12.9 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.

13 Antitrust Claims

In entering into this Agreement, Contractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the California Business and Professions Code) arising from purchases of goods, services, or materials pursuant to the Agreement. This assignment shall be made and become effective at the time the City tenders final payment to Contractor without further acknowledgment by the parties.

14 Trenching and Excavations

Pursuant to Public Contract Code Section 7104, if the Project involves trenching more than four (4) feet deep, Contractor shall promptly and before the following conditions are disturbed notify the City in writing of any:

14.1 Material that Contractor believes may be material that is hazardous waste, as defined in California Health and Safety Code Section 25117, that is required to be removed to a Class I, Class II, or Class III disposal site in accordance with provisions of existing law; and/or

14.2 Subsurface or latent physical conditions at the site differing from those indicated; and/or

14.3 Unknown physical conditions at the site of any unusual nature, different materially from those ordinarily encountered and generally recognized as inherent in work of the character provided for in the Contract.

14.4 As required by Labor Code Section 6705 and in addition thereto, whenever work under the Contract that involves an estimated expenditure in excess of twenty-five thousand dollars ($25,000) for the excavation of any trench or trenches five (5) feet or more in depth, Contractor shall submit for acceptance by City in advance of excavation, a detailed plan showing the design of shoring, bracing, sloping, or other provisions to be made for worker protection from the hazard of caving ground during the excavation, of such trench or trenches. If such plan varies from the shoring system standards established by the Construction Safety Orders of the Division of Industrial Safety, the plan shall be prepared by a registered civil or structural engineer employed by Contractor, and all costs therefor shall be included in the price of the Contract. Nothing in this provision shall be deemed to allow the use of a shoring,

sloping, or other protective system less effective than that required by the Construction Safety Orders. Nothing in this provision shall be construed to impose tort liability on the City or on any City officer, agent, consultant, representative, or employee. All plans, processing and shoring costs are Contractor's responsibility and must be included in Contractor's bid.

15 Location of Existing Elements

Pursuant to Government Code Sections 4216 to 4216.9, the methods used and costs involved to locate existing elements, points of connection and all construction methods are Contractor's sole responsibility. Accuracy of information furnished, as to existing conditions, is not guaranteed. Contractor, at its sole expense, must make all investigations necessary to determine locations of existing elements, which may include, without limitation, contacting U.S.A. alert and other private underground locating firm(s), and/or utilizing potholes, specialized locating equipment and/or hand trenching.

16 Third Party Claims

Pursuant to Public Contract Code Section 9201, the City has full authority to compromise or otherwise settle any claim relating to this Contract at any time. The City shall timely notify Contractor of the receipt of any third-party claim relating to the Contract. The City shall be entitled to recover its reasonable costs incurred in providing the notification required by Public Contract Code Section 9201(b).

17 Non-Collusion

Contractor hereby certifies that this bid is genuine and not a sham or collusive, or made in the interest or on behalf of any person or business not herein named. Contractor further certifies that Contractor has not directly or indirectly induced or solicited any other bidder to furnish a sham bid, or any other person or business to refrain from bidding, and Contractor has not in any manner sought by collusion to secure itself an advantage over any other bidder. Contractor also affirms that it has signed and submitted with its bid to the City a Non-collusion Declaration as required by Public Contract Code Section 7106.

18 Conflicts of Interest

Contractor agrees not to accept any employment or representation during the term of this Contract or within twelve (12) months after completion of the work under this Contract which is or may likely make Contractor "financially interested," as provided in Government Code Section 1090 and 87100, in any decisions made by City on any matter in connection with which Contractor has been retained pursuant to this Contract.

19 Audit

The City or its representative shall have the option of inspecting and/or auditing all records and other written materials used by Contractor in preparing its billings to the City as a condition precedent to any payment to Contractor. Contractor will promptly furnish documents requested by the City. Additionally, pursuant to Government Code Section 8546.7, if this Contract involves the expenditure of public funds in excess of ten thousand dollars ($10,000), Contractor shall be subject to State Auditor examination and audit at the request of the City or as part of any audit of the City, for a period of three (3) years after final payment under this Contract.

20 Substitute Security

Pursuant to Public Contract Code Section 22300, the substitution of securities for any moneys withheld by the City to ensure performance under a contract is permitted, except where financing will be provided by the Farmers Home Administration of the United States Department of Agriculture pursuant to the Consolidated Farm and Rural Development Act (7 U.S.C. Sec. 1921 *et seq*.) or where federal regulations or policies, or both, do not allow the substitution of securities. At the request and expense of Contractor, securities equivalent to the amount withheld shall be deposited with the City, or with a state or federally chartered bank in the State of California as the escrow agent, that shall then pay those moneys to Contractor. Upon satisfactory completion of the Contract, the securities shall be returned to Contractor.

Alternatively, Contractor may request and the City shall make payment of retentions earned directly to the escrow agent at the expense of Contractor. At the expense of Contractor, Contractor may direct the investment of the payments into securities, and Contractor shall receive the interest earned on the investments upon the same terms provided for securities deposited by Contractor. Upon satisfactory completion of the Contract, Contractor shall receive from the escrow agent all securities, interest, and payments received by the escrow agent from the City, pursuant to the terms of this section.

Securities eligible for investment shall include those listed in California Government Code Section 16430, bank or savings and loan certificates of deposit, interest-bearing demand deposit accounts, standby letters of credit, or any other security to which Contractor and the City agree in writing. Contractor shall be the beneficial owner of any securities substituted for moneys withheld and shall receive any interest thereon.

If Contractor elects to receive interest on moneys withheld in retention by the City, it shall, at the request of any subcontractor performing more than five percent (5%) of Contractor's total bid, make that option available to the subcontractor regarding any moneys withheld in retention by Contractor from the subcontractor. If Contractor elects to receive interest on any moneys withheld in retention by the City, then the subcontractor shall receive the identical rate of interest received by Contractor on any retention moneys withheld from the subcontractor by Contractor, less any actual pro rata costs associated with administering and calculating that interest. In the event that

the interest rate is a fluctuating rate, the rate for the subcontractor shall be determined by calculating the interest rate paid during the time that retentions were withheld from the subcontractor. If Contractor elects to substitute securities in lieu of retention, then, by mutual consent of Contractor and its subcontractor, the subcontractor may substitute securities in exchange for the release of moneys held in retention by Contractor. No Contractor shall require any subcontractor to waive any provision of this paragraph.

The escrow agreement for security deposits in lieu of retention shall be substantially similar to the form provided in Public Contract Code Section 22300(f).

21 Claims Dispute Resolution

In the event of any dispute or controversy with the City over any matter whatsoever, the Contractor shall not cause any delay or cessation in or of Work, but shall proceed with the performance of the Work in dispute. The Contractor shall retain any and all rights provided that pertain to the resolution of disputes and protests between the parties. The Disputed Work will be categorized as an “unresolved dispute” and payment, if any, shall be as later determined by mutual agreement or a court of law. The Contractor shall keep accurate, detailed records of all Disputed Work, claims and other disputed matters.

All claims arising out of or related to the Contract documents or this Project, and the consideration and payment of such claims, are subject to the Government Claims Act (Government Code Section 810 et seq.) with regard to filing claims. All such claims are also subject to Public Contract Code Section 9204 and Public Contract Code Section 20104 et seq. (Article 1.5), where applicable. This Contract hereby incorporates those provisions as though fully set forth herein. Thus, the Contractor or any Subcontractor must file a claim in accordance with the Government Claims Act as a prerequisite to filing a construction claim in compliance with Section 9204 and Article 1.5 (if applicable), and must then adhere to Section 9204 and Article 1.5 (as applicable), pursuant to the definition of “claim” as individually defined therein.

22 Non-discrimination and Equal Employment Opportunity

22.1 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.

22.2 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.

23 Integration

This Contract supersedes any and all agreements, either oral or written, between the parties hereto with respect to the construction of the Project by Contractor for City and contains all of the covenants and agreements between the parties with respect to the construction of the Project. Each party to this Contract acknowledges that no representations, inducements, promises, or agreements, orally or otherwise, have been made with regard to the construction of the Project by any party, or anyone acting on behalf of any party, which are not embodied herein, and that no other agreement, statement, or promise regarding work not contained in this Contract shall be valid or binding. Any modification or amendment of this Contract will be effective only if it is in writing and signed by the parties to this Contract. Any changes to the work required by this Contract will be by change order signed by the parties.

24 Governing Law

This Contract will be governed by and construed in accordance with the laws of the State of California without reference to change of venue laws. Any legal action in which enforcement of the terms and conditions of this Contract is requested, or in which it is alleged that a breach of this Contract has taken place, shall be filed and prosecuted in the County of Los Angeles, California.

25 Successors and Assigns

The terms and conditions of this Contract shall be binding on the successors and assigns of the parties to this Contract.

26 Exhibits

The exhibits and attachments referenced in this Contract are attached hereto and incorporated herein by this reference as though set forth in full in the Contract.

27 Authority to Sign

The person or persons executing this Contract on behalf of the Contractor warrant and represent that they have the authority to execute this Contract on behalf of the Contractor and have the authority to bind Contractor to the construction of the Project.

28 Time is of the Essence

Time is of the essence in every provision of this Agreement in which time to perform is a factor.

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 Date
City Manager

SIGNATURE AREA

ADDRESS FOR NOTICE:
CITY OF PALMDALE
38300 Sierra Hwy, Suite A
Palmdale, CA 93550

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
City Attorney

ATTEST:

SIGNATURE AREA

Roxanne Faber
Acting City Clerk

R.C. BECKER AND SON, INC.

SIGNATURE AREA

John Becker Date
President

ADDRESS FOR NOTICE:
R.C. BECKER AND SON, INC.
28355 Kelly Johnson Pkwy
Santa Clarita, CA 91355

ATTEST: If Corporation

SIGNATURE AREA

Secretary

[Signatures of contractor on bond(s) must be notarized. Obtain two corporate signatures if contractor is a corporation.]

EXHIBIT 12-G: REQUIRED FEDERAL-AID CONTRACT LANGUAGE
(For Local Assistance Construction Projects)

The following language must be incorporated into all Local Assistance Federal-aid construction contracts.
The following language, with minor edits, was taken from the Code of Federal Regulations.

MAINTAIN RECORDS AND SUBMIT REPORTS DOCUMENTING YOUR PERFORMANCE UNDER THIS SECTION

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1. DISADVANTAGED BUSINESS ENTERPRISES (DBE)

The contractor, subrecipient or subcontractor shall take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26). To ensure equal participation of DBEs provided in 49 CFR 26.5, the Agency shows a contract goal for DBEs. The prime contractor shall make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

The prime contractor shall meet the DBE goal shown elsewhere in these special provisions or demonstrate that they made adequate Good Faith Efforts (GFE) to meet this goal. An adequate GFE means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to meet the DBE goal.

If the DBE goal is not met, the contractor needs to complete and submit the DBE GFE documentation as described in Local Assistance Procedures Manual (LAPM) Chapter 9, Section 9.8 within 5 (five) days of bid opening.

It is the prime contractor's responsibility to verify that the DBE firm is certified as a DBE on the date of bid opening by using the California Unified Certification Program (CUCP) database and possesses the most specific available North American Industry Classification System (NAICS) codes and Work Code applicable to the type of work the firm will perform on the contract. Additionally, the prime contractor is responsible to document this verification by printing out the CUCP data for each DBE firm. A list of DBEs certified by the CUCP can be found at: https://dot.ca.gov/programs/civil-rights/dbe-search.

DBE participation will only count toward the California Department of Transportation's federally mandated statewide overall DBE goal if the DBE performs a commercially useful function under 49 CFR 26.55.

Credit for materials or supplies the prime contractor purchases from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR

26.55 defines "manufacturer" and "regular dealer."

The prime contractor receives credit towards the goal if they employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d) as follows:

- The DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting DBE goals.
- The DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
- The DBE receives credit for the total value of the transportation services it provides on the Contract using trucks it owns, insures, and operates using drivers it employs.
- The DBE may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE who leases trucks from another DBE receives credit for the total value of the transportation services the lessee DBE provides on the Contract.
- The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers receives credit only for the fee or commission it receives as a result of the lease arrangement.
- The DBE may lease trucks without drivers from a non-DBE truck leasing company. If the DBE leases trucks from a non-DBE truck leasing company and uses its own employees as drivers, it is entitled to credit for the total value of these hauling services.

- A lease must indicate that the DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the DBE, so long as the lease gives the DBE absolute priority for use of the leased truck. Leased trucks must display the name and identification number of the DBE.

A. Nondiscrimination Statement

The contractor, subrecipient or subcontractor will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR 26 on the basis of race, color, sex, or national origin. In administering the Local Agency components of the DBE Program Plan, the contractor, subrecipient or subcontractor will not, directly, or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program Plan with respect to individuals of a particular race, color, sex, or national origin.

B. Contract Assurance

Under 49 CFR 26.13(b): The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR 26 in the award and administration of federal-aid contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

1. Withholding monthly progress payments;
2. Assessing sanctions;
3. Liquidated damages; and/or
4. Disqualifying the contractor from future bidding as non-responsible.

C. Prompt Progress Payment

In accordance with California Business and Professions Code section 7108.5, the prime contractor or subcontractor shall pay to any subcontractor, not later than seven days after receipt of each progress payment, unless otherwise agreed to in writing, the respective amounts allowed the contractor on account of the work performed by the subcontractors, to the extent of each subcontractor's interest therein. In the event that there is a good faith dispute over all or any portion of the amount due on a progress payment from the prime contractor or subcontractor to a subcontractor, the prime contractor or subcontractor may withhold no more than 150 percent of the disputed amount. Any violation of this requirement shall constitute a cause for disciplinary action and shall subject the licensee to a penalty, payable to the subcontractor, of 2 percent of the amount due per month for every month that payment is not made.

In any action for the collection of funds wrongfully withheld, the prevailing party shall be entitled to his or her attorney's fees and costs. The sanctions authorized under this requirement shall be separate from, and in addition to, all other remedies, either civil, administrative, or criminal. This clause applies to both DBE and non- DBE subcontractors.

D. Prompt Payment of Withheld Funds to Subcontractors

The Agency may hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The Agency shall designate one of the methods below in the contract to ensure prompt and full payment

of any retainage kept by the prime contractor or subcontractor to a subcontractor. The Agency shall include either Method 1, Method 2, or Method 3 below and delete the other two.

Method 1: No retainage will be held by the Agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Method 2: No retainage will be held by the Agency from progress payments due to the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the Agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Method 3: The Agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the Agency of the contract work and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within seven (7) days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the Agency. Any delay or postponement of payment may take place only for good cause and with the Agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code and Section 10262 of the California Public Contract Code. This requirement shall not be construed to limit or impair any contractual, administrative or judicial remedies otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Any violation of these provisions of Prompt Progress Payment and Prompt Payment of Withheld Funds to Subcontractors shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified therein. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

A.

Termination and Replacement of DBE Subcontractors

The prime contractor shall utilize the specific DBEs listed to perform the work and supply the materials for which each is listed unless the contractor obtains the Agency's written consent. The prime contractor shall not terminate or replace a listed DBE for convenience and perform the work with their own forces or obtain materials from other sources without prior written authorization from the Agency. Unless the Agency's prior written consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE on the Exhibit 15-G Construction Contract DBE Commitment form, included in the Bid.

Termination of DBE Subcontractors

After a contract with a specified DBE goal has been executed, termination of a DBE may be allowed for the following, but not limited to, justifiable reasons with prior written authorization from the Agency:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. The Local Agency stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet the Local Agency's bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law, or is not properly registered with the California Department of Industrial Relations as a public works contractor.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials (failing or refusing to perform is not an allowable reason to remove a DBE if the failure or refusal is a result of bad faith or discrimination).
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent or exhibits credit unworthiness.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. The Agency determines other documented good cause.

To terminate a DBE or to terminate a portion of a DBE's work, the contractor must use the following procedures:

1. Send a written notice to the DBE of Contractor's intent to use other forces or material sources and include one or more justifiable reasons listed above. Simultaneously send a copy of this written notice to the Agency. The written notice to the DBE must request they provide any response within five (5) business days to both the Contractor and the Agency by either acknowledging their agreement or documenting their reasoning as to why the use of other forces or sources of materials should not occur.
2. If the DBE does not respond within 5 business days, Contractor may move forward with the request as if the DBE had agreed to Contractor's written notice.
3. Submit Contractor's DBE termination request by written letter to the Agency and include:
    - One or more above listed justifiable reasons along with supporting documentation.

- Contractor’s written notice to the DBE regarding the request, including proof of transmission and tracking documentation of Contractor’s written notice
- The DBE's response to Contractor’s written notice, if received. If a written response was not provided, provide a statement to that effect.

The Agency shall respond in writing to Contractor’s DBE termination request within 5 business days. Replacement of DBE Subcontractors

After receiving the Agency’s written authorization of DBE termination request, the Contractor must obtain the Agency’s written agreement for DBE replacement. The Contractor must find or demonstrate GFEs to find qualified DBE replacement firms to perform the work to the extent needed to meet the DBE commitment.

The following procedures shall be followed to request authorization to replace a DBE firm:

1. Submit a request to replace a DBE with other forces or material sources in writing to the Agency which must include:
    a. Description of remaining uncommitted work items made available for replacement DBE solicitation and participation.
    b. The proposed DBE replacement firm's business information, the work they have agreed to perform, and the following:
        - Quote for bid item work and description of work to be performed
        - Proposed subcontract agreement and written confirmation of agreement to perform on the Contract
        - Revised Subcontracting Request form
            - Revised Exhibit 15-G: Construction Contract DBE Commitment
2. If Contractor has not identified a DBE replacement firm, submit documentation of the Contractor’s GFEs to use DBE replacement firms within 7 days of Agency's authorization to terminate the DBE. The Contractor may request the Agency's approval to extend this submittal period to a total of 14 days. Submit documentation of actions taken to find a DBE replacement firm, such as:
    - Search results of certified DBEs available to perform the original DBE work identified and/or other work the Contractor had intended to self-perform, to the extent needed to meet the DBE commitment
    - Solicitations of DBEs for performance of work identified
    - Correspondence with interested DBEs that may have included contract details and requirements
    - Negotiation efforts with DBEs that reflect why an agreement was not reached
    - If a DBE's quote was rejected, provide Contractor’s reasoning for the rejection, such as why the DBE was unqualified for the work, or why the price quote was unreasonable or excessive
    - Copies of each DBE's and non-DBE's price quotes for work identified, as the Agency may contact the firms to verify solicitation efforts and determine if the DBE quotes are substantially higher
    - Additional documentation that supports the GFE

The Agency shall respond in writing to the Contractor's DBE replacement request within five (5) business days. The Contractor must submit a revised Subcontracting Request form if the replacement plan is authorized by the Agency.

A. Commitment and Utilization

The Agency's DBE program must include a monitoring and enforcement mechanism to ensure that DBE commitments reconcile to DBE utilization.

The bidder shall complete and sign Exhibit 15-G Construction Contract DBE Commitment included in the contract documents regardless of whether DBE participation is reported. The bidder shall provide written confirmation from each DBE that the DBE is participating in the Contract. LAPM Exhibit 9-I: DBE Confirmation or equivalent form and DBE's quote must be submitted. The written confirmation must be submitted no later than 4pm on the 5th day after bid opening. If a DBE is participating as a joint venture partner, the bidder shall submit a copy of the joint venture agreement.

If the DBE Commitment form, Exhibit 15-G, is not submitted with the bid, it must be completed and submitted by all bidders to the Agency within five (5) days of bid opening. If the bidder does not submit the DBE Commitment form within the specified time, the Agency will find the bidder's bid nonresponsive.

The prime contractor shall use each DBE subcontractor as listed on Exhibit 15-G: Construction Contract DBE Commitment unless they receive written authorization for a termination or replacement from the Agency.

The Agency shall request the prime contractor to:

1. Notify the Resident Engineer or Inspector of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
    - Name and business address of each 1st-tier subcontractor
    - Name and business address of each DBE subcontractor, DBE vendor, and DBEtrucking company, regardless of tier
    - Date of payment and total amount paid to each DBE (see Exhibit 9-F: Monthly Disadvantaged Business Enterprise Payment)

If the prime contractor is a DBE contractor, they shall include the date of work performed by their own forces and the corresponding value of the work.
Before the 15th of each month, the prime contractor shall submit a Monthly DBE Trucking Verification (LAPM Exhibit 16-Z1) form.

If a DBE is decertified before completing its work, the DBE must notify the prime contractor in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify the prime contractor in writing of the certification date. The prime contractor shall submit the notifications. Upon work completion, the prime contractor shall complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form and submit the form within 30 days of contract acceptance.

Upon work completion, the prime contractor shall complete Exhibit 17-F Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors and submit it within 90 days of contract acceptance. The Agency will withhold $10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

B.

Running Tally of Attainments

For projects awarded on or after March 1, 2020, but before September 1, 2023:

After submitting an invoice for reimbursement that includes a payment to a DBE, but no later than the 10th of the following month, the prime contractor/consultant must complete and email the Exhibit 9-F: Disadvantaged Business Enterprise Running Tally of Payments to business.support.unit@dot.ca.gov with a copy to local administering agencies.

For projects that are awarded on or after September 1, 2023:

Exhibit 9-F is no longer required. Instead, by the 15th of the month following the month of any payment(s), the prime contractor must now submit Exhibit 9-P to the Local Agency administering the contract. If the Contractor does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report "no payments were made to subs this month" and write this visibly and legibly on Exhibit 9-P.

C. Commercially Useful Function

DBEs must perform a commercially useful function (CUF) under 49 CFR 26.55 when performing work or supplying materials listed on the DBE Commitment form. The DBE value of work will only count toward the DBE commitment if the DBE performs a CUF. A DBE performs a CUF when it is responsible for execution of the work on the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. If a DBE does not perform or exercise responsibility for at least 30% of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of a contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that the DBE is not performing a CUF. Additionally, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material and installing (where applicable), and paying for the material itself.

The Contractor must perform CUF evaluation for each DBE company working on a federal-aid contract, with or without a DBE goal. Perform a CUF evaluation at the beginning of the DBE's work, and continue to monitor the performance of CUF for the duration of the project.

The Contractor must provide written notification to the AGENCY at least 15 days in advance of each DBE's initial performance of work or supplying materials for the Contract. The notification must include the DBE's name, work the DBE will perform on the contract, and the location, date, and time of where their work will take place.

Within 10 (ten) days of a DBE initially performing work or supplying materials on the contract, the Contractor shall submit to the LPA the initial evaluation and validation of DBE performance of a CUF using the LAPM 9-J: Disadvantaged Business Enterprise Commercially Useful Function Evaluation. Include the following information with the submittal:

- Subcontract agreement with the DBE
- Purchase orders
- Bills of lading
- Invoices
- Proof of payment

The Contractor must monitor all DBE's performance of CUF by conducting quarterly evaluations and validations throughout their duration of work on the contract using the LAPM 9-J: DBE Commercially Useful Function Evaluation. The Contractor must submit to the AGENCY these quarterly evaluations and validations by the 5th of the month for the previous three (3) months of work.

The Contractor must notify the AGENCY immediately if the Contractor believes the DBE may not be performing a CUF.

The AGENCY will verify DBEs performance of CUF by reviewing the initial and quarterly submissions of LAPM 9-J: DBE Commercially Useful Function Evaluation, submitted supporting information, field observations, and through any additional AGENCY evaluations. The AGENCY must evaluate DBEs and their CUF performance throughout the duration of a Contract. The AGENCY will provide written notice to Contractor and DBE at least two (2) business days prior to any evaluation. The Contractor and DBE must participate in the evaluation. Upon completing the evaluation, the AGENCY must share the evaluation results with the Contractor and DBE. An evaluation could include items that must be remedied upon receipt. If the AGENCY determines the DBE is not performing a CUF the Contractor must suspend performance of the noncompliant work.

The Contractor and DBEs must submit any additional CUF related records and documents within five (5) business days of AGENCY's request such as:

- Proof of ownership or lease and rental agreements for equipment
- Tax records
- Employee rosters
- Certified payroll records
- Inventory rosters

Failure to submit required DBE Commercially Useful Function Evaluation forms or requested records and documents can result in withholding of payment for the value of work completed by the DBE.

If the Contractor and/or the AGENCY determine that a listed DBE is not performing a CUF in performance of their DBE committed work, immediately suspend performance of the noncompliant portion of the work. The AGENCY may deny payment for the noncompliant portion of the work. The AGENCY will ask the Contractor to submit a corrective action plan (CAP) to the AGENCY within five (5) days of the noncompliant CUF determination. The CAP must identify how the Contractor will correct the noncompliance findings for the remaining portion of the DBE's work. The AGENCY has five (5) days to review the CAP in conjunction with the prime contractor's review. The Contractor must implement the CAP within five (5) days of the AGENCY's approval. The AGENCY will then authorize the prior noncompliant portion of work for the DBE's committed work.

If corrective actions cannot be accomplished to ensure the DBE performs a CUF on the Contract, then the Contractor may have good cause to request termination of the DBE.

D. Use of Joint Checks

A joint check may be used between the Contractor or lower-tier subcontractor and a DBE subcontractor purchasing materials from a material supplier if the contractor obtains prior approval from the LPA for the proposed use of joint check upon submittal of the LAPM 9-K: DLA Disadvantaged Business Enterprises (DBE) Joint Check Agreement Request form.

To use a joint check, the following conditions must be met:

- All parties, including the Contractor, must agree to the use of a joint check
- Entity issuing the joint check acts solely to guarantee payment
- DBE must release the check to the material supplier
- LPA must authorize the request before implementation
- Any party to the agreement must provide requested documentation within 10 days of the LPA's request for the documentation
- Agreement to use a joint check must be short-term, not to exceed 1 year, allowing sufficient time needed to establish or increase a credit line with the material supplier

A request for a joint check agreement may be initiated by any party.

If a joint check is used, the DBE remains responsible for all elements of 49 CFR 26.55(c)(1).

Failure to comply with the above requirements disqualifies DBE participation and results in no credit and no payment to the Contractor for DBE participation.

A joint check may not be used between the Contractor or subcontractor and a DBE regular dealer, bulk material supplier, manufacturer, wholesaler, broker, trucker, packager, manufacturer's representative, or other persons who arrange or expedite transactions.

2. **BID OPENING** The Agency publicly opens and reads bids at the time and place shown on the Notice to Contractors.
3. **BID RIGGING** The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.
4. **CONTRACT AWARD** If the Agency awards the contract, the award is made to the lowest responsible and responsive bidder.
5. **CONTRACTOR LICENSE** The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Public Contract Code §10164).
6. **CHANGED CONDITIONS**

A. Differing Site Conditions

1. During the progress of the work, if subsurface or latent physical conditions are encountered at the site differing materially from those indicated in the contract or if unknown physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the contract, are encountered at the site, the party discovering such conditions shall promptly notify the other party in writing of the specific differing conditions before the site is disturbed and before the affected work is performed.
2. Upon written notification, the engineer will investigate the conditions, and if it is determined that the conditions materially differ and cause an increase or decrease in the cost or time required for the performance of any work under the contract, an adjustment, excluding anticipated profits, will be made and the contract modified in writing accordingly. The engineer will notify the contractor of the determination whether or not an adjustment of the contract is warranted.
3. No contract adjustment which results in a benefit to the contractor will be allowed unless the contractor has provided the required written notice.
4. No contract adjustment will be allowed under this clause for any effects caused on unchanged work. [*This provision may be omitted by the Local Agency, at their option.*]

B. Suspensions of Work Ordered by the Engineer

1. If the performance of all or any portion of the work is suspended or delayed by the engineer in writing for an unreasonable period of time (not originally anticipated, customary, or inherent to the construction industry) and the contractor believes that additional compensation and/or contract time is due as a result of such suspension or delay, the contractor shall submit to the engineer in writing a request for adjustment within 7 calendar days of receipt of the notice to resume work. The request shall set forth the reasons and support for such adjustment.

    5. Upon receipt, the engineer will evaluate the contractor's request. If the engineer agrees that the cost and/or time required for the performance of the contract has increased as a result of such suspension and the suspension was caused by conditions beyond the control of and not the fault of the contractor, its suppliers, or subcontractors at any approved tier, and not caused by weather, the engineer will make an adjustment (excluding profit) and modify the contract in writing accordingly. The contractor will be notified of the engineer's determination whether or not an adjustment of the contract is warranted.

    6. No contract adjustment will be allowed unless the contractor has submitted the request for adjustment within the time prescribed.
    7. No contract adjustment will be allowed under this clause to the extent that performance would have been suspended or delayed by any other cause, or for which an adjustment is provided or excluded under any other term or condition of this contract.

C. **Significant Changes in the Character of Work**

1. The engineer reserves the right to make, in writing, at any time during the work, such changes in quantities and such alterations in the work as are necessary to satisfactorily complete the project. Such changes in quantities and alterations shall not invalidate the contract nor release the surety, and the contractor agrees to perform the work as altered.
2. If the alterations or changes in quantities significantly change the character of the work under the contract, whether such alterations or changes are in themselves significant changes to the character of the work or by affecting other work cause such other work to become significantly different in character, an adjustment, excluding anticipated profit, will be made to the contract. The basis for the adjustment shall be agreed upon prior to the performance of the work. If a basis cannot be agreed upon, then an adjustment will be made either for or against the contractor in such amount as the engineer may determine to be fair and equitable.
3. If the alterations or changes in quantities do not significantly change the character of the work to be performed under the contract, the altered work will be paid for as provided elsewhere in the contract.
4. The term “significant change” shall be construed to apply only to the following circumstances:

- When the character of the work as altered differs materially in kind or nature from that involved or included in the original proposed construction; or
- When a major item of work, as defined elsewhere in the contract, is increased in excess of 125 percent or decreased below 75 percent of the original contract quantity. Any allowance for an increase in quantity shall apply only to that portion in excess of 125 percent of original contract item quantity, or in case of a decrease below 75 percent, to the actual amount of work performed.

7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES

The Contractor shall begin work within 15 calendar days after the issuance of the Notice to Proceed.

This work shall be diligently prosecuted to completion before the expiration of 280 WORKING DAYS beginning on the fifteenth calendar day after the date shown on the Notice to Proceed.

The Contractor shall pay to the City/County of Palmdale the sum of $ 4,800 per day, for each and every calendar days' delay in finishing the work in excess of the number of working days prescribed above.

8. BUY AMERICA

Buy America Requirements apply to steel and iron, manufactured products, and construction materials permanently incorporated into the project.

Steel and Iron Materials

All steel and iron materials must be melted and manufactured in the United States except:

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials produced outside the United States does not exceed the greater of 0.1 percent of the total contract amount or $2,500, materials produced outside the United States may be used if authorized.

Furnish steel and iron materials to be incorporated into the work with certificates of compliance and certified mill test reports. Mill test reports must indicate where the steel and iron were melted and manufactured. All melting and manufacturing processes for these materials, including an application of a coating, must occur in the United States. Coating includes all processes that protect or enhance the value of the material to which the coating is applied.

Manufactured Products

Iron and steel used in precast concrete manufactured products must meet the requirements of the above section (Steel and Iron Materials) regardless of the amount used. Iron and steel used in other manufactured products must meet the requirements of the above section (Steel and Iron Materials) if the weight of steel and iron components constitute 90 percent or more of the total weight of the manufactured product.

Construction Materials

Buy America requirements apply to the following construction materials that are or consist primarily of:

1. Non-ferrous metals
2. Plastic and polymer-based products (including polyvinylchloride, composite building materials, and polymers used in fiber optic cables)
3. Glass (including optic glass)

4. Lumber
5. Drywall

Where one or more of these construction materials have been combined by a manufacturer with other materials through a manufacturing process, Buy America requirements do not apply unless otherwise specified.

Furnish construction materials to be incorporated into the work with certificates of compliance with each project delivery. Manufacturer's certificate of compliance must identify where the construction material was manufactured and attest specifically to Buy America compliance.

All manufacturing processes for these materials must occur in

the United States. Buy America requirements do not apply to

the following:

1. Tools and construction equipment used in performing the work
2. Temporary work that is not incorporated into the finished project

Waivers

If Buy America waivers are granted, use the following language to include in the contract:

The following steel and iron products, manufactured products, or construction materials have received an approved Buy America waiver for this contract, and therefore, are not subject to Buy America requirements:

1._____n/a_____

2._____n/a_____

9. QUALITY ASSURANCE

The Local Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract. The Local Agency may examine the records and reports of tests the prime contractor performs if they are available at the job site. Schedule work to allow time for QAP.

10. PROMPT PAYMENT

A. FROM THE AGENCY TO THE CONTRACTORS

The Local Agency shall make all project progress payment within 30 days after receipt of an undisputed and properly submitted payment request from the Contractor on a construction contract. If the Local Agency fails to pay promptly, the Local Agency shall pay interest to the Contractor, which accrues at the rate of 10 percent per annum on the principal amount of a money judgment remaining unsatisfied and pro-rated as necessary. Upon receipt of the payment request, the Local Agency shall act in accordance with both of the following:

1. The Local Agency shall review each payment request as soon as feasible after receipt to verify it is a proper payment request.
2. The Local Agency must return any payment request deemed improper by the Local Agency to the Contractor as soon as feasible, but not later than seven (7) days, after receipt. A request returned

pursuant to this paragraph shall include documentation setting forth in writing the reasons why it is an improper payment request.

B. **FROM THE AGENCY TO THE CONTRACTORS**

For projects awarded on or after September 1, 2023:

The Contractor must submit Exhibit 9-P to the Local Agency administering the contract by the 15th of the month following the month of any payment(s). If the Contractor does not make any payments to subcontractors, supplier(s) and/or manufacturers they must report “no payments were made to subs this month” and write this visibly and legibly on Exhibit 9-P.

The Local Agency must verify all Exhibit 9-P information, monitor compliance with prompt payment requirements for DBE and non-DBE firms, and address any shortfall to the DBE commitment and prompt payment issues until the end of the project. The Local Agency must email a copy of Exhibit 9-P to DBE.Forms@dot.ca.gov before the end of the month after receiving the Exhibit 9-P from the Contractor.

11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS

[The following 12 pages must be physically inserted into the contract without modification. Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS]

REQUIRED CONTRACT
PROVISIONS FEDERAL-AID
CONSTRUCTION CONTRACTS

I. General
II. Nondiscrimination
III. Non-segregated Facilities
IV. Davis-Bacon and Related Act Provisions
V. Contract Work Hours and Safety Standards Act Provisions
VI. Subletting or Assigning the Contract
VII. Safety: Accident Prevention
VIII. False Statements Concerning Highway Projects
IX. Implementation of Clean Air Act and Federal Water Pollution Control Act
X. Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
XI. Certification Regarding Use of Contract Funds for Lobbying
XII. Use of United States-Flag Vessels:

ATTACHMENTS

A. Employment and Materials Preference for Appalachian Development Highway System or Appalachian Local Access Road Contracts (included in Appalachian contracts only)

I. GENERAL

1. Form FHWA-1273 must be physically incorporated in each construction contract funded under title 23, United States Code, as required in 23 CFR 633.102(b) (excluding emergency contracts solely intended for debris removal). The contractor (or subcontractor) must insert this form in each subcontract and further require its inclusion in all lower tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services). 23 CFR633.102(e).

The applicable requirements of Form FHWA-1273 are incorporated by reference for work done under any purchase order, rental agreement or agreement for other services. The prime contractor shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider. 23 CFR 633.102(e).

Form FHWA-1273 must be included in all Federal-aid design-build contracts, in all subcontracts and in lower tier subcontracts (excluding subcontracts for design services, purchase orders, rental agreements and other agreements for supplies or services) in accordance with 23 CFR 633.102. The design-builder shall be responsible for compliance by any subcontractor, lower-tier subcontractor or service provider.

Contracting agencies may reference Form FHWA-1273 in solicitation-for-bids or request-for-proposals documents, however, the Form FHWA-1273 must be physically incorporated (not referenced) in all contracts, subcontracts and lower-tier subcontracts (excluding purchase orders, rental agreements and other agreements for supplies or services related to a construction contract). 23 CFR 633.102(b).

2. Subject to the applicability criteria noted in the following sections, these contract provisions shall apply to all work performed on the contract by the contractor's own organization and with the assistance of workers under the contractor's immediate superintendence and to all work performed on the contract by piecework, station work, or by subcontract. 23 CFR 633.102(d).

3. A breach of any of the stipulations contained in these Required Contract Provisions may be sufficient grounds for withholding of progress payments, withholding of final payment, termination of the contract, suspension / debarment or any other action determined to be appropriate by the contracting agency and FHWA.

4. Selection of Labor: During the performance of this contract, the contractor shall not use convict labor for any purpose within the limits of a construction project on a Federal-aid highway unless it is labor performed by convicts who are on parole, supervised release, or probation. 23 U.S.C. 114(b) The term Federal-aid highway does not include roadways functionally classified as local roads or rural minor collectors. 23 U.S.C. 101(a).

II. NONDISCRIMINATION (23 CFR 230.107(a); 23 CFR Part 230, Subpart A, Appendix A; EO 11246)

The provisions of this section related to 23 CFR Part 230, Subpart A, Appendix A are applicable to all Federal-aid construction contracts and to all related construction subcontracts of $10,000 or more. The provisions of 23 CFR Part 230 are not applicable to material supply, engineering, or architectural service contracts.

In addition, the contractor and all subcontractors must comply with the following policies: Executive Order 11246, 41 CFR Part 60, 29 CFR Parts 1625-1627, 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The contractor and all subcontractors must comply with: the requirements of the Equal Opportunity Clause in 41 CFR 60-1.4(b) and, for all construction contracts exceeding $10,000, the Standard Federal Equal Employment Opportunity Construction Contract Specifications in 41 CFR 60-4.3.

Note: The U.S. Department of Labor has exclusive authority to determine compliance with Executive Order 11246 and the policies of the Secretary of Labor including 41 CFR Part 60, and 29 CFR Parts 1625-1627. The contracting agency and the FHWA have the authority and the responsibility to ensure compliance with 23 U.S.C. 140, Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. 794), and Title VI of the Civil Rights Act of 1964, as amended (42 U.S.C. 2000d et seq.), and related regulations including 49 CFR Parts 21, 26, and 27; and 23 CFR Parts 200, 230, and 633.

The following provision is adopted from 23 CFR Part 230, Subpart A, Appendix A, with appropriate revisions to conform to the U.S. Department of Labor (US DOL) and FHWA requirements.

1. **Equal Employment Opportunity:** Equal Employment Opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (see 28 CFR Part 35, 29 CFR Part 1630, 29 CFR Parts 1625-1627, 41 CFR Part 60 and 49 CFR Part 27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140, shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR Part 35 and 29 CFR Part 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

a. The contractor will work with the contracting agency and the Federal Government to ensure that it has made every good faith effort to provide equal opportunity with respect to all of its terms and conditions of employment and in their review of activities under the contract. 23 CFR 230.409 (g)(4) & (5).

b. The contractor will accept as its operating policy the following statement:

"It is the policy of this Company to assure that applicants are employed, and that employees are treated during employment, without regard to their race, religion, sex, sexual orientation, gender identity, color, national origin, age or disability. Such action shall include: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship, pre-apprenticeship, and/or on-the-job training."

2. **EEO Officer:** The contractor will designate and make known to the contracting officers an EEO Officer who will have the responsibility for and must be capable of effectively administering and promoting an active EEO program and who must be assigned adequate authority and responsibility to do so.

3. **Dissemination of Policy:** All members of the contractor's staff who are authorized to hire, supervise, promote, and discharge employees, or who recommend such action or are substantially involved in such action, will be made fully cognizant of and will implement the contractor's EEO policy and contractual responsibilities to provide EEO in each grade and classification of employment. To ensure that the above agreement will be met, the following actions will be taken as a minimum:

a. Periodic meetings of supervisory and personnel office employees will be conducted before the start of work and then not less often than once every six months, at which time the contractor's EEO policy and its implementation will be reviewed and explained. The meetings will be conducted by the EEO Officer or other knowledgeable company official.

b. All new supervisory or personnel office employees will be given a thorough indoctrination by the EEO Officer, covering all major aspects of the contractor's EEO obligations within thirty days following their reporting for duty with the contractor.

c. All personnel who are engaged in direct recruitment for the project will be instructed by the EEO Officer in the contractor's procedures for locating and hiring minorities and women.

d. Notices and posters setting forth the contractor's EEO policy will be placed in areas readily accessible to employees, applicants for employment and potential employees.

e. The contractor's EEO policy and the procedures to implement such policy will be brought to the attention of employees by means of meetings, employee handbooks, or other appropriate means.

4. **Recruitment:** When advertising for employees, the contractor will include in all advertisements for employees the notation: "An Equal Opportunity Employer." All such advertisements will be placed in publications having a large circulation among minorities and women in the area from which the project work force would normally be derived.

a. The contractor will, unless precluded by a valid bargaining agreement, conduct systematic and direct recruitment through public and private employee referral sources likely to yield qualified minorities and women. To meet this requirement, the contractor will identify sources of potential minority group employees and establish with such identified sources procedures whereby minority and women applicants may be referred to the contractor for employment consideration.

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

c. The contractor will encourage its present employees to refer minorities and women as applicants for employment. Information and procedures with regard to referring such applicants will be discussed with employees.

5. **Personnel Actions:** Wages, working conditions, and employee benefits shall be established and administered, and personnel actions of every type, including hiring, upgrading, promotion, transfer, demotion, layoff, and termination, shall be taken without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age or disability. The following procedures shall be followed:

a. The contractor will conduct periodic inspections of project sites to ensure that working conditions and employee facilities do not indicate discriminatory treatment of project site personnel.

b. The contractor will periodically evaluate the spread of wages paid within each classification to determine any evidence of discriminatory wage practices.

c. The contractor will periodically review selected personnel actions in depth to determine whether there is evidence of discrimination. Where evidence is found, the contractor will promptly take corrective action. If the review indicates that the discrimination may extend beyond the actions reviewed, such corrective action shall include all affected persons.

d. The contractor will promptly investigate all complaints of alleged discrimination made to the contractor in connection with its obligations under this contract, will attempt to resolve such complaints, and will take appropriate corrective action within a reasonable time. If the investigation indicates that the discrimination may affect persons other than the complainant, such corrective action shall include such other persons. Upon completion of each investigation, the contractor will inform every complainant of all of their avenues of appeal.

6. **Training and Promotion:**

a. The contractor will assist in locating, qualifying, and increasing the skills of minorities and women who are applicants for employment or current employees. Such efforts should be aimed at developing full journey level status employees in the type of trade or job classification involved.

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs (i.e., apprenticeship and on-the-job training programs for the geographical area of contract performance). In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

c. The contractor will advise employees and applicants for employment of available training programs and entrance requirements for each.

d. The contractor will periodically review the training and promotion potential of employees who are minorities and women and will encourage eligible employees to apply for such training and promotion.

7. **Unions:** If the contractor relies in whole or in part upon unions as a source of employees, the contractor will use good faith efforts to obtain the cooperation of such unions to increase opportunities for minorities and women. 23 CFR 230.409. Actions by the contractor, either directly or through a contractor's association acting as agent, will include the procedures set forth below:

a. The contractor will use good faith efforts to develop, in cooperation with the unions, joint training programs aimed toward qualifying more minorities and women for membership in the unions and increasing the skills of minorities and women so that they may qualify for higher paying employment.

b. The contractor will use good faith efforts to incorporate an EEO clause into each union agreement to the end that such union will be contractually bound to refer applicants without regard to their race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability.

c. The contractor is to obtain information as to the referral practices and policies of the labor union except that to the extent such information is within the exclusive possession of the labor union and such labor union refuses to furnish such information to the contractor, the contractor shall so certify to the contracting agency and shall set forth what efforts have been made to obtain such information.

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

8. **Reasonable Accommodation for Applicants / Employees with Disabilities:** The contractor must be familiar with the requirements for and comply with the Americans with Disabilities Act and all rules and regulations established thereunder. Employers must provide reasonable accommodation in all employment activities unless to do so would cause an undue hardship.

9. **Selection of Subcontractors, Procurement of Materials and Leasing of Equipment:** The contractor shall not discriminate on the grounds of race, color, religion, sex, sexual orientation, gender identity, national origin, age, or disability in the selection and retention of subcontractors, including procurement of materials and leases of equipment. The contractor shall take all necessary and reasonable steps to ensure nondiscrimination in the administration of this contract.

a. The contractor shall notify all potential subcontractors, suppliers, and lessors of their EEO obligations under this contract.

b. The contractor will use good faith efforts to ensure subcontractor compliance with their EEO obligations.

10. **Assurance Required:**

a. The requirements of 49 CFR Part 26 and the State DOT's FHWA-approved Disadvantaged Business Enterprise (DBE) program are incorporated by reference.

b. The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

(4) Disqualifying the contractor from future bidding as non-responsible.

c. The Title VI and nondiscrimination provisions of U.S. DOT Order 1050.2A at Appendixes A and E are incorporated by reference. 49 CFR Part 21.

11. **Records and Reports:** The contractor shall keep such records as necessary to document compliance with the EEO requirements. Such records shall be retained for a period of three years following the date of the final payment to the contractor for all contract work and shall be available at reasonable times and places for inspection by authorized representatives of the contracting agency and the FHWA.

a. The records kept by the contractor shall document the following:

(1) The number and work hours of minority and non-minority group members and women employed in each work classification on the project;

(2) The progress and efforts being made in cooperation with unions, when applicable, to increase employment opportunities for minorities and women; and

(3) The progress and efforts being made in locating, hiring, training, qualifying, and upgrading minorities and women.

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on Form FHWA-1391. The staffing data should represent the project work force on board in all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

III. NONSEGREGATED FACILITIES

This provision is applicable to all Federal-aid construction contracts and to all related construction subcontracts of more than $10,000. 41 CFR 60-1.5.

As prescribed by 41 CFR 60-1.8, the contractor must ensure that facilities provided for employees are provided in such a manner that segregation on the basis of race, color, religion, sex, sexual orientation, gender identity, or national origin cannot result. The contractor may neither require such segregated use by written or oral policies nor tolerate such use by employee custom. The contractor's obligation extends further to ensure that its employees are not assigned to perform their services at any location under the contractor's control where the facilities are segregated. The term "facilities" includes waiting rooms, work areas, restaurants and other eating areas, time clocks, restrooms, washrooms, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing provided for employees. The contractor shall provide separate or single-user restrooms and necessary dressing or sleeping areas to assure privacy between sexes.

IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding $2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size), in accordance with 29 CFR 5.5. The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. 23 U.S.C. 113. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. 23 U.S.C. 101. Where applicable law requires that projects be treated as a project on a Federal-aid highway, the provisions of this subpart will apply regardless of the location of the project. Examples include: Surface Transportation Block Grant Program projects funded under 23 U.S.C. 133 [excluding recreational trails projects], the Nationally Significant Freight and Highway Projects funded under 23 U.S.C. 117, and National Highway Freight Program projects funded under 23 U.S.C. 167.

The following provisions are from the U.S. Department of Labor regulations in 29 CFR 5.5 "Contract provisions and related matters" with minor revisions to conform to the FHWA-1273 format and FHWA program requirements.

1. **Minimum wages** (29 CFR 5.5)

a. All laborers and mechanics employed or working upon the site of the work, will be paid unconditionally and not less often than once a week, and without subsequent deduction or rebate on any account (except such payroll deductions as are permitted by regulations issued by the Secretary of Labor under the Copeland Act (29 CFR part 3)), the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than those contained in the wage determination of the Secretary of Labor which is attached hereto and made a part hereof, regardless of any contractual relationship which may be alleged to exist between the contractor and such laborers and mechanics.

Contributions made or costs reasonably anticipated for bona fide fringe benefits under section 1(b)(2) of the Davis-Bacon Act on behalf of laborers or mechanics are considered wages paid to such laborers or mechanics, subject to the provisions of paragraph 1.d. of this section; also, regular contributions made or costs incurred for more than a weekly period (but not less often than quarterly) under plans, funds, or programs which cover the particular weekly period, are deemed to be constructively made or incurred during such weekly period. Such laborers and mechanics shall be paid the appropriate wage rate and fringe benefits on the wage determination for the classification of work actually performed, without regard to skill, except as provided in 29 CFR 5.5(a)(4). Laborers or mechanics performing work in more than one classification may be compensated at the rate specified for each classification for the time actually worked therein: Provided, That the employer's payroll records accurately set forth the time spent in each classification in which work is performed. The wage determination (including any additional classification and wage rates conformed under paragraph 1.b. of this section) and the Davis-Bacon poster (WH–1321) shall be posted at all times by the contractor and its subcontractors at the site of the work in a prominent and accessible place where it can be easily seen by the workers.

b. (1) The contracting officer shall require that any class of laborers or mechanics, including helpers, which is not listed in the wage determination and which is to be employed under the contract shall be classified in conformance with the wage determination. The contracting officer shall approve an additional classification and wage rate and fringe benefits therefore only when the following criteria have been met:

(i) The work to be performed by the classification requested is not performed by a classification in the wage determination; and

(ii) The classification is utilized in the area by the construction industry; and

(iii) The proposed wage rate, including any bona fide fringe benefits, bears a reasonable relationship to the wage rates contained in the wage determination.

(2) If the contractor and the laborers and mechanics to be employed in the classification (if known), or their representatives, and the contracting officer agree on the classification and wage rate (including the amount designated for fringe benefits where appropriate), a report of the action taken shall be sent by the contracting officer to the Administrator of the Wage and Hour Division, U.S. Department of Labor, Washington, DC 20210. The Administrator, or an authorized representative, will approve, modify, or disapprove every additional classification action within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting officer, to the Administrator for determination. The Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

(4) The wage rate (including fringe benefits where appropriate) determined pursuant to paragraphs 1.b.(2) or 1.b.(3) of this section, shall be paid to all workers performing work in the classification under this contract from the first day on which work is performed in the classification.

c. Whenever the minimum wage rate prescribed in the contract for a class of laborers or mechanics includes a fringe benefit which is not expressed as an hourly rate, the contractor shall either pay the benefit as stated in the wage determination or shall pay another bona fide fringe benefit or an hourly cash equivalent thereof.

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

2. **Withholding** (29 CFR 5.5)

The contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor, withhold or cause to be withheld from the contractor under this contract, or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to Davis-Bacon prevailing wage requirements, which is held by the same prime contractor, so much of the accrued payments or advances as may be considered necessary to pay laborers and mechanics, including apprentices, trainees, and helpers, employed by the contractor or any subcontractor the full amount of wages required by the contract. In the event of failure to pay any laborer or mechanic, including any apprentice, trainee, or helper, employed or working on the site of the work, all or part of the wages required by the contract, the contracting agency may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds until such violations have ceased.

3. **Payrolls and basic records** (29 CFR 5.5)

a. Payrolls and basic records relating thereto shall be maintained by the contractor during the course of the work and preserved for a period of three years thereafter for all laborers and mechanics working at the site of the work. Such records shall contain the name, address, and social security number of each such worker, his or her correct classification, hourly rates of wages paid (including rates of contributions or costs anticipated for bona fide fringe benefits or cash equivalents thereof of the types described in section 1(b)(2)(B) of the Davis-Bacon Act), daily and weekly number of hours worked, deductions made and actual wages paid. Whenever the Secretary of Labor has found under 29 CFR 5.5(a)(1)(iv) that the wages of any laborer or mechanic include the amount of any costs reasonably anticipated in providing benefits under a plan or program described in section 1(b)(2)(B) of the Davis-Bacon Act, the contractor shall maintain records which show that the commitment to provide such benefits is enforceable, that the plan or program is financially responsible, and that the plan or program has been communicated in writing to the laborers or mechanics affected, and records which show the costs anticipated or the actual cost incurred in providing such benefits. Contractors employing apprentices or trainees under approved programs shall maintain written evidence of the registration of apprenticeship programs and certification of trainee programs, the registration of the apprentices and trainees, and the ratios and wage rates prescribed in the applicable programs.

b. (1) The contractor shall submit weekly for each week in which any contract work is performed a copy of all payrolls to the contracting agency. The payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5(a)(3)(i), except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead the payrolls shall only need to include an individually identifying number for each employee (e.g., the last four digits of the employee's social security number). The required weekly payroll information may be submitted in any form desired. Optional Form WH–347 is available for this purpose from the Wage and Hour Division Web site. The prime contractor is responsible for the submission of copies of payrolls by all subcontractors. Contractors and subcontractors shall maintain the full social security number and current address of each covered worker, and shall provide them upon request to the contracting agency for transmission to the State DOT, the FHWA or the Wage and Hour Division of the Department of Labor for purposes of an investigation or audit of compliance with prevailing wage requirements. It is not a violation of this section for a prime contractor to require a subcontractor to provide addresses and social security numbers to the prime contractor for its own records, without weekly submission to the contracting agency.

(2) Each payroll submitted shall be accompanied by a "Statement of Compliance," signed by the contractor or subcontractor or his or her agent who pays or supervises the payment of the persons employed under the contract and shall certify the following:

(i) That the payroll for the payroll period contains the information required to be provided under 29 CFR 5.5(a)(3)(ii), the appropriate information is being maintained under 29 CFR 5.5(a)(3)(i), and that such information is correct and complete;

(ii) That each laborer or mechanic (including each helper, apprentice, and trainee) employed on the contract during the payroll period has been paid the full weekly wages earned, without rebate, either directly or indirectly, and that no deductions have been made either directly or indirectly from the full wages earned, other than permissible deductions as set forth in 29 CFR part 3;

(iii) That each laborer or mechanic has been paid not less than the applicable wage rates and fringe benefits or cash equivalents for the classification of work performed, as specified in the applicable wage determination incorporated into the contract.

(3) The weekly submission of a properly executed certification set forth on the reverse side of Optional Form WH–347 shall satisfy the requirement for submission of the "Statement of Compliance" required by paragraph 3.b.(2) of this section.

(4) The falsification of any of the above certifications may subject the contractor or subcontractor to civil or criminal prosecution under 18 U.S.C. 1001 and 31 U.S.C. 231.

c. The contractor or subcontractor shall make the records required under paragraph 3.a. of this section available for inspection, copying, or transcription by authorized representatives of the contracting agency, the State DOT, the FHWA, or the Department of Labor, and shall permit such representatives to interview employees during working hours on the job. If the contractor or subcontractor fails to submit the required records or to make them available, the FHWA may, after written notice to the contractor, the contracting agency or the State DOT, take such action as may be necessary to cause the suspension of any further payment, advance, or guarantee of funds. Furthermore, failure to submit the required records upon request or to make such records available may be grounds for debarment action pursuant to 29 CFR 5.12.

4. **Apprentices and trainees** (29 CFR 5.5)

a. Apprentices (programs of the USDOL).

Apprentices will be permitted to work at less than the predetermined rate for the work they performed when they are employed pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor, Employment and Training Administration, Office of Apprenticeship Training, Employer and Labor Services, or with a State Apprenticeship Agency recognized by the Office, or if a person is employed in his or her first 90 days of probationary employment as an apprentice in such an apprenticeship program, who is not individually registered in the program, but who has been certified by the Office of Apprenticeship Training, Employer and Labor Services or a State Apprenticeship Agency (where appropriate) to be eligible for probationary employment as an apprentice.

The allowable ratio of apprentices to journeymen on the job site in any craft classification shall not be greater than the ratio permitted to the contractor as to the entire work force under the registered program. Any worker listed on a payroll at an apprentice wage rate, who is not registered or otherwise employed as stated above, shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any apprentice performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed. Where a contractor is performing construction on a project in a locality other than that in which its program is registered, the ratios and wage rates (expressed in percentages of the journeyman's hourly rate) specified in the contractor's or subcontractor's registered program shall be observed. Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

In the event the Office of Apprenticeship Training, Employer and Labor Services, or a State Apprenticeship Agency recognized by the Office, withdraws approval of an apprenticeship program, the contractor will no longer be permitted to utilize apprentices at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

b. Trainees (programs of the USDOL).

Except as provided in 29 CFR 5.16, trainees will not be permitted to work at less than the predetermined rate for the work performed unless they are employed pursuant to and individually registered in a program which has received prior approval, evidenced by formal certification by the U.S. Department of Labor, Employment and Training Administration.

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

c. Equal employment opportunity. The utilization of apprentices, trainees and journeymen under this part shall be in conformity with the equal employment opportunity requirements of Executive Order 11246, as amended, and 29 CFR part 30.

d. Apprentices and Trainees (programs of the U.S. DOT).

Apprentices and trainees working under apprenticeship and skill training programs which have been certified by the Secretary of Transportation as promoting EEO in connection with Federal-aid highway construction programs are not subject to the requirements of paragraph 4 of this Section IV. 23 CFR 230.111(e)(2). The straight time hourly wage rates for apprentices and trainees under such programs will be established by the particular programs. The ratio of apprentices and trainees to journeymen shall not be greater than permitted by the terms of the particular program.

5. **Compliance with Copeland Act requirements.** The contractor shall comply with the requirements of 29 CFR part 3, which are incorporated by reference in this contract as provided in 29 CFR 5.5.

6. **Subcontracts.** The contractor or subcontractor shall insert Form FHWA-1273 in any subcontracts and also require the subcontractors to include Form FHWA-1273 in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all the contract clauses in 29 CFR 5.5.

7. **Contract termination: debarment.** A breach of the contract clauses in 29 CFR 5.5 may be grounds for termination of the contract, and for debarment as a contractor and a subcontractor as provided in 29 CFR 5.12.

8. **Compliance with Davis-Bacon and Related Act requirements.** All rulings and interpretations of the Davis-Bacon and Related Acts contained in 29 CFR parts 1, 3, and 5 are herein incorporated by reference in this contract as provided in 29 CFR 5.5.

9. **Disputes concerning labor standards.** As provided in 29 CFR 5.5, disputes arising out of the labor standards provisions of this contract shall not be subject to the general disputes clause of this contract. Such disputes shall be resolved in accordance with the procedures of the Department of Labor set forth in 29 CFR parts 5, 6, and 7. Disputes within the meaning of this clause include disputes between the contractor (or any of its subcontractors) and the contracting agency, the U.S. Department of Labor, or the employees or their representatives.

10. **Certification of eligibility** (29 CFR 5.5)

a. By entering into this contract, the contractor certifies that neither it (nor he or she) nor any person or firm who has an interest in the contractor's firm is a person or firm ineligible to be awarded Government contracts by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

b. No part of this contract shall be subcontracted to any person or firm ineligible for award of a Government contract by virtue of section 3(a) of the Davis-Bacon Act or 29 CFR 5.12(a)(1).

c. The penalty for making false statements is prescribed in the U.S. Criminal Code, 18 U.S.C. 1001.

V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT

Pursuant to 29 CFR 5.5(b), the following clauses apply to any Federal-aid construction contract in an amount in excess of $100,000 and subject to the overtime provisions of the Contract Work Hours and Safety Standards Act. These clauses shall be inserted in addition to the clauses required by 29 CFR 5.5(a) or 29 CFR 4.6. As used in this paragraph, the terms laborers and mechanics include watchmen and guards.

1. **Overtime requirements.** No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek. 29 CFR 5.5.

2. **Violation; liability for unpaid wages; liquidated damages.** In the event of any violation of the clause set forth in paragraph 1 of this section, the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph 1 of this section, in the sum currently provided in 29 CFR 5.5(b)(2)* for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph 1 of this section. 29 CFR 5.5.

* $27 as of January 23, 2019 (See 84 FR 213-01, 218) as may be adjusted annually by the Department of Labor; pursuant to the Federal Civil Penalties Inflation Adjustment Act of 1990).

3. **Withholding for unpaid wages and liquidated damages.** The FHWA or the contacting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph 2 of this section. 29 CFR 5.5.

4. **Subcontracts.** The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraphs 1 through 4 of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs 1 through 4 of this section. 29 CFR 5.5.

VI. SUBLETTING OR ASSIGNING THE CONTRACT

This provision is applicable to all Federal-aid construction contracts on the National Highway System pursuant to 23 CFR 635.116.

1. The contractor shall perform with its own organization contract work amounting to not less than 30 percent (or a greater percentage if specified elsewhere in the contract) of the total original contract price, excluding any specialty items designated by the contracting agency. Specialty items may be performed by subcontract and the amount of any such specialty items performed may be deducted from the total original contract price before computing the amount of work required to be performed by the contractor's own organization (23 CFR 635.116).

a. The term "perform work with its own organization" in paragraph 1 of Section VI refers to workers employed or leased by the prime contractor, and equipment owned or rented by the prime contractor, with or without operators. Such term does not include employees or equipment of a subcontractor or lower tier subcontractor, agents of the prime contractor, or any other assignees. The term may include payments for the costs of hiring leased employees from an employee leasing firm meeting all relevant Federal and State regulatory requirements. Leased employees may only be included in this term if the prime contractor meets all of the following conditions: (based on longstanding interpretation)

(1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;

(2) the prime contractor remains responsible for the quality of the work of the leased employees;

(3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and

(4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

b. "Specialty Items" shall be construed to be limited to work that requires highly specialized knowledge, abilities, or equipment not ordinarily available in the type of contracting organizations qualified and expected to bid or propose on the contract as a whole and in general are to be limited to minor components of the overall contract. 23 CFR 635.102.

2. Pursuant to 23 CFR 635.116(a), the contract amount upon which the requirements set forth in paragraph (1) of Section VI is computed includes the cost of material and manufactured products which are to be purchased or produced by the contractor under the contract provisions.

3. Pursuant to 23 CFR 635.116(c), the contractor shall furnish (a) a competent superintendent or supervisor who is employed by the firm, has full authority to direct performance of the work in accordance with the contract requirements, and is in charge of all construction operations (regardless of who performs the work) and (b) such other of its own organizational resources (supervision, management, and engineering services) as the contracting officer determines is necessary to assure the performance of the contract.

4. No portion of the contract shall be sublet, assigned or otherwise disposed of except with the written consent of the contracting officer, or authorized representative, and such consent when given shall not be construed to relieve the contractor of any responsibility for the fulfillment of the contract. Written consent will be given only after the contracting agency has assured that each subcontract is evidenced in writing and that it contains all pertinent provisions and requirements of the prime contract. (based on long-standing interpretation of 23 CFR 635.116).

5. The 30-percent self-performance requirement of paragraph (1) is not applicable to design-build contracts; however, contracting agencies may establish their own self-performance requirements. 23 CFR 635.116(d).

VII. SAFETY: ACCIDENT PREVENTION

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

1. In the performance of this contract the contractor shall comply with all applicable Federal, State, and local laws governing safety, health, and sanitation (23 CFR Part 635). The contractor shall provide all safeguards, safety devices and protective equipment and take any other needed actions as it determines, or as the contracting officer may determine, to be reasonably necessary to protect the life and health of employees on the job and the safety of the public and to protect property in connection with the performance of the work covered by the contract. 23 CFR 635.108.

2. It is a condition of this contract, and shall be made a condition of each subcontract, which the contractor enters into pursuant to this contract, that the contractor and any subcontractor shall not permit any employee, in performance of the contract, to work in surroundings or under conditions which are unsanitary, hazardous or dangerous to his/her health or safety, as determined under construction safety and health standards (29 CFR Part 1926) promulgated by the Secretary of Labor, in accordance with Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704). 29 CFR 1926.10.

3. Pursuant to 29 CFR 1926.3, it is a condition of this contract that the Secretary of Labor or authorized representative thereof, shall have right of entry to any site of contract performance to inspect or investigate the matter of compliance with the construction safety and health standards and to carry out the duties of the Secretary under Section 107 of the Contract Work Hours and Safety Standards Act (40 U.S.C. 3704).

VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts.

In order to assure high quality and durable construction in conformity with approved plans and specifications and a high degree of reliability on statements and representations made by engineers, contractors, suppliers, and workers on Federal-aid highway projects, it is essential that all persons concerned with the project perform their functions as carefully, thoroughly, and honestly as possible. Willful falsification, distortion, or misrepresentation with respect to any facts related to the project is a violation of Federal law. To prevent any misunderstanding regarding the seriousness of these and similar acts, Form FHWA-1022 shall be posted on each Federal-aid highway project (23 CFR Part 635) in one or more places where it is readily available to all persons concerned with the project:

18 U.S.C. 1020 reads as follows:

"Whoever, being an officer, agent, or employee of the United States, or of any State or Territory, or whoever, whether a person, association, firm, or corporation, knowingly makes any false statement, false representation, or false report as to the character, quality, quantity, or cost of the material used or to be used, or the quantity or quality of the work performed or to be performed, or the cost thereof in connection with the submission of plans, maps, specifications, contracts, or costs of construction on any highway or related project submitted for approval to the Secretary of Transportation; or

Whoever knowingly makes any false statement, false representation, false report or false claim with respect to the character, quality, quantity, or cost of any work performed or to be performed, or materials furnished or to be furnished, in connection with the construction of any highway or related project approved by the Secretary of Transportation; or

Whoever knowingly makes any false statement or false representation as to material fact in any statement, certificate, or report submitted pursuant to provisions of the Federal-aid Roads Act approved July 11, 1916, (39 Stat. 355), as amended and supplemented:

Shall be fined under this title or imprisoned not more than 5 years or both."

IX. IMPLEMENTATION OF CLEAN AIR ACT AND FEDERAL WATER POLLUTION CONTROL ACT (42 U.S.C. 7606; 2 CFR 200.88; EO 11738)

This provision is applicable to all Federal-aid construction contracts in excess of $150,000 and to all related subcontracts. 48 CFR 2.101; 2 CFR 200.326.

By submission of this bid/proposal or the execution of this contract or subcontract, as appropriate, the bidder, proposer, Federal-aid construction contractor, subcontractor, supplier, or vendor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act (42 U.S.C. 7401-7671q) and the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251-1387). Violations must be reported to the Federal Highway Administration and the Regional Office of the Environmental Protection Agency. 2 CFR Part 200, Appendix II.

The contractor agrees to include or cause to be included the requirements of this Section in every subcontract, and further agrees to take such action as the contracting agency may direct as a means of enforcing such requirements. 2 CFR 200.326.

X. CERTIFICATION REGARDING DEBARMENT, SUSPENSION, INELIGIBILITY AND VOLUNTARY EXCLUSION

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, consultant contracts or any other covered transaction requiring FHWA approval or that is estimated to cost $25,000 or more – as defined in 2 CFR Parts 180 and 1200. 2 CFR 180.220 and 1200.220.

1. **Instructions for Certification – First Tier Participants:**

a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.

b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction. 2 CFR 180.320.

c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default. 2 CFR 180.325.

d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances. 2 CFR 180.345 and 180.350.

e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900-180.1020, and 1200. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction. 2 CFR 180.330.

g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the $25,000 threshold. 2 CFR 180.220 and 180.300.

h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. 2 CFR 180.300; 180.320, and 180.325. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. 2 CFR 180.335. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/). 2 CFR 180.300, 180.320, and 180.325.

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

j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default. 2 CFR 180.325.

* * * * *

2. **Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion – First Tier Participants:**

a. The prospective first tier participant certifies to the best of its knowledge and belief, that it and its principals:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.335;

(2) Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property, 2 CFR 180.800;

(3) Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in paragraph (a)(2) of this certification, 2 CFR 180.700 and 180.800; and

(4) Have not within a three-year period preceding this application/proposal had one or more public transactions (Federal, State or local) terminated for cause or default. 2 CFR 180.335(d).

(5) Are not a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(6) Are not a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability (USDOT Order 4200.6 implementing appropriations act requirements).

b. Where the prospective participant is unable to certify to any of the statements in this certification, such prospective participant should attach an explanation to this proposal. 2 CFR 180.335 and 180.340.

3. **Instructions for Certification - Lower Tier Participants:**

(Applicable to all subcontracts, purchase orders, and other lower tier transactions requiring prior FHWA approval or estimated to cost $25,000 or more - 2 CFR Parts 180 and 1200). 2 CFR 180.220 and 1200.220.

a. By signing and submitting this proposal, the prospective lower tier participant is providing the certification set out below.

b. 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/or debarment.

c. The prospective lower tier participant shall provide immediate written notice to the person to which this proposal is submitted if at any time the prospective lower tier participant learns that its certification was erroneous by reason of changed circumstances. 2 CFR 180.365.

d. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180, Subpart I, 180.900 – 180.1020, and 1200. You may contact the person to which this proposal is submitted for assistance in obtaining a copy of those regulations. "First Tier Covered Transactions" refers to any covered transaction between a recipient or subrecipient of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a recipient or subrecipient of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).

e. The prospective lower tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency with which this transaction originated. 2 CFR 1200.220 and 1200.332.

f. 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 exceeding the $25,000 threshold. 2 CFR 180.220 and 1200.220.

g. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the System for Award Management website (https://www.sam.gov/), which is compiled by the General Services Administration. 2 CFR 180.300, 180.320, 180.330, and 180.335.

h. 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 participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.

i. Except for transactions authorized under paragraph e of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or 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/or debarment. 2 CFR 180.325.

* * * * *

Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion--Lower Tier Participants:

1. The prospective lower tier participant certifies, by submission of this proposal, that neither it nor its principals:

(a) is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participating in covered transactions by any Federal department or agency, 2 CFR 180.355;

(b) is a corporation that has been convicted of a felony violation under any Federal law within the two-year period preceding this proposal (USDOT Order 4200.6 implementing appropriations act requirements); and

(c) is a corporation with any unpaid Federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted, or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability. (USDOT Order 4200.6 implementing appropriations act requirements)

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

* * * * *

XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING

This provision is applicable to all Federal-aid construction contracts and to all related subcontracts which exceed $100,000. 49 CFR Part 20, App. A.

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

a. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

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

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

XII. USE OF UNITED STATES-FLAG VESSELS:

This provision is applicable to all Federal-aid construction contracts, design-build contracts, subcontracts, lower-tier subcontracts, purchase orders, lease agreements, or any other covered transaction. 46 CFR Part 381.

This requirement applies to material or equipment that is acquired for a specific Federal-aid highway project. 46 CFR 381.7. It is not applicable to goods or materials that come into inventories independent of an FHWA funded-contract.

When oceanic shipments (or shipments across the Great Lakes) are necessary for materials or equipment acquired for a specific Federal-aid construction project, the bidder, proposer, contractor, subcontractor, or vendor agrees:

1. To utilize privately owned United States-flag commercial vessels to ship at least 50 percent of the gross tonnage (computed separately for dry bulk carriers, dry cargo liners, and tankers) involved, whenever shipping any equipment, material, or commodities pursuant to this contract, to the extent such vessels are available at fair and reasonable rates for United States-flag commercial vessels. 46 CFR 381.7.

2. To furnish within 20 days following the date of loading for shipments originating within the United States or within 30 working days following the date of loading for shipments originating outside the United States, a legible copy of a rated, 'on-board' commercial ocean bill-of-lading in English for each shipment of cargo described in paragraph (b)(1) of this section to both the Contracting Officer (through the prime contractor in the case of subcontractor bills-of-lading) and to the Office of Cargo and Commercial Sealift (MAR-620), Maritime Administration, Washington, DC 20590. (MARAD requires copies of the ocean carrier's (master) bills of lading, certified onboard, dated, with rates and charges. These bills of lading may contain business sensitive information and therefore may be submitted directly to MARAD by the Ocean Transportation Intermediary on behalf of the contractor). 46 CFR 381.7.

12. FEMALE AND MINORITY GOALS

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed $10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization (45 Fed Reg 65984 (10/3/1980)) are as follows:

MINORITY UTILIZATION GOALS

	Economic Area	Goal (Percent)
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA:	
	SMSA Counties: 7120 Salinas-Seaside-Monterey, CA	28.9
	CA Monterey 7360 San Francisco-Oakland	25.6
	CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	
	7400 San Jose, CA CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA CA Santa Cruz	14.9
	7500 Santa Rosa CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA	17.1
	CA Napa; CA Solano	
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
177	Sacramento, CA:	
	SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo Non-SMSA Counties	16.1 14.3
	CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	
178	Stockton-Modesto, CA:	
	SMSA Counties: 5170 Modesto, CA	12.3
	CA Stanislaus 8120 Stockton, CA	24.3
	CA San Joaquin	
	Non-SMSA Counties CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	19.8
179	Fresno-Bakersfield, CA	
	SMSA Counties: 0680 Bakersfield, CA	19.1
	CA Kern 2840 Fresno, CA	26.1

	CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA	11.9
	CA Orange 4480 Los Angeles-Long Beach, CA	28.3
	CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA	21.5
	CA Ventura 6780 Riverside-San Bernardino-Ontario, CA	19.0
	CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA	19.7
	CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego	16.9
	Non-SMSA Counties CA Imperial	18.2

For the last full week of July during which work is performed under the contract, the prime contractor and each non material-supplier subcontractor with a subcontract of $10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

13. TITLE VI ASSURANCES

The U.S. Department of Transportation Order No.1050.2A requires all federal-aid Department of Transportation contracts between an agency and a contractor to contain Appendix A and E. Appendix B only requires inclusion if the contract impacts deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein. Appendices C and D only require inclusion if the contract impacts deeds, licenses, leases, permits, or similar instruments entered into by the recipient.

APPENDIX A

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

a. Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
b. Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
c. Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be

performed under a Sub- agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.

d. Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the recipient or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the recipient or FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.
e. Sanctions for Noncompliance: In the event of CONTRACTOR's noncompliance with the nondiscrimination provisions of this agreement, the recipient shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
    i. withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
    ii. cancellation, termination or suspension of the Agreement, in whole or in part.
f. Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the recipient or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the recipient enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

APPENDIX B

CLAUSES FOR DEEDS TRANSFERRING UNITED STATES PROPERTY

The following clauses will be included in deeds effecting or recording the transfer of real property, structures, or improvements thereon, or granting interest therein from the United States pursuant to the provisions of Assurance 4:

NOW THEREFORE, the U.S. Department of Transportation as authorized by law and upon the condition that the recipient will accept title to the lands and maintain the project constructed thereon in accordance with Title 23 U.S.C., the regulations for the administration of the preceding statute, and the policies and procedures prescribed by the FHWA of the U.S. Department of Transportation in accordance and in compliance with all requirements imposed by Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-

discrimination in Federally-assisted programs of the U.S. Department of Transportation pertaining to and effectuating the provisions of Title VI of the Civil Rights Act of 1964 (78 Stat. 252; 42 U.S.C. § 2000d to 2000d-4), does hereby remise, release, quitclaim and convey unto the recipient all the right, title and interest of the U.S. Department of Transportation in and to said lands described in Exhibit A attached hereto and made a part hereof.

(HABENDUM CLAUSE)

TO HAVE AND TO HOLD said lands and interests therein unto the recipient and its successors forever, subject, however, to the covenants, conditions, restrictions and reservations herein contained as follows, which will remain in effect for the period during which the real property or structures are used for a purpose for which Federal financial assistance is extended or for another purpose involving the provision of similar services or benefits and will be binding on the recipient, its successors and assigns. The recipient, in consideration of the conveyance of said lands and interest in lands, does hereby covenant

and agree as a covenant running with the land for itself, its successors and assigns, that (1) no person will on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subjected to discrimination with regard to any facility located wholly or in part on, over, or under such lands hereby conveyed [,] [and]* (2) that the recipient will use the lands and interests in lands and interest in lands so conveyed, in compliance with all requirements imposed by or pursuant to Title 49, Code of Federal Regulations, U.S. Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Non-discrimination in Federally-assisted programs of the U.S. Department of Transportation, Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and Acts may be amended[, and (3) that in the event of breach of any of the above-mentioned non-discrimination conditions, the Department will have a right to enter or re-enter said lands and facilities on said lands, and that above described land and facilities will thereon revert to and vest in and become the absolute property of the U.S. Department of Transportation and its assigns as such interest existed prior to this instruction].*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary in order to make clear the purpose of Title VI.)

APPENDIX C

CLAUSES FOR TRANSFER OF REAL PROPERTY ACQUIRED OR IMPROVED UNDER THE ACTIVITY, FACILITY, OR PROGRAM

The following clauses will be included in deeds, licenses, leases, permits, or similar instruments entered into by the recipient pursuant to the provisions of Assurance 7(a):

A. The (grantee, lessee, permittee, etc. as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest, and assigns, as a part of the consideration hereof, does hereby covenant and agree [in the case of deeds and leases add “as a covenant running with the land”] that:

    1. In the event facilities are constructed, maintained, or otherwise operated on the property described in this (deed, license, lease, permit, etc.) for a purpose for which a U.S. Department of Transportation activity, facility, or program is extended or for another purpose involving the provision of similar services or

benefits, the (grantee, licensee, lessee, permittee, etc.) will maintain and operate such facilities and services in compliance with all requirements imposed by the Acts and Regulations (as may be amended) such that no person on the grounds of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities.

B. With respect to licenses, leases, permits, etc., in the event of breach of any of the above Non- discrimination covenants, the recipient will have the right to terminate the (lease, license, permit, etc.) and to enter, re-enter, and repossess said lands and facilities thereon, and hold the same as if the (lease, license, permit, etc.) had never been made or issued.*

C. With respect to a deed, in the event of breach of any of the above Non-discrimination covenants, the recipient will have the right to enter or re-enter the lands and facilities thereon, and the above described lands and facilities will there upon revert to and vest in and become the absolute property of the recipient and its assigns.*

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX D

CLAUSES FOR CONSTRUCTION/USE/ACCESS TO REAL PROPERTY ACQUIRED UNDER THE ACTIVITY, FACILITY OR PROGRAM

The following clauses will be included in deeds, licenses, permits, or similar instruments/agreements entered into by the recipient pursuant to the provisions of Assurance 7(b):

A. The (grantee, licensee, permittee, etc., as appropriate) for himself/herself, his/her heirs, personal representatives, successors in interest ,and assigns, as a part of the consideration hereof, does hereby covenant and agree (in the case of deeds and leases add, “as a covenant running with the land”) that (1) no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits of, or be otherwise subjected to discrimination in the use of said facilities, (2) that in the construction of any improvements on, over, or under such land, and the furnishings of services thereon, no person on the ground of race, color, or national origin, will be excluded from participation in, denied the benefits or, or otherwise be subjected to discrimination, (3) that the (grantee, licensee, lessee, permittee, etc.) will use the premises in compliance with all other requirements imposed by or pursuant to the Acts and Regulations, as amended, set forth in this Assurance.

B. With respect to (licenses, leases, permits, etc.) in the event of breach of any of the above of the above Non-discrimination covenants, the recipient will have the right to terminate the (license, permits, etc., as appropriate) and to enter or re-enter and repossess said land and the facilities thereon, and hold the same as if said (license, permit, etc., as appropriate) had never been made or issued.*

C. With respect to deeds, in the event of breach of any of the above Non-discrimination covenants, the recipient will there upon revert to and vest in and become the absolute property of the recipient and its assigns.

(*Reverter clause and related language to be used only when it is determined that such a clause is necessary to make clear the purpose of Title VI.)

APPENDIX E

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees to comply with the following non-discrimination statutes and authorities, including, but not limited to:

Pertinent Non-Discrimination Authorities:

- Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq., 78 stat. 252), prohibits discrimination on the basis of race, color, national origin); and 49 CFR Part 21.
- The Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, (42 U.S.C. § 4601), (prohibits unfair treatment of persons displaced or whose property has been acquired because of Federal or Federal-aid programs and projects);
- Federal-Aid Highway Act of 1973, (23 U.S.C. § 324 et seq.), prohibits discrimination on the basis of sex;
- Section 504 of the Rehabilitation Act of 1973, (29 U.S.C. § 794 et seq.), as amended, (prohibits discrimination on the basis of disability); and 49 CR Part 27;
- The Age Discrimination Act of 1975, as amended, (42 U.S.C. § 6101 et seq.), prohibits discrimination on the basis of age);
- Airport and Airway Improvement Act of 1982, (49 U.S.C. § 471, Section 47123), as amended, (prohibits discrimination based on race, creed, color, national origin, or sex);
- The Civil Rights Restoration Act of 1987, (PL 100-209), (Broadened the scope, coverage and applicability of Title VI of the Civil Rights Act of 1964, The Age Discrimination Act of 1975 and Section

504 of the Rehabilitation Act of 1973, by expanding the definition of the terms "programs or activities" to include all of the programs or activities of the Federal-aid recipients, sub-recipients and contractors, whether such programs or activities are Federally funded or not);

- Titles II and III of the Americans with Disabilities Act, which prohibit discrimination of the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities (42 U.S.C. §§ 12131 – 12189) as implemented by Department of Transportation regulations 49 C.F.R. parts 37 and 38;
- The Federal Aviation Administration's Non-discrimination statute (49 U.S.C. § 47123) (prohibits discrimination on the basis of race, color, national origin, and sex);
- Executive Order 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations, which ensures discrimination against minority populations by discouraging programs, policies, and activities with disproportionately high and adverse human health or environmental effects on minority and low-income populations;
- Executive Order 13166, Improving Access to Services for Persons with Limited English Proficiency, and resulting agency guidance, national origin discrimination includes discrimination because of limited English proficiency (LEP). To ensure compliance with Title VI, you must take reasonable steps to ensure that LEP persons have meaningful access to your programs (70 Fed. Reg. at 74087 to 74100);

- Title IX of the Education Amendments of 1972, as amended, which prohibits you from discriminating because of sex in education programs or activities (20 U.S.C. 1681 et seq).

14. FEDERAL TRAINEE PROGRAM

For the Federal training program, the number of trainees or apprentices is_2__.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of the prime contractor's equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

The prime contractor has primary responsibility for meeting this training requirement.

If the prime contractor subcontracts a contract part, they shall determine how many trainees or apprentices are to be trained by the subcontractor. Include these training requirements in each subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of the prime contractor's needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, the prime contractor shall submit to the City/County of_Palmdale_:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

The prime contractor shall obtain the City/County of_Palmdale_approval for this submitted information before the prime contractor starts work. The City/County of_Palmdale_credits the prime contractor for each apprentice or trainee the prime contractor employs on the job who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeyman status. The prime contractor shall make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area and show that they have made the efforts. In making these efforts, the prime contractor shall not discriminate against any applicant for training.

The prime contractor shall not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

The prime contractor shall ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. The prime contractor's records must show the employee's answers to the questions.

In the training program, the prime contractor shall establish the minimum length and training type for each classification. The City/County of_Palmdale_and FHWA approves a program if one of the following is met:

1. It is calculated to:
    - Meet the equal employment opportunity responsibilities

- Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period

2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

The prime contractor shall obtain the State's approval for their training program before they start work involving the classification covered by the program.

The prime contractor shall provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City/County of Palmdale reimburses the prime contractor 80 cents per hour of training given an employee on thiscontract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and prime contractor does at least one of the following:
    a. Contribute to the cost of the training
    b. Provide the instruction to the apprentice or trainee
    c. Pay the apprentice's or trainee's wages during the off-site training period
3. If the prime contractor

complies with this section.

Each

apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

The prime contractor shall furnish the apprentice or trainee with a copy of the program that the prime contractor will comply with in providing the training.

15. PROHIBITION OF CERTAIN TELECOMMUNICATIONS AND VIDEO SURVEILLANCE EQUIPMENT AND SERVICES

In response to significant national security concerns, the agency shall check the prohibited vendor list before making any telecommunications and video surveillance purchase because recipients and subrecipients of federal funds are prohibited from obligating or expending loan or grant funds to:

- Procure or obtain;
- Extend or renew a contract to procure or obtain; or
- Enter into a contract (or extend or renew a contract) to procure or obtain equipment, services, or systems that uses covered telecommunications equipment or services as a substantial or essential component of any system, or as critical technology as part of any system.

The prohibited vendors (and their subsidiaries or affiliates) are:

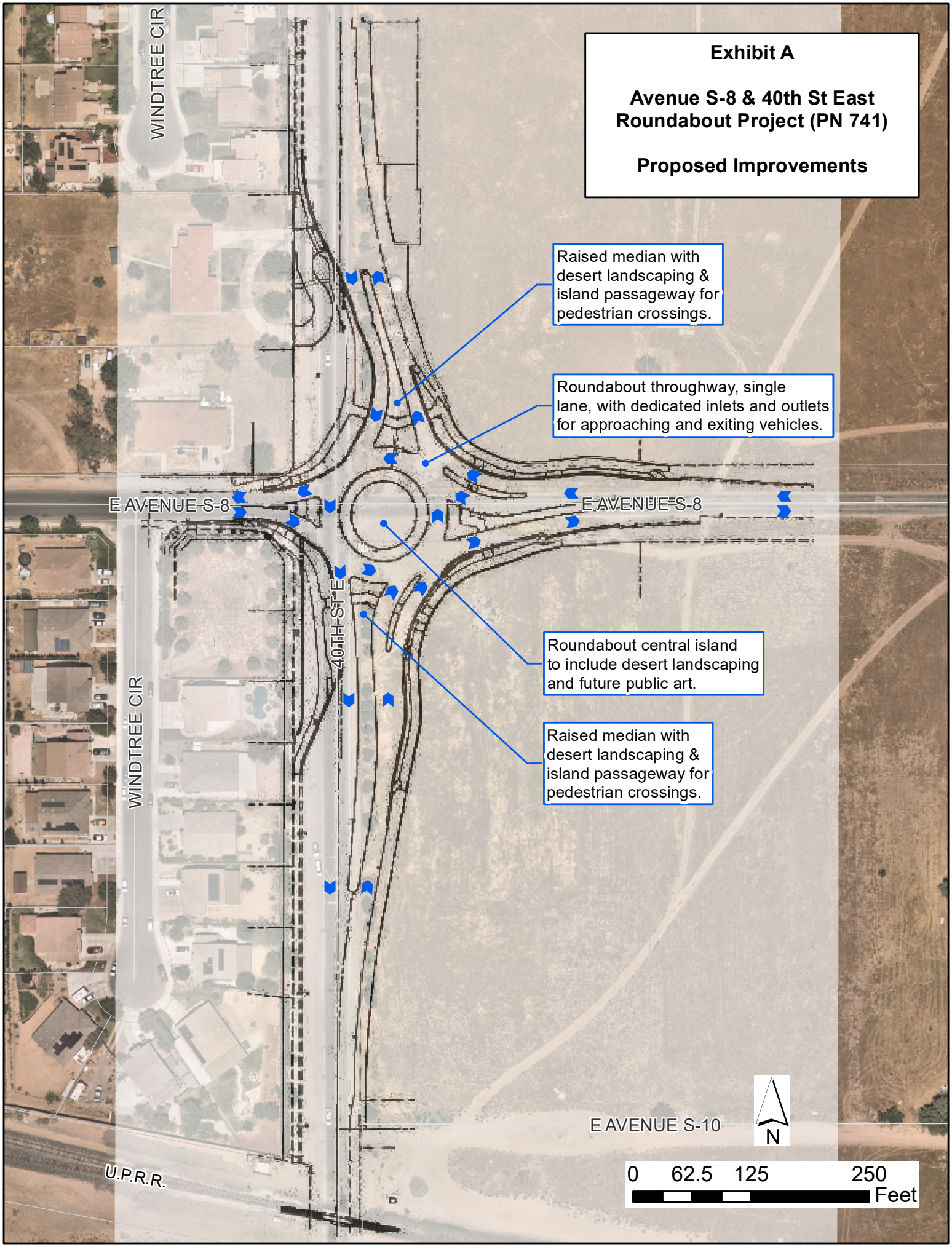
- Huawei Technologies Company;
- ZTE Corporation;
- Hytera Communications Corporation;
- Hangzhou Hikvision Digital Technology Company;
- Dahua Technology Company; and
- Subsidiaries or affiliates of the above-mentioned companies.

In implementing the prohibition, the agency administering loan, grant, or subsidy programs shall prioritize available funding and technical support to assist affected businesses, institutions and organizations as is reasonably necessary for those affected entities to transition from covered communications equipment and services, to procure replacement equipment and services, and to ensure that communications service to users and customers is sustained.

The contractors should furnish telecommunications and video surveillance equipment with a certificate of compliance. The certificate must state telecommunications and video surveillance equipment was not procured or obtained from manufacturers identified in the above list.

---------- INTERNAL USE ONLY ----------

□Certificate(s) and Endorsement(s) attached
□Confirmed business name on contract with certificate(s)
□Attached notarized bond(s), Worker's Compensation Certificate, and Guaranty
□Attached Agreement Checklist and met all requirements


Exhibit A
Avenue S-8 & 40th St East
Roundabout Project (PN 741)
Proposed Improvements
Raised median with desert landscaping & island passageway for pedestrian crossings.
Roundabout throughway, single lane, with dedicated inlets and outlets for approaching and exiting vehicles.
Roundabout central island to include desert landscaping and future public art.
Raised median with desert landscaping & island passageway for pedestrian crossings.
WINDTREE CIR
E AVENUE S-8
E AVENUE S-8
40TH ST E
WINDTREE CIR
E AVENUE S-10
U.P.R.R.
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0 62.5 125 250
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City Council Staff Report

,DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **PUBLIC WORKS DEPARTMENT**
CAPITAL IMPROVEMENT PROGRAM DIVISION

DISTRICT: **1**

SUBJECT: **APPROVE SECOND AMENDMENT TO AGREEMENT WITH MNS ENGINEERS, INC. FOR PN 761, CIVIC CENTER COMPLETE STREETS PROJECT, FOR $168,435, BRINGING THE TOTAL COST TO $267,905, FOR CONTINUED PUBLIC WORKS CONSTRUCTION INSPECTION SERVICES**

RECOMMENDATION

Staff recommends that the City Council:

1. Approve the Second Amendment to Agreement No. A-8310 with MNS Engineers, Inc. for PN 761, Civic Center Complete Streets Project for $168,435, for continued public works construction inspection services; and,

2. Authorize the City Manager or her designee to execute the Second Amendment to Agreement No. A-8310 with MNS Engineers, Inc., including minimal and/or non-substantial changes.

BACKGROUND

In May 2023, the City entered into Agreement No. A-8310 with MNS Engineers, Inc. to provide as-needed construction inspection services for PN 761, Civic Center Complete Streets Project, for $80,000. It was thought at that time that City Public Works Inspectors would provide the inspection and construction management services, with MNS Engineers, Inc. providing as-needed services only.

Due to increased private development work being done around the City, the City's Public Works Inspector assigned to the project was not able to provide the time needed to support the project. To keep the project moving forward, MNS Engineers, Inc. became the full-time capital improvement inspector and construction manager for the City. Amendment No. 1 was approved to reconcile MNS's agreement, bringing the total to $99,470.

DISCUSSION

The Second Amendment for Agreement No. A-8310 provides additional funding for the continued public works inspection services required to complete PN 761, Civic Center

Complete Streets Project. The original timeline for completion, October 2023, has been delayed due to water utility conflicts and weather, and the project completion is now scheduled for June 2024. The updated cost of inspection services is approximately 4% of the project's total cost ($6 million).

FISCAL IMPACT

$168,435; The project is funded in Account No. S0067201. There are sufficient funds in the account for this service. The fiscal impact and remaining account balance can be seen in the following table:

SCOPE OF WORK		COST
A-8310, Public Works Inspection Services		$80,000
First Amendment (w/in CM Authority)		$19,470
Second Amendment		$168,435
Total		$267,905
Account Number	**Starting Balance**	**Remaining Balance**
S0067201	$406,565.00	$238,130

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 Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P Curley III, City Attorney

ATTACHMENTS

Agrmt No. A-8310 Second Amendment with MNS Engineers, Inc.
Exh A Civic Center Site Plan

2ND AMENDMENT TO AGREEMENT A-8310
BETWEEN THE CITY OF PALMDALE AND MNS ENGINEERS, INC.

This 2nd Amendment to Agreement No. A-8310 (“Agreement”) is made and entered into by and between the City of Palmdale (hereinafter called “CITY”) and MNS ENGINEERS, INC. (hereinafter called "CONSULTANT"). This Contract shall become effective on the date of the last signatory.

WHEREAS, on May 15th, 2023 ("Original Agreement") the CITY and CONSULTANT entered into an agreement to provide:

Public Works inspection services for City Project Number PN 761, the Civic Center Complete Streets Project.

WHEREAS, the parties desire to amend the Original Agreement to:

Add funding for the continued inspection services of the Civic Center Complete Streets project.

NOW THEREFORE, the parties agree as follows:

The compensation identified in Section 5 is amended to increase the total price of the Agreement by one hundred sixty-eight thousand four hundred thirty-five dollars ($168,435), not to exceed the amount of three hundred thirty-four thousand nine hundred ninety-one ($267,905).

The contract time identified in Section 6 is amended to conclude at the project completion date of June 28th, 2024.

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

MNS ENGINEERS, INC.:

SIGNATURE AREA

Jeff Edwards
Vice President

ADDRESS FOR NOTICE:
MNS ENGINEERS, INC.
4580 E. Thousand Oaks Blvd., Suite 101
Westlake Village, CA 91362

APPROVE AS TO FORM:

SIGNATURE AREA

William P. Curley, III
City Attorney

ATTEST:

SIGNATURE AREA

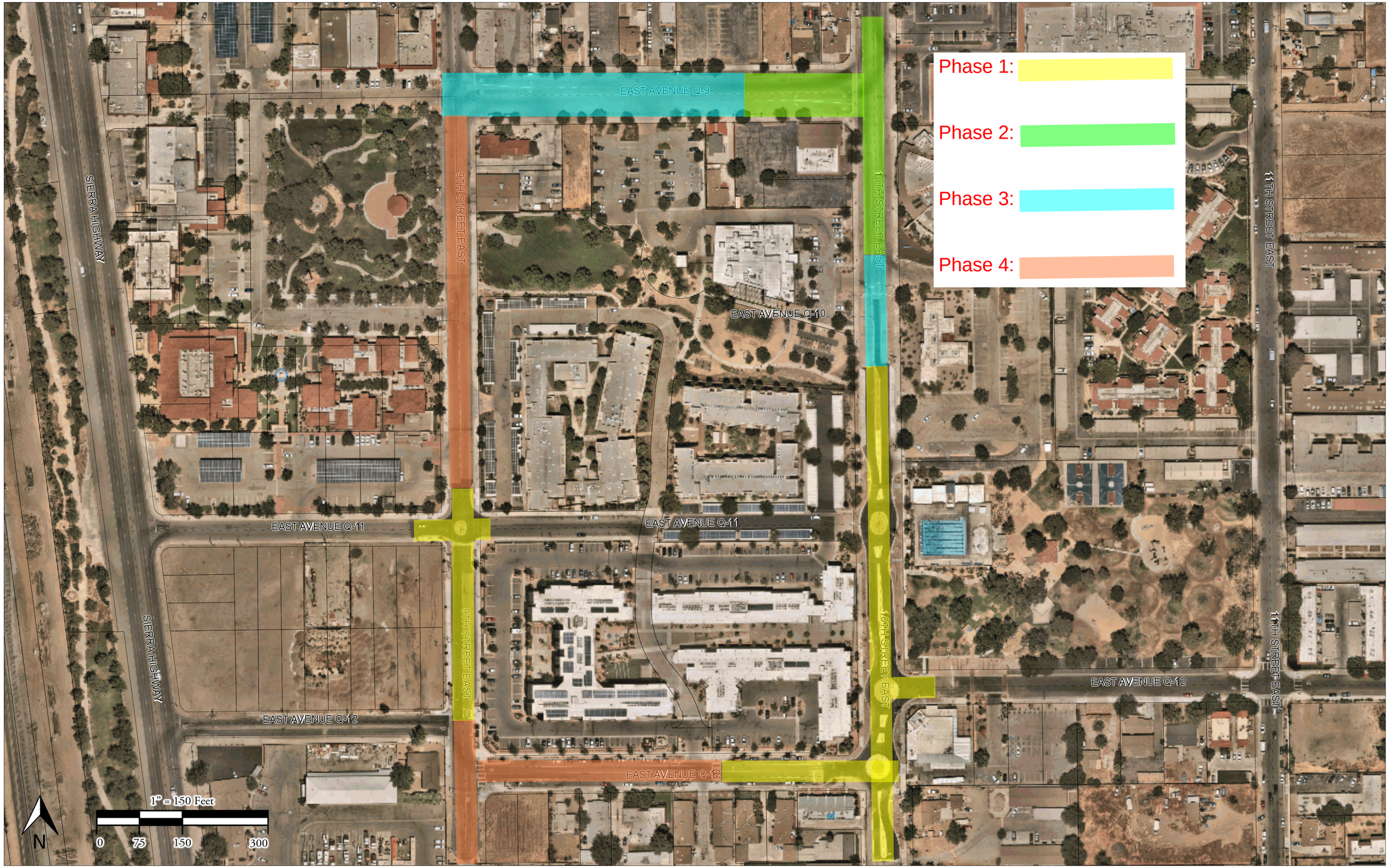
Roxanne Faber
Acting City Clerk

---------- 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

Q-12 Ped

Exhibit A



THE CITY OF PALMDALE ASSUMES NO LIABILITY FOR DAMAGES THAT MAY ARISE FROM THE USE OF INFORMATION RETRIEVED FROM THIS MAP.

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **PUBLIC WORKS DEPARTMENT**
CAPITAL IMPROVEMENT PROGRAM DIVISION

DISTRICT: **4**

SUBJECT: **APPROVE FIRST AMENDMENT TO AGREEMENT WITH MNS ENGINEERS, INC., FOR PUBLIC WORKS CONSTRUCTION INSPECTION SERVICES FOR PN 780, AVENUE Q-12 SIDEWALK GAP CLOSURE PROJECT, FOR AN INCREASE OF $42,480, TOTAL AGREEMENT AMOUNT NOT TO EXCEED $107,480, FOR A TERM OF NINETY (90) CALENDAR DAYS FROM RECEIPT OF AUTHORIZATION TO PROCEED**

RECOMMENDATION

Staff recommends that the City Council:

1. Approve First Amendment to Agreement No. A-8312 with MNS Engineers, Inc., for Public Works Construction Inspection Services for PN 780, Avenue Q-12 Sidewalk Gap Closure Project, for an increase of $42,480, total agreement amount not to exceed $107,480, for a term of ninety (90) calendar days from receipt of authorization to proceed; and,

2. Authorize the City Manager or her designee to execute the First Amendment to Agreement No. A-8312 with MNS Engineers, Inc., including minimal non-substantial changes.

BACKGROUND

In May 2023, the City entered into an agreement with MNS Engineers, Inc. for public works construction inspection services in the amount of $65,000 for PN 780. This project is for the complete street improvements along East Avenue Q-12, from 10th Street East to 12th Street East, and a portion of 11th Street E from East Avenue Q12 to 300-foot north of East Avenue R.

The scope of the construction includes full-depth street reconstruction, installation of sidewalk, American with Disability Act (ADA) curb ramps, driveways, streetlights, pedestrian bulbouts, curb and gutter, and relocation of the water lines.

DISCUSSION

The First Amendment provides additional construction inspection services for additional tasks identified during construction. The project experienced construction delays due to utility conflicts, weather, and Southern California Edison's (SCE) delayed meter relocations, procurement, and installation. Based on SCE's current timeline, all work is anticipated to be completed by mid-February 2024, with the construction fully completed by March 2024. The total cost of full-time inspection services is approximately 7% of the total project cost ($1.54 million).

FISCAL IMPACT

$42,480; The project is funded in Account No. B0013280. There are sufficient funds to proceed with this request. The fiscal impact and remaining account balance can be seen in the following table:

SCOPE OF WORK		COST
A-8312, Public Works Inspection Services		$65,000
First Amendment		$42,480
Total		$107,480
Account Number	**Starting Balance**	**Remaining Balance**
B0013280	$172,865	$130,385

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 Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P. Curley, III, City Attorney

ATTACHMENTS

1. First Amendment to Agrmt No. A-8312 with MNS Engineers, Inc.
2. Vicinity Map

1ST AMENDMENT TO AGREEMENT A-8312
BETWEEN THE CITY OF PALMDALE AND MNS ENGINEERS, INC.

This 1st Amendment to Agreement No. A-8312 (“Agreement”) is made and entered into by and between the City of Palmdale (hereinafter called “CITY”) and MNS ENGINEERS, INC. (hereinafter called "CONSULTANT"). This Contract shall become effective on the date of the last signatory.

WHEREAS, on May 22, 2023 ("Original Agreement") the CITY and CONSULTANT entered into an agreement to provide:

Public Works Inspection services for City Project Number PN 780, the Avenue Q-12 Sidewalk Gap Closure project.

WHEREAS, the parties desire to amend the Original Agreement to:

Increase the total price of the Agreement.

NOW THEREFORE, the parties agree as follows:

The compensation identified in Section 5 is amended to increase the total price of the Agreement by forty-two thousand four hundred eighty dollars ($42,480.00), not to exceed the amount of one hundred seven thousand four hundred eighty dollars ($107,480.00).

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
City Attorney

ATTEST:

SIGNATURE AREA

Roxanne Faber
Acting City Clerk

MNS ENGINEERS, INC.:

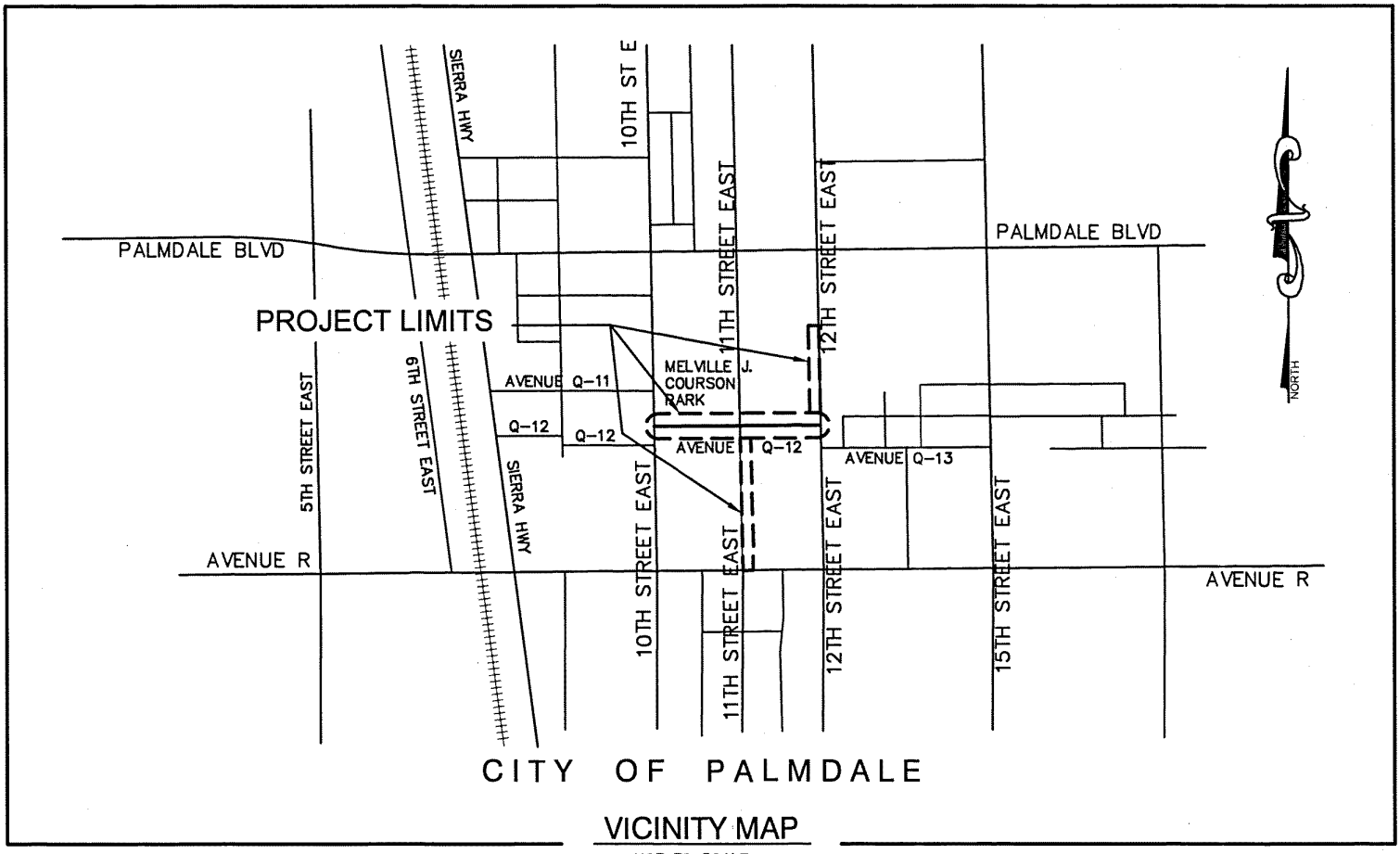
SIGNATURE AREA

Jeff Edwards
Vice President

ADDRESS FOR NOTICE:
MNS ENGINEERS, INC.
4680 Thousand Oaks Blvd. Suite 101
Westlake Village, CA 91362

---------- 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



VICINITY MAP

NOT TO SCALE

MINUTES
CITY COUNCIL
SUCCESSOR AGENCY
CITY HALL COUNCIL CHAMBER
38300 SIERRA HIGHWAY, SUITE B
PALMDALE, CALIFORNIA
JANUARY 10, 2024

1) CALL MEETING TO ORDER

Mayor Bishop called the meeting to order at 5:08 pm.

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

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

PRESENT: Austin Bishop, Richard J. Loa, Eric Ohlsen, Laura Bettencourt, Andrea Alarcón.
ABSENT: None.

3) PLEDGE OF ALLEGIANCE AND MOMENT OF SILENCE

Mayor Pro Tem Loa led the pledge of allegiance.

4) PRESENTATION

4.1) Certificate of Recognition presented to Jordan Ramirez for walking from Lancaster Sheriff Station to Palmdale Sheriff Station in appreciation of our deputies and honor of Deputy Ryan Clinkunbroomer.

Mayor Bishop presented Jordan Ramirez with a Certificate of Recognition. Mr. Ramirez thanked the Council for the invitation and shared his story regarding the appreciation and honor walks he has completed.

City Manager Perez requested that Item 6.12 be removed from the agenda.

Acting City Clerk Scott read the Public Comment Code of Conduct.

Councilmember Bettencourt requested that Item 6.6 be pulled from the Consent Calendar.

5) PUBLIC COMMENTS:

The following individuals provided public input on Item 9.1 regarding the misconduct of Councilmember Alarcón: Rich Gallego; Jess Enos; Yul Gevargis; Michael Ross; Abraham Salcedo; April C.; Maria & Danielle; Justin McIntosh; Mario Presents; Victoria Rayos; Miguel Coronado; Citizen (no name); Oscar Carrasco; Feliz Menendez; Brooke Sands; Richard Alverdi; Karen Lindsay; Eduardo; Thomas Lopez; Marcos Alvarez; and Xavier Flores.

Councilmember Bettencourt made a statement regarding her attendance at Council meetings.

6) CONSENT CALENDAR

6.1) Waive full reading of the Resolution(s) and/or Ordinance(s) to be considered and voted on at this meeting. (This allows for reading the title only in lieu of reciting the entire text).

6.2) Receive and file the monthly investment activity report for November 2023.

6.3) Adopt Resolution No. CC 2024-003, a Resolution of the City Council of the City of Palmdale amending the Human Resources Rules and Regulations.

6.4) Adopt Resolution No. CC 2024-004, a Resolution of the City Council of the City of Palmdale designating by title and name those officials who are authorized to sign checks and warrants and repeal Resolution No. CC 2023- 074, and Adopt Resolution No. SA 2024-011, a Resolution of the Successor Agency to the Community Redevelopment Agency of the City of Palmdale designating by title and name those officials who are authorized to sign checks and warrants, and repeal Resolution No. SA 2022-003.

6.5) Adopt Resolution Nos. SA 2024-009 and SA 2024-010, Resolutions of the Successor Agency of the Community Redevelopment Agency of the City of Palmdale approving the Administrative Budget and the Recognized Obligation Payment Schedule, respectively, for the period of July 1, 2024 through June 30, 2025.

6.6) Approve Law Enforcement Feasibility Study Agreement with Citygate Associates, LLC in the amount of $178,453 for a term of six (6) months.

Councilmember Bettencourt recused herself from this item due to the fact she works for the Sheriff's Department, she stepped away from the dais.

Director of Neighborhood Services Reyes presented the staff report.

Councilmember Alarcón asked questions regarding the contractor's outreach plan and the scope of work. Director of Neighborhood Services Reyes provided clarification regarding the outreach plan and scope of work. There was further discussion regarding the review of governing documents and community outreach.

Councilmember Ohlsen discussed the elements of the Law Enforcement Feasibility Study, analyzing the current Sheriff's contract, reimagining policing in the City of Palmdale, the increase in contract costs, decrease in the number of deputies provided, Cadre of Administration Reserve Personnel program (CARPing), and the protection and support of the deputies.

Mayor Pro Tem Loa thanked staff for the report and spoke regarding the financial crisis in the City and State of California and suggested looking at all aspects of the City budget, in particular the law enforcement component, and reviewing all options available to the City.

Councilmember Ohlsen announced Law Enforcement Day was observed on January 9, 2024.

Councilmember Alarcón asked for clarification on Section 19.3 of the contract. City Attorney Curley provided clarification.

Motion: Approve Law Enforcement Feasibility Study Agreement with Citygate Associates, LLC in the amount of $178,453 for a term of six (6) months.
Moved by Eric Ohlsen, seconded by Richard J. Loa.

Vote: Motion carried (4-0)
Yes: Austin Bishop, Richard J. Loa, Eric Ohlsen, Andrea Alarcón.

Councilmember Bettencourt returned to the dais.

6.7) Approve Sub-Recipient Agreement with Antelope Valley Domestic Violence DBA Valley Oasis to administer the HOME Investment Partnerships funded Tenant Based Rental Assistance (TBRA) program in an amount not to exceed $787,500 for a term of four years and six months.

This item was removed from the agenda.

6.8) Adopt Resolution No. CC 2024-008, a Resolution of the City Council of the City of Palmdale declaring a Shelter Crisis in the City of Palmdale.

6.9) Award Construction Agreement with Ferreira Construction Co. Inc., DBA Ferreira Coastal Construction Co. for PN 865, Guardrail Maintenance Upgrade, in the amount of $219,898 for a term of 45 working days from the date of the Notice to Proceed.

6.10) Adopt Resolution No. CC 2024-006, 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 County and other County entities, the Board of Directors of the Antelope Valley Cemetery District, the Board of Trustees of the Antelope Valley Mosquito and Vector Control District, the Board of Directors of the Antelope Valley Resource Conservation District, the City of Palmdale, and the Board of Directors of the Antelope Valley-East Kern Water Agency approving and accepting negotiated exchange of property tax revenue resulting from annexation 40-161 (4-217), local agency formation commission designation 2023-06, to the Los Angeles County Waterworks District No. 40, Antelope Valley.

6.11) Adopt Resolution No. CC 2024-007, 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 County and other County entities, the Board of Directors of the Antelope Valley Cemetery District, the Board of Trustees of the Antelope Valley Mosquito and Vector Control District, the Board of Directors of County Sanitation District No. 20 of Los Angeles County, the Board of Directors of the Antelope Valley Resource Conservation District, the City of Palmdale, and the Board of Directors of the Antelope Valley-East Kern Water Agency approving and accepting negotiated exchange of property tax revenues resulting from annexation 40-156 (34-45), local agency formation commission designation 2022-06, to the Los Angeles County

Waterworks District No. 40, Antelope Valley.

6.12) Approve Memorandum of Understanding by and between the City of Palmdale and the County of Los Angeles to collaborate on water infrastructure projects located within Waterworks District 40.

6.13) Approve the minutes from the previous meetings.
CC/SA - December 6, 2023

Motion: Approve all items listed under the Consent Calendar except 6.6 and 6.12
Moved by Richard J. Loa, seconded by Laura Bettencourt.

Vote: Motion carried (5-0)
Yes: Austin Bishop, Richard J. Loa, Eric Ohlsen, Laura Bettencourt, Andrea Alarcón.

7) APPOINTMENTS

7.1) Nomination and Appointment of Planning Commissioner - District 5.
Councilmember Alarcón nominated Ms. Jones.

Ms. Jones, Ms. Alverdi, and Ms. Fraga-Saenz spoke regarding their background and experience.

There was Council discussion regarding the nomination.

Motion: Appoint Ms. Jones as Planning Commissioner - District 5
Moved by Andrea Alarcón, seconded by Eric Ohlsen.

Vote: Motion carried (4-1)
Yes: Austin Bishop, Richard J. Loa, Eric Ohlsen, Andrea Alarcón.
No: Laura Bettencourt.

7.2) Approve Reappointment of Public Member to the Palmdale Recycled Water Authority.

Motion: Approve the reappointment of Public Member Anson to the Palmdale Recycled Water Authority.
Moved by Richard J. Loa, seconded by Laura Bettencourt.

Vote: Motion carried (5-0)
Yes: Austin Bishop, Richard J. Loa, Eric Ohlsen, Laura Bettencourt, Andrea Alarcón.

Ms. Anson thanked Council.

7.3) Discussion and Possible Action regarding City Council Standing Committee Appointments.

ANTELOPE VALLEY AIR QUALITY MANAGEMENT DISTRICT
Delegate: Mayor Bishop
Delegate: Mayor Pro Tem Loa
Alternate: Councilmember Bettencourt

ANTELOPE VALLEY TRANSIT AUTHORITY
Delegate: Mayor Pro Tem Loa
Delegate: Councilmember Ohlsen
Alternate: Councilmember Bettencourt
Alternate: Citizen Kathryn Mac Laren (Appointed by a majority vote of the Council pursuant to PMC §2.08.030 pursuant to PMC §2.08.030)

CALIFORNIA CONTRACT CITIES ASSOCIATION (CCCA)
Delegate: Mayor Bishop
Alternate: Councilmember Ohlsen

CITY OF PALMDALE AUDIT COMMITTEE
Delegate: Mayor Bishop
Delegate: Councilmember Bettencourt
Alternate: Mayor Pro Tem Loa
Public Member: Christine Geary (Appointed by a majority vote of the Council pursuant to PMC §2.08.030 - Term expires July 2023)

CITY OF PALMDALE INVESTMENT OVERSIGHT COMMITTEE
Member: Mayor Bishop (Must be Mayor pursuant to City's Investment Policy)
Member: Councilmember Ohlsen (Rotating Councilmember pursuant to City's Investment Policy)

EIFD PUBLIC FINANCE COMMITTEE
Authority Member: Mayor Bishop
Authority Member: Mayor Pro Tem Loa
Authority Public Member: Laura Gordon (term expires June 2025)

HIGH DESERT CORRIDOR JOINT POWERS AUTHORITY
Director: Councilmember Ohlsen
Alternate: Mayor Pro Tem Loa

LEAGUE OF CALIFORNIA CITIES – Desert Mountain Division
Delegate: Councilmember Bettencourt
Alternate: Mayor Bishop
2nd Alternate: Mayor Pro Tem Loa

LOS ANGELES COUNTY SANITATION DISTRICT
Delegate for Districts No. 14 and No. 20: Mayor Bishop (Must be the Mayor pursuant to H&S Code §4730)
2nd Delegate for District No. 20: Councilmember Bettencourt
Alternate Delegate for District No. 14 & 20 Mayor Pro Tem Loa

NORTH LOS ANGELES COUNTY TRANSPORTATION COALITION
Delegate: Mayor Bishop
Alternate: City Manager Perez
Business Representative: Councilmember Ohlsen
Representative at Large: Mayor Pro Tem Loa

PALMDALE RECYCLED WATER AUTHORITY (PRWA)
Director: Mayor Bishop
Director: Councilmember Bettencourt
Alternate: Mayor Pro Tem Loa
Public Member: Zakeya Anson – Current term ending 1/31/2025. (Per JPA, appointed by the City and Palmdale Water District jointly and ratified by the PRWA Board

SOUTHERN CALIFORNIA ASSOCIATION OF GOVERNMENTS (SCAG) GENERAL ASSEMBLY
Delegate: Mayor Pro Tem Loa
Alternate: Mayor Bishop

UNITED STATES/MEXICO SISTER CITIES ASSOCIATION
Delegate: Mayor Bishop
Delegate: Mayor Pro Tem Loa
Alternate: Councilmember Bettencourt
Alternate: Councilmember Ohlsen

CALIFORNIA STATE PRISON – LOS ANGELES COUNTY, CITIZENS ADVISORY COMMITTEE
Delegate: Councilmember Bettencourt
Alternate: Mayor Pro Tem Loa

Motion: Approve the City Council Standing Committee Appointments.
Moved by Richard J. Loa, seconded by Laura Bettencourt.

Vote: Motion carried (4-1)
Yes: Austin Bishop, Richard J. Loa, Eric Ohlsen, Laura Bettencourt.
No: Andrea Alarcón.

8) REPORTS AND ACTION ITEMS FROM MAYOR AND / OR COUNCILMEMBERS

8.1) Council Informational Reports on Committee memberships and meetings attended at public expense.

All reports were submitted.

Mayor Bishop announced that a video would be displayed with the previous year's events.

Mayor Pro Tem Loa recognized Lancaster Mayor, R. Rex Parris, in attendance.

Councilmember Ohlsen attended the Homes for Families Veteran Enrichment Community event; meeting with Congresswoman Judy Chu on the re-opening of the Littlerock Damn recreation area; and Kwanzaa event on December 26, 2023.

Mayor Pro Tem Loa attended the December 16th AVTA drive-thru food and toy giveaway.

Councilmember Alarcón attended the prayer vigil for the Adamyan family, who lost their child in a road rage incident.

8.2) Council Action Items.

Mayor Bishop asked for an update on the Avenue R Project. Director of Public Works Glidden stated the estimated completion date is October of 2024 and provided details on the project.

Councilmember Ohlsen spoke regarding City projects and delays that are caused by utility companies.

City Manager Perez provided an update to the Council on the utilities and future development. Ms. Perez stated Supervisor Barger authored an action to create a consortium in the Antelope Valley that would specifically look at capital improvements needed, specifically water and fire, to address development going forward in the community.

9) CITY ATTORNEY DIRECTION TO UNDERTAKE REVIEW

9.1) Direction to City Attorney to review matters of municipal violations relating to conduct of Councilmember Alarcón.

Mayor Bishop provided direction to City Attorney Curley to review the matters of municipal violations relating to the conduct of Councilmember Alarcón.

Mayor Pro Tem Loa voiced his approval for the investigation of municipal violations conducted by City Attorney Curley.

City Attorney Curley provided the review process and stated it would be fact-based.

Councilmember Alarcón apologized to her colleagues, staff, law enforcement personnel, and residents she represents for her misconduct. She stated her opposition regarding the direction provided by Mayor Bishop to City Attorney Curley.

City Attorney Curley addressed Councilmember Alarcón's concerns and restated the review will be fact based with a focus on administrative violations. City Attorney Curley stated Council will receive a report per the new policies adopted.

10) CITY MANAGER'S REPORT

City Manager Perez reported on the following: SAVES holiday food distribution; Aero toy distribution; upcoming desert clean-up event and assembling organic waste containers on January 15 in celebration of Martin Luther King Jr. Day of Service; Justice Sunday, revisiting Black Wall Street performance on January 20 at the Palmdale Playhouse; ribbon cutting for Desert Sands playground on February 6; SOS Children's Village project groundbreaking on February 7; the City received a $50,000 grant from CalRecycle for a public education campaign on recyclability; Center for Transportation and Technology Excellence update; and submissions are open for youth artwork for the second round of utility box covers.

11) NON-AGENDA PUBLIC COMMENTS:

The following individuals spoke on behalf of the Palmdale Aerospace Academy Teachers Association (PATA) and asked Council to encourage their appointed delegate to support the contract submitted by PATA: Melanie Garren; Cindy Carver; Catherine Hutzol; and Daniel Lagomarsino.

The following individuals commented regarding the misconduct and accountability of Councilmember Alarcón: Abraham Salcedo; Rich Gallego; Nancy; and two Citizens (no name provided).

Marisela spoke regarding Councilmember Alarcón and unity in the community.

Eugene Hernandez commented on establishing a Latino Advisory Committee to advise on film projects proposed for the Antelope Valley and thanked Councilmember Bettencourt for doing an excellent job during her term as mayor.

David Harris thanked Councilmember Bettencourt for her service as mayor and Mayor Bishop for his words at the Chamber luncheon.

Laura Gordon commented regarding Avenue R. and announced the Walk-A-Mile event would be held on October 26.

Ruth Sanchez commented regarding the misconduct of Councilmember Alarcón and invited the Council to the new location for the Dolores Huerta Foundation and a Martin Luther King Jr. celebration on January 20.

Vicky Ventura congratulated Mayor Bishop and complimented him on representing the City at the Chamber luncheon.

Mario Presents spoke regarding being an immigrant, fatality statistics due to drunk driving, and the misconduct of Councilmember Alarcón.

Denise Verduzco thanked Mayor Bishop for his community work and spoke regarding her Latina heritage and the misconduct of Councilmember Alarcón.

Mike V thanked Councilmember Bettencourt for her service as mayor and spoke regarding Councilmember Alarcón's accountability for her actions.

Kelly Darcy spoke regarding her husband being unfairly terminated from Learn4Life.

12) ADJOURN

Mayor Bishop adjourned the meeting at 8:04 pm to January 24, 2024, at 5:00 p.m. in the City Hall Council Chamber located at 38300 Sierra Highway, Suite B, Palmdale, California.

PASSED, APPROVED, and ADOPTED this 24th day of January 2024.

_____
Austin Bishop, Mayor

ATTEST:

_____
Rochelle Scott, Acting City Clerk

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **ECONOMIC AND COMMUNITY DEVELOPMENT**
PLANNING DIVISION

DISTRICT: **ALL**

SUBJECT: **INTRODUCTION AND ADOPTION OF ORDINANCE NO. 1612, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE APPROVING VARIOUS AMENDMENTS TO TITLE 3 AND TITLE 5 OF THE PALMDALE MUNICIPAL CODE**

RECOMMENDATION

Staff recommends that the City Council:

1. Receive public testimony regarding Ordinance No. 1612; and

2. Adopt Ordinance No. 1612 recommending City Council approval of various amendments to Title 3 and Title 5 of the Palmdale Municipal Code (PMC).

BACKGROUND

On September 21, 2022, the City Council adopted a new General Plan, *Palmdale 2045*, which replaced the previously adopted General Plan (1993). State law requires that the regulations governing the use and development of lands within the municipal limits of a city be consistent with the adopted General Plan for that city. Accordingly, on March 15, 2023, the City Council adopted a new Zoning Ordinance and a Zoning Map update, *ZOA 21-007*, which amended Title 17 of the PMC to implement the vision of *Palmdale 2045*, as well as support new land use patterns and future development. Further, on August 16, 2023, the City Council adopted Ordinance No. 1614, which included various amendments to the PMC except for Title 5 Business Licenses, Tax and Regulation for the purpose of correcting inconsistencies, typographical errors, and updating section references.

Ordinance No. 1612 will update Chapter 3.44 on Business License Tax and Chapter 5.04 on Business Regulation to account for the above legal changes, streamline processes related to appeals of City determinations, and enhance efficiency for the application and enforcement of both chapters to promote public health, safety, and welfare of the Palmdale community.

DISCUSSION

The proposed amendments to the PMC impact Chapter 3.44 on Business License Tax and Chapter 5.04 on Business Regulation. The amendments to Chapter 3.44 add regulatory procedures for the denial, revocation, and suspension of business licenses; these amendments mirror the amendments to Chapter 5.44's existing regulatory procedures for business permits. The result will be a streamlined and simpler process, including the opportunity to appeal applicable denials, revocations, and suspension directly to the City Council instead of first to staff. The amendments to Chapter 5.04 also update definitions related to adult-oriented businesses to be consistent with the definitions of *ZOA 21-007* and remove several kinds of businesses from special permitting requirements given either their outdated nature or State law regulations already in place, including such businesses as ambulance services, billiards, bingo, fortunetelling, hypnotism, and motion picture theaters.

FISCAL IMPACT

$0; there is no fiscal impact associated with this action.

STRATEGIC PLAN

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:	Brenda Magaña, Planning Manager
Certified as to availability of Funds:	Janelle Samson, Director of Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P. Curley, III, City Attorney

ATTACHMENT

1. Ordinance No. 1612

CITY OF PALMDALE
COUNTY OF LOS ANGELES, CALIFORNIA
ORDINANCE NO. 1612

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE APPROVING VARIOUS AMENDMENTS TO THE PALMDALE MUNICIPAL CODE REGARDING BUSINESS LICENSING

WHEREAS, Section VII of Article XI of the California Constitution provides that a City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws;

WHEREAS, the City Council finds it necessary to update, consolidate, and streamline the Palmdale Municipal Code ("PMC") periodically to achieve more efficient application and enforcement of the PMC to promote public health, safety, and welfare;

WHEREAS, the City Council finds it necessary to update, streamline, and enhance efficiency and clarity in its business permitting and business licensing appeals processes, including the procedures available to the public for denial, revocation, and suspension of such approvals;

WHEREAS, the City Council finds it necessary to remove outdated business licensing requirements for certain industries, including ambulance services, billiards, bingo, carnivals, dance halls and dances, introductory services, fortunetelling, health clubs, house and street numbering, hypnotism, locksmiths, motion picture theaters, private patrol, family entertainment, taxicabs and drivers, and tow trucks, where there are no longer any such businesses in the City and/or significant concerns related to such businesses compared to when the original codes enacting such regulations were created, and relatedly, to streamline the code to account for these removals; and

WHEREAS, said amendments, adoptions, and/or deletions of the Palmdale Municipal Code are permitted by law, including the California Constitution, Government Code, and Civil Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALMDALE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The above recitals are true and correct and are incorporated herein.

SECTION 2: Section 3.44.030, subsection (I) of Title 3 of the Palmdale Municipal Code is hereby amended to read as follows:

(I) "Director" means the Director of Economic and Community Development, or his/her/their designee, unless otherwise specified.

SECTION 3: Section 3.44.140 of Title 3 of the Palmdale Municipal Code is hereby amended to read as follows:

3.44.140 Denial, revocation, suspension of business license; procedures to contest and effect.

(A) Grounds for Denial, Revocation, Suspension

(1) Grounds for Denial; Business Activities Involving First Amendment Activities. Neither the Director nor the City Council shall approve an application for a business license for a business activity primarily involving First Amendment activities if any of the following findings are made:

(a) The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City or there are fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity; provided, however, that this Subsection shall not be construed to require that the applicant actually be in compliance with such laws or have paid such amounts at the time set for review and approval. The Director or the City Council, as applicable, may approve a business permit and condition its operative date upon the later submission by the applicant to the Director of a certificate of occupancy issued by the Division of Building and Safety or other satisfactory evidence that the business activity is then in compliance with all such applicable laws or proof of payment of such amounts;

(b) The applicant has knowingly made any false, misleading, or fraudulent statement of material fact in the application for the business license or in any report or statement required to be filed with the Director or the City Council;

(c) The business is prohibited by any local or State law, statute, rule, or regulation, or is prohibited in the particular location or zone by any law, statute, rule, or regulation; or

(d) The Director or the City Council has made the findings and determination as specified in PMC Section 5.04.185 (Consideration of applicant's criminal record and prior business history) relating to an applicant for a license for a proposed business activity involving First Amendment activities.

(2) Grounds for Denial; Business Activities Not Involving First Amendment Activities. Neither the Director nor the City Council shall approve an application for a business license for a business activity not primarily involving First Amendment activities if any of the following findings are made:

(a) The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City or there are fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity; provided, however, that this Subsection shall not be construed to require that the applicant actually be in compliance with such laws or have paid such amounts at the time set for review and approval. The Director or the City Council, as applicable, may approve a business permit and condition its operative date upon the later submission by the applicant to the Director of a certificate of occupancy issued by the Division of Building and Safety or other satisfactory evidence that the business activity is then in compliance with all such applicable laws or proof of payment of such amounts;

(b) The applicant has knowingly made any false, misleading, or fraudulent statement of material fact in the application for the business license or in any report or statement required to be filed with the Director or the City Council;

(c) The business is prohibited by any local or State law, statute, rule, or regulation, or is prohibited in the particular location or zone by any law, statute, rule, or regulation;

(d) The City Council has made the findings and determination as specified in PMC Section 5.04.185 (Consideration of applicant's criminal record and prior business history) relating to an applicant for a license for a business activity not involving First Amendment activities.

(3) Grounds for Revocation or Suspension; Business Activities Involving First Amendment Activities. After the hearing, the City Council may condition, modify, suspend or revoke a business license for any business activity required to be permitted under this Chapter if the City Council finds that one or more of the following conditions exist:

(a) That the business activity including the building, structure, premises or equipment used in the conduct of the business does not comply with any health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City;

(b) That the licensee, or any employee, agent, or manager of the licensee, has violated any Federal or State statute or any ordinance or regulation of the City in the course of exercising any rights under the business license which is being considered for revocation;

(c) That the licensee, or any employee, agent, or manager of the licensee, has knowingly made any false, misleading or fraudulent statement of material fact in the application for permit, or in any report or statement required to be filed with the Director or the City Council;

(d) That the licensee, or any employee, agent, or manager of the licensee, has published, uttered or disseminated any false, deceptive, or misleading statements or advertisements in connection with the licensed business;

(e) That the licensee has failed or refused to notify the Director of any change in facts as required by this Chapter within 10 days after such change;

(f) That the licensee, or any employee, agent, or manager of the licensee, has violated any conditions or restrictions of the business license;

(g) That the licensee, or any employee, agent, or manager of the licensee, has allowed, or failed to prevent, the use of the business as a base for unlawful or criminal activity, including, but not limited to, solicitation, prostitution, or drug trafficking;

(h) That there are any fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity; or

(i) The licensee has been convicted of any violation of this code, any code adopted and incorporated by the City into this code, the California Penal Code, the Health and Safety Code, the Business and Professions Code, or any other State law.

(4) Grounds for Revocation or Suspension; Business Activities Not Involving First Amendment Activities. After the hearing, the City Council may condition, modify, suspend, or revoke a business license for any business activity required to be permitted under this Chapter if the City Council finds that one or more of the following conditions exist:

(a) That the business activity including the building, structure, premises, or equipment used in the conduct of the business does not comply with any health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City;

(b) That the licensee, or any employee, agent, or manager of the licensee, has violated any Federal or State statute or any ordinance of the City in the course of exercising any rights under the business license which is being considered for revocation;

(c) That the licensee, or any employee, agent, or manager of the licensee, has been found to have committed a crime of moral turpitude which bears a substantial relationship to the conduct of the business activity for which the business license is being considered for revocation;

(d) That the licensee, or any employee, agent, or manager of the licensee, has knowingly made any false, misleading, or fraudulent statement of material fact in the application for permit, or in any report or statement required to be filed with the Director or the City Council;

(e) That the licensee, or any employee, agent, or manager of the licensee, has published, uttered, or disseminated any false, deceptive, or misleading statements or advertisements in connection with the operation of the licensed business;

(f) That the licensee has failed or refused to notify the Director of any change in facts as required by this Chapter within 10 days after such change;

(g) That the licensee, or any employee, agent, or manager of the licensee, has violated any conditions or restrictions of the business license;

(h) That the licensee has been convicted of any violation of this code, any code adopted and incorporated by the City into this code, the California Penal Code, the Health and Safety Code, the Business and Professions Code, or any other State law;

(i) That the licensee, or any employee, agent, or manager of the licensee, has violated any rule or regulation adopted by the City Council or any other governmental agency relating to the licensee's business;

(j) That the licensee has conducted the licensed business in a manner contrary to the public health, safety, and welfare; or

(k) That there are any fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity.

(B) Hearing to Contest Denial, Revocation, Suspension

(1) Initiation of Hearing. The determination of whether a license should be denied, revoked, or suspended shall be initiated by a written statement explaining how the grounds in PMC Section 3.44.140(A) (Grounds for denial, revocation, suspension) have been found. Such statement may be initiated by any department or agency required to review or inspect the business activity for compliance with applicable regulations. Such statement shall be submitted to the Director. The City shall give written notice to the applicant/licensee of the decision to deny, revoke, or suspend

to the address on the operative application or license via first-class mail. The applicant/licensee may request a hearing by filing a request for a hearing on a City-approved form with the Office of the City Clerk, 38300 Sierra Highway, Palmdale, CA 93550 and must provide the reasons why the grounds in Section 3.44.140(A) (Grounds for denial, revocation, suspension) have not been established within 20 calendar days from the issuance date of the notice. If the Office of the City Clerk does not receive the request in the required period, the applicant/licensee shall have waived the right to a hearing and the determination shall be deemed confirmed and final.

(2) Notice of Hearing. If a timely and complete request for hearing is made, the City will set a hearing before the City Council or designee to determine whether grounds in PMC Section 3.44.140(A) (Grounds for denial, revocation, suspension) have been established to support the City's denial, revocation, or suspension. Written notice of the date, time, and location of the hearing shall be given to the applicant/licensee not less than 10 days prior to the hearing by first class mail. Service of this notice is deemed complete at time of mailing. The failure of an applicant/licensee to receive a properly addressed notice shall not invalidate the determination or any hearing, City action, or proceeding conducted pursuant to this Section. The hearing will be conducted within 60 days of the date a timely and complete request is received by the Office of the City Clerk unless otherwise agreed to by the applicant/licensee and the City.

(3) Procedure for Hearing.

(a) Right to witnesses and submission of documentary evidence. The applicant/licensee and the City shall have the right to bring witnesses to testify whether the grounds in PMC Section 3.44.140(A) (Grounds for denial, revocation, suspension) have been established and cross-examine each other's witnesses. The applicant/licensee and the City also have the right to submit in advance of the hearing—no later than 3 calendar days prior to the date set for hearing—written argument and documentary evidence on whether the grounds in PMC Section 3.44.140(A) (Grounds for denial, revocation, suspension) have been established. Such submission shall be made by first class mail unless otherwise agreed to by the applicant/licensee and the City, such as via email. Failure to receive said written material shall not invalidate the determination or any hearing, City action or proceeding conducted pursuant to this Section.

(b) Procedure and rules of evidence. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Oral evidence shall be taken only on oath or affirmation. The City bears the burden of proof to establish the grounds in PMC Section 3.44.140(A) (Grounds for denial, revocation, suspension) by a preponderance of evidence. An applicant/licensee may bring an interpreter to the hearing provided there is no expense to the City for the interpreter. The City Council may question

any person who presents evidence or who testifies at any hearing. The City may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony at the hearing in accordance with PMC Section 2.08.090 (Mayor to sign subpoenas).

(c) Decision. The City Council shall issue its decision in writing promptly and notice of it must be made via first-class mail to the applicant/licensee and City. The decision shall contain a determination of the issues presented, including the grounds in PMC Section 3.44.140(A) (Grounds for denial, revocation, suspension) at issue and the evidence supporting or negating whether the grounds in PMC Section 3.44.140(A) (Grounds for denial, revocation, suspension) were established.

(4) Effect of Revocation or Suspension.

(a) No refunds of any business license fees, taxes, or other sums paid shall be made to any licensee upon revocation or suspension of a business license.

(b) Following revocation of any business license under this Section, no business license to conduct the same business activity shall be issued to the same person for a period of one year.

(c) Whenever a business license is suspended or revoked, the Director shall take into possession the business license for the subject business activity. The licensee shall surrender the business license and license stickers, or similar evidence of a license, to the Director.

(d) Upon revocation or suspension of a business license, the licensee shall immediately cease operation of the business activity. Except as otherwise provided, if the license is suspended, the licensee may resume operation upon expiration of the suspension period.

(5) Judicial Appeal. The determination issued by the City Council shall be deemed a final order and may be judicially reviewed pursuant to California Code of Civil Procedure Section 1094.6. There is no right to a further administrative appeal.

(C) No License Issued or Renewed where Applicant is Indebted to City

(1) No business license shall knowingly be issued or renewed when, at the time of making application for any license, or renewal thereof, the applicant is indebted to the City for any unpaid license tax, license fees, transient occupancy taxes, or unpaid invoices for any rates, fees, or charges imposed pursuant to this code. The Director may enter into an agreement with any person so indebted to the City to establish a payment schedule for such indebtedness and any delinquencies and interest thereon. In such agreement, the debtor shall acknowledge such debt to

the City and shall agree that if any default occurs in the payment of any installment agreed to be paid thereunder, the entire amount to be paid shall become immediately due and payable, and that, if suit is brought to enforce collection of the amount agreed to be paid under such agreement, the debtor will pay all costs of suit incurred by the City, including reasonable attorneys' fees.

(2) If such an agreement is executed, and all other provisions of this Chapter are complied with, a license for the current or ensuing license period may be issued to such person upon payment of the license tax prescribed for the current or ensuing license period, together with any penalties thereon.

SECTION 4: Section 5.04.040, subsection (F) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(F) "Director" means the Director of Economic and Community Development, or his/her/their designee, unless otherwise specified.

SECTION 5: Section 5.04.040, subsection (N)(1) of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(1) Any business wherein the preponderant business is the offering of services, materials, goods, and/or products which are characterized by an emphasis on matter depicting, describing, or in relation to "nude" or "semi-nude" persons or "specified sexual activities," as defined in PMC Section 17.92.010 (Adult-oriented businesses) of the Palmdale zoning ordinance, for observation by patrons therein. Such businesses shall include, but not be limited to, an adult bookstore, adult video store, picture arcade showing adult entertainment pictures, adult motion picture theater, or other similar businesses; or

SECTION 6: Section 5.04.040, subsection (N)(3) of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(3) Any business, having as a portion of its goods for sale, products which replicate or are designed to simulate "specified anatomical areas," as defined in PMC Section 17.92.010 (Adult-oriented businesses) of the Palmdale zoning ordinance, to cause sexual excitement thereof. Such business shall include, but not be limited to, a sexual novelty store or other similar businesses.

SECTION 7: Section 5.04.050, subsection (D) of Title 5 of the Palmdale Municipal Code is hereby repealed and deleted in its entirety; however such repeal shall not affect or excuse any violation of said Section that occurred prior to the effective date of this Ordinance, nor shall such repeal impede, deter, impact, or negate any administrative, civil, or criminal enforcement of any violation of said Section that occurred prior to the effective date of this Ordinance.

SECTION 8: Section 5.04.150, subsections (2), (3), (4), (5), (6), (8), (9), (11) through (27) of Title 5 of the Palmdale Municipal Code are hereby repealed and deleted in their entirety; however such repeal shall not affect or excuse any violation of said Section that occurred prior to the effective date of this Ordinance, nor shall such repeal impede, deter, impact, or negate any administrative, civil, or criminal enforcement of any violation of said Section that occurred prior to the effective date of this Ordinance.

SECTION 9: Section 5.04.150 of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(A) No person shall commence, conduct or purport to commence or conduct the following business activities without a valid business permit:

(1) Adult-oriented businesses;

(2) Entertainment;

(3) Game arcades;

(4) Gun dealers;

(5) Massage establishments and massage technicians;

(6) Pawnbrokers and secondhand dealers;

(7) Sidewalk vending;

(8) Mobile vending; and

(9) Tobacco/smoking product retailer.

(B) The regulations pertaining to specified businesses or business activities requiring a business permit are set forth in Article II of this Chapter commencing with PMC Section 5.04.400 (Adult oriented business).

SECTION 10: Section 5.04.170, subsection (A) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(A) Responsibility. The responsibility for approving business permit applications shall be as follows:

(1) Business Permit Applications Which Do Not Require Hearings. These business permit applications shall be subject to the approval of the Director as the reviewing authority. Any person may appeal the Director's decision on the application in a manner consistent with the requirements of PMC Section 5.04.280 (Hearing to

contest modification, suspension, or revocation – Notice of hearing), et seq. The timely filing of an appeal shall entitle the aggrieved party to a hearing.

SECTION 11: Section 5.04.200, subsection (A)(1) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(1) The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City or there are fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity; provided, however, that this Subsection shall not be construed to require that the applicant actually be in compliance with such laws or have paid such amounts at the time set for review and approval. The Director or the City Council, as applicable, may approve a business permit and condition its operative date upon the later submission by the applicant to the Director of a certificate of occupancy issued by the Division of Building and Safety or other satisfactory evidence that the business activity is then in compliance with all such applicable laws or proof of payment of such amounts;

SECTION 12: Section 5.04.200, subsection (B)(1) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(2) The building, structure, premises, or the equipment used to conduct the business activity fails to comply with all applicable health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City or there are fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity; provided, however, that this Subsection shall not be construed to require that the applicant actually be in compliance with such laws or have paid such amounts at the time set for review and approval. The Director or the City Council, as applicable, may approve a business permit and condition its operative date upon the later submission by the applicant to the Director of a certificate of occupancy issued by the Division of Building and Safety or other satisfactory evidence that the business activity is then in compliance with all such applicable laws or proof of payment of such amounts;

SECTION 13: Section 5.04.210, subsection (B) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(B) Appealability. The denial of an application by the Director may be appealed to the City Council in a manner consistent with PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq.

SECTION 14: Section 5.04.240 of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

PMC Section 5.04.240 Reserved.

SECTION 15: Section 5.04.250, subsection (E) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(E) Denial of Permit Renewal. If the City has received notice of any of the following upon the filing of any permit renewal application, the application for renewal may be denied, subject to the permittee's right to appeal as provided for in PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq.:

(1) A transfer or change pursuant to PMC Section 5.04.260 (Business permit transfers and changes);

(2) A significant change in operation of any permitted business which may involve noncompliance with City, County, or State regulations or laws;

(3) One of the departments or officers performing a review of the permit renewal application has recommended denial of, or the imposition of additional conditions upon, such permit;

(4) If the City finds that the applicant knowingly made any false, misleading or fraudulent statements of material fact in the application for the business permit or in any report or statement required to be filed with the Director or the City Council;

(5) If the City finds any violation of this code, any other code adopted by the City, or any State law that occurred on or in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity;

(6) If there are any fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity; or

(7) The applicant has been convicted of any violation of this code, any code adopted and incorporated by the City into this code, the California Penal Code, the Health and Safety Code, the Business and Professions Code, or any other State law.

SECTION 16: Section 5.04.270 of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

5.04.270 Denial, non-renewal, modification, suspension, or revocation.

(A) The determination of whether a permit should be denied, not renewed, modified, suspended, or revoked shall be initiated by a written statement explaining how the grounds in PMC Section 5.04.200 (Grounds for denial of business permit) or 5.04.310 (Grounds for modification, suspension, or revocation of business permit), as the case may be, have been found. Such statement may be initiated by any department or agency required to review or inspect the business permit and/or activity for compliance with applicable regulations. Such statement shall be submitted to the Director. The City shall give written notice to the applicant/permittee of the decision to deny, not renew, modify, suspend, or revoke to the address on the operative permit paperwork via first-class mail.

(B) Any applicant/permittee aggrieved by the City's denial of a business permit, non-renewal of a business permit, or the City's modifying, suspension or revocation of a business permit may challenge such decision pursuant to PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing) et seq.

SECTION 17: Section 5.04.280 of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

5.04.280 Hearing to contest modification, suspension, or revocation – Initiation of hearing.

The applicant/permittee may request a hearing by filing a request for a hearing on a City-approved form with the Office of the City Clerk, 38300 Sierra Highway, Palmdale, CA 93550 and must provide the reasons why the grounds in PMC Section 5.04.200 (Grounds for denial of business permit) or 5.04.310 (Grounds for modification, suspension, or revocation of business permit), as the case may be, have not been established within 20 calendar days from the issuance date of the notice. If the Office of the City Clerk does not receive the request in the required period, the applicant/permittee shall have waived the right to a hearing and the determination shall be deemed confirmed and final.

SECTION 18: Section 5.04.290 of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

5.04.290 Hearing to contest modification, suspension, or revocation – Notice of hearing.

If a timely and complete request for hearing is made, the City will set a hearing before the City Council or designee to determine whether grounds in PMC Section 5.04.200 (Grounds for denial of business permit) or 5.04.310 (Grounds for modification, suspension, or revocation of business permit), as the case may be, have been established to support the City's determination. Written notice of the date, time, and

location of the hearing shall be given to the applicant/permittee not less than 10 days prior to the hearing by first class mail. Service of this notice is deemed complete at time of mailing. The failure of an applicant/permittee to receive a properly addressed notice shall not invalidate the determination or any hearing, City action or proceeding conducted pursuant to these applicable sections. The hearing will be conducted within 60 days of the date a timely and complete request is received by the Office of the City Clerk unless otherwise agreed to by the applicant/permittee and the City.

SECTION 19: Section 5.04.300 of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

5.04.300 Hearing to contest modification, suspension, or revocation – Procedure for hearing.

(A) Right to witnesses and submission of documentary evidence. The applicant/permittee and the City shall have the right to bring witnesses to testify whether the grounds in PMC Section 5.04.200 (Grounds for denial of business permit) or 5.04.310 (Grounds for modification, suspension, or revocation of business permit), as the case may be, have been established and cross-examine each other's witnesses. The applicant/permittee and the City also have the right to submit in advance of the hearing—no later than 3 calendar days prior to the date set for hearing—written argument and documentary evidence on whether the grounds in PMC Section 5.04.200 (Grounds for denial of business permit) or 5.04.310 (Grounds for revocation of business permit), as the case may be, have been established. Such submission shall be made by first class mail unless otherwise agreed to by the applicant/permittee and the City, such as via email. Failure to receive said written material shall not invalidate the determination or any hearing, City action or proceeding conducted pursuant to this Section.

(B) Procedure and rules of evidence. Administrative hearings are informal, and formal rules of evidence and discovery do not apply. Oral evidence shall be taken only on oath or affirmation. The City bears the burden of proof to establish the grounds in PMC Section 5.04.200 (Grounds for denial of business permit) or 5.04.310 (Grounds for modification, suspension, or revocation of business permit), as the case may be, by a preponderance of evidence. An applicant/permittee may bring an interpreter to the hearing provided there is no expense to the City for the interpreter. The City Council may question any person who presents evidence or who testifies at any hearing. The City may issue subpoenas requiring attendance of witnesses or production of books or other documents for evidence or testimony at the hearing in accordance with PMC Section 2.08.090 (Mayor to sign subpoenas).

(C) Decision. The City Council shall issue its decision in writing promptly and notice of it must be made via first-class mail to the applicant/permittee and City. The decision shall contain a determination of the issues presented, including the evidence supporting whether the grounds in PMC Section 5.04.200 (Grounds for denial of business permit) or 5.04.310 (Grounds for modification, suspension, or revocation of business permit), as the case may be, were established and the applicable grounds in PMC Section 5.04.200

(Grounds for denial of business permit) or 5.04.310 (Grounds for modification, suspension, or revocation of business permit), as the case may be.

(D) Judicial Appeal. The determination issued by the City Council shall be deemed a final order and may be judicially reviewed pursuant to California Code of Civil Procedure Section 1094.6. There is no right to a further administrative appeal.

SECTION 20: Section 5.04.310 of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

5.04.310 Grounds for modification, suspension, or revocation of business permit.

The City may condition, modify, suspend, or revoke a business permit for any business activity required to be permitted under this Chapter as provided in PMC Section 5.04.270 (Denial, non-renewal, modification, suspension, or revocation) if the City finds that one or more of the following conditions exist:

(A) Business Activities Involving First Amendment Activities.

(1) That the business activity including the building, structure, premises, or equipment used in the conduct of the business does not comply with any health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City;

(2) That the permittee, or any employee, agent, or manager of the permittee, has violated any Federal or State statute or any ordinance or regulation of the City in the course of exercising any rights under the business permit which is being considered for revocation;

(3) That the permittee, or any employee, agent, or manager of the permittee, has knowingly made any false, misleading or fraudulent statement of material fact in the application for permit, or in any report or statement required to be filed with the Director or the City Council;

(4) That the permittee, or any employee, agent, or manager of the permittee, has published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the permitted business;

(5) That the permittee has failed or refused to notify the Director of any change in facts as required by this Chapter within 10 days after such change;

(6) That the permittee, or any employee, agent, or manager of the permittee, has violated any conditions or restrictions of the business permit;

(7) That the permittee, or any employee, agent, or manager of the permittee, has allowed, or failed to prevent, the use of the business as a base for unlawful or

criminal activity, including, but not limited to, solicitation, prostitution, or drug trafficking;

(8) That there are any fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity; or

(9) The permittee has been convicted of any violation of this code, any code adopted and incorporated by the City into this code, the California Penal Code, the Health and Safety Code, the Business and Professions Code, or any other State law.

(B) Business Activities Not Involving First Amendment Activities.

(1) That the business activity including the building, structure, premises, or equipment used in the conduct of the business does not comply with any health, zoning, fire, building and safety, or nuisance prevention laws of the State or of the City;

(2) That the permittee, or any employee, agent, or manager of the permittee, has violated any Federal or State statute or any ordinance of the City in the course of exercising any rights under the business permit which is being considered for revocation;

(3) That the permittee, or any employee, agent, or manager of the permittee, has been found to have committed a crime of moral turpitude which bears a substantial relationship to the conduct of the business activity for which the business permit is being considered for revocation;

(4) That the permittee, or any employee, agent, or manager of the permittee, has knowingly made any false, misleading or fraudulent statement of material fact in the application for permit, or in any report or statement required to be filed with the Director or the City Council;

(5) That the permittee, or any employee, agent, or manager of the permittee, has published, uttered or disseminated any false, deceptive or misleading statements or advertisements in connection with the operation of the permitted business;

(6) That the permittee has failed or refused to notify the Director of any change in facts as required by this Chapter within 10 days after such change;

(7) That the permittee, or any employee, agent, or manager of the permittee, has violated any conditions or restrictions of the business permit;

(8) That the permittee has been convicted of any violation of this code, any code adopted and incorporated by the City into this code, the California Penal Code, the

Health and Safety Code, the Business and Professions Code, or any other State law;

(9) That the permittee, or any employee, agent, or manager of the permittee, has violated any rule or regulation adopted by the City Council or any other governmental agency relating to the permittee's business;

(10) That the permittee has conducted the permitted business in a manner contrary to the public health, safety, and welfare; or

(11) That there are any fees, fines, taxes, or other amounts owing the City in connection with the business activity including the building, structure, premises, or the equipment used to conduct the business activity.

SECTION 21: Section 5.04.320, subsection (A) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(A) No refunds of any business permit fees shall be made to any permittee upon revocation or suspension of a business permit.

SECTION 22: Section 5.04.330, subsection (B) of Title 5 of the Palmdale Municipal Code is hereby amended to read as follows:

(B) Application to Modify Conditions. The City Council may modify or eliminate any conditions previously imposed on a business permit upon written request of the permittee if it finds that the reasons for the original imposition of such conditions have been cured or no longer exist. Applications to modify conditions shall be noticed and set for hearing in a manner consistent with PMC Sections 5.04.280 (Hearing to contest modification, suspension, or revocation – Notice of hearing) through 5.04.300 (Hearing to contest modification, suspension, or revocation – Procedure for hearing).

SECTION 23: Sections 5.04.340 through 5.04.370 of Title 5 of the Palmdale Municipal Code are hereby deleted in their entirety.

SECTION 24: Section 5.04.340 of Title 5 of the Palmdale Municipal Code is hereby added to read as follows:

5.04.340 Violations; Enforcement; Public Nuisance.

(A) Generally. Except as hereafter provided, any person violating any of the provisions of this Chapter shall be guilty of a misdemeanor and punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Chapter occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

(B) False Statements. Any person who knowingly makes any false statement in any application for a business permit or in any report required under this Chapter is guilty of a misdemeanor and punishable as provided for in this code.

(C) Enforcement. The City is authorized to take such actions as may be required for enforcement of this Chapter. The City may enforce any violation of this Chapter by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with or in lieu of each other remedy.

(D) Public Nuisance. Any violation of this Chapter shall constitute a public nuisance subject to all enforcement methods, abatement procedures, other remedies, and cost recovery as prescribed in PMC Chapter 8.36 (Regulation of Property Maintenance).

SECTION 25: Section 5.04.400, subsection (B) of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(B) Definitions. For the purpose of this Section, unless it is plainly evident from the context that a different meaning is intended, the following definitions shall apply:

(1) Adult-Oriented Businesses. The term “adult-oriented businesses,” as used in this Section means any one of the following:

(a) Adult Arcade. The term “adult arcade,” as used in this Section, is an establishment where, for any form of consideration, one or more still or motion picture projectors, or similar machines, for viewing by five or fewer persons each, are used to show films, computer-generated images, motion pictures, video cassettes, slides, or other photographic reproductions 30 percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(b) Adult Bookstore, Adult Novelty Store, Adult Video Store. The terms “adult bookstore”, “adult novelty store”, or “adult video store” as used in this Section, means an establishment that has 20 percent or more of its stock in books, magazines, periodicals or other printed matter, adult-oriented merchandise or of photographs, films, motion pictures, video cassettes, slides, tapes, records, DVD, CD-ROM, or other visual or audio representations or any material in digital format, are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities and/or specified anatomical areas. An adult bookstore, adult novelty store, or adult video store shall not include mail order businesses or wholesale businesses with no patrons on the premises.

(c) Adult Cabaret. The term “adult cabaret,” as used in this Section, means a nightclub, restaurant, or similar business establishment which:

(1) features live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities; and/or

(2) features persons who appear semi-nude; and/or

(3) shows films, computer-generated images, motion pictures, video cassettes, slides, DVD, CD-ROM, or other visual or audio representations or any material in digital format, or other photographic reproductions and 30 percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas.

(d) Adult Hotel/Motel. The term “adult hotel/motel,” as used in this Section, means a hotel or motel or similar business establishment offering public accommodations for any form of consideration which, (1) provides patrons with closed-circuit television transmissions, films, computer-generated images, motion pictures, video cassettes, slides, DVD, CD ROM, or other visual or audio representations or any material in digital format, or other photographic reproductions and 30 percent or more of the number of which are distinguished or characterized by an emphasis upon the depiction or description of specified sexual activities or specified anatomical areas; and (2) rents, leases, or lets any room for less than a 10 hour period, or rents, leases, or lets any single room more than twice in a 24-hour period.

(e) Adult Motion Picture Theater. The term “adult motion picture theater,” as used in this Section means any business, other than a hotel or motel which regularly provides closed-circuit viewing to each individual room as a secondary service to its hotel or motel customers, with the capacity for five or more persons where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar photographic reproductions in which the predominant character and theme is distinguished or characterized by its emphasis on matters depicting or relating to "specified sexual activities," "specified anatomical areas" or men and/or women in a "state of nudity" or "state of partial nudity" as defined in this Section, are regularly shown. This includes, without limitation, showing any such slides, motion pictures or videos by means of any video tape system which has a display, viewer, screen, or a television set. For purposes of this Chapter, motion pictures receiving up to an "NC17" rating from a generally recognized movie rating organization shall not be deemed to be included in the definition of an adult motion picture theater.

(f) Adult Live Entertainment Theater. The term “adult live entertainment theater,” as used in this Section means any place, building, enclosure, or structure, partially or entirely used for "live adult entertainment," as defined in this Section, performances or presentations characterized by an emphasis on depicting, exposing, displaying, or describing or relating to "specified sexual activities," "specified anatomical areas" or men and/or women in a "state of nudity" or "state of partial nudity" for observation by patrons or customers therein. "Live adult entertainment" means any physical human body activity, whether performed or engaged in alone or with other persons, including but not limited to singing, walking, speaking, dancing, acting, posing, simulating, wrestling, or pantomiming, in which the performer(s) expose to public view without opaque covering "specified anatomical areas" or appear in a "state of nudity" or a "state of partial nudity" for any form of consideration.

(g) Modeling Studio. The term “modeling studio,” as used in this Section, means a business which provides, for pecuniary compensation, monetary or other consideration, hire or reward, or on a voluntary basis, figure models who, for the purposes of sexual stimulation of patrons, appear either nude or semi-nude or display “specified anatomical areas” to be observed, sketched, photographed, painted, sculpted, or otherwise depicted by persons on the premises. “Modeling studio” does not include schools maintained pursuant to standards set by the State Board of Education. “Modeling studio” further does not include a studio or similar facility owned, operated, or maintained by an individual artist or group of artists, and which does not provide, allow, or make available “specified sexual activities”.

(2) Adult-Oriented Business Operator. The term “adult-oriented business operator” (hereinafter “operator”), as used in this Section, means a person who supervises, manages, inspects, directs, organizes, controls or in any other way is responsible for or in charge of the premises of an adult-oriented business or the conduct or activities occurring on the premises thereof.

(3) Adult-Oriented Merchandise. The term “adult-oriented merchandise,” as used in the Section, means sexually oriented implements or paraphernalia, including, but not limited to dildos; auto sucks; adult-oriented vibrators; edible underwear; benwa balls; inflatable orifices; anatomical balloons with orifices; simulated vaginas, and similar adult-oriented devices which are designed or marketed primarily for the stimulation of human genital organs or sadomasochistic activity.

(4) Applicant. The term “applicant,” as used in this Section, means a person who is required to file an application for a permit under this Section, including an individual owner, managing partner, officer of a corporation, or any other operator, manager, employee, or agent of an adult-oriented business.

(5) Bar. The term “bar,” as used in this Section, means an establishment in which the primary use is the sale of alcoholic beverages for consumption on-site which requires an alcoholic beverage control license (Type 40, 41, 42, 48 or 61) which does not meet the definition of a bona fide restaurant, as defined in Chapter 17.16 (Definitions) of the Palmdale zoning ordinance.

(6) Distinguished or Characterized by an Emphasis Upon. The term “distinguished or characterized by an emphasis upon,” as used in this Section, means and refers to the dominant or essential theme of the object described by such phrase. For instance, when the phrase refers to films “which are distinguished or characterized by an emphasis upon” the depiction or description of specified sexual activities or specified anatomical areas, the films so described are those whose dominant or predominant character and theme are the depiction of the enumerated sexual activities or anatomical areas. See Pringle v. City of Covina, 115 Cal. App. 3 151 (1981).

(7) Entertainer. The term “entertainer,” as used in this Section, means a person who, for any form of consideration, or on a voluntary basis, performs any act, play, review, pantomime, scene, movie, song, dance act, song and dance act, exhibition, athletic competition, sporting event, dancing for compensation, or poetry recitation, performed for the benefit of the public at an adult-oriented business. Such persons shall constitute “entertainers” regardless of their legal relationship (e.g., employee, owner, independent contractor, or volunteer) with the adult-oriented business.

(8) Establishment of an Adult-Oriented Business. To “establish” an adult-oriented business, as used in this Section, means and includes, any of the following:

(a) The opening or commencement of any Adult-Oriented Business as a new business;

(b) The conversion of an existing business, whether or not an Adult-Oriented Business, to any Adult-Oriented Business defined herein;

(c) The addition of any of the Adult-Oriented Businesses defined herein to any other existing Adult-Oriented Business; or,

(d) The relocation of any such Adult-Oriented Business.

(9) Figure Model. The term “figure model,” as used in this Section, means any person who, for pecuniary compensation, consideration, hire or reward, or on a voluntary or otherwise unpaid basis, poses or appears in an adult modeling studio either nude or semi-nude, displays “specified anatomical areas,” or performs “specified sexual activities” to be observed, sketched, filmed, photographed, videotaped, electronically or digitally recorded, painted, drawn, sculpted, or otherwise depicted by persons on the premises, cable-casted, web-casted,

broadcasted, transmitted to persons or locations off-site, or otherwise provided for sale.

(10) Nudity or a State of Nudity. The term “Nudity or a state of nudity,” as used in this Section, means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of the covered male genitals in a discernibly turgid state.

(11) Operate an Adult-Oriented Business. The term “operate an adult-oriented business,” as used in this Section, means the supervising, managing, inspecting, directing, organizing, controlling, or in any way being responsible for or in charge of the conduct of activities of an adult-oriented business or activities within an adult-oriented business.

(12) Owner. The term “owner,” as used in this Section, means the following: (i) the sole proprietor of an adult-oriented business; (ii) any general partner of a partnership which owns and operates an adult-oriented business; (iii) the owner of a controlling interest in a corporation which owns and operates an adult-oriented business; and (iv) the person designated by the officers of a corporation to be the permit holder for an adult-oriented business owned and operated by the corporation.

(13) Park. The term “Park,” as used in this Section, means a park, trail, recreation center, sports complex, golf course, or athletic field within the City which is under the control, operation or management of the City or other public agency.

(14) Permittee. The term “Permittee,” as used in this Section, means the person to whom an adult-oriented business permit is issued.

(15) Person. The term “Person,” as used in this Section, means any individual, partnership, copartnership, firm, association, joint stock company, corporation, or combination of the above in whatever form or character.

(16) Planning Director. The term “Planning Director,” as used in this Section, means the Director of Planning of the City, or his or her designee.

(17) Regularly Features. The term “regularly features” with respect to an adult theater or adult cabaret, as used in this Section, means a regular and substantial course of conduct. The fact that live performances which are distinguished or characterized by an emphasis upon the display of specified anatomical areas or specified sexual activities occurs on two or more occasions within a 30-day period; three or more occasions within a 60-day period; or four or more occasions within a 180-day period, shall to the extent permitted by law, be deemed to be a regular and substantial course of conduct.

(18) Religious Institution, Church. The term “religious institution” or “Church,” as used in this Section, is a structure which is used primarily for religious worship and related religious activities.

(19) School. The term “school,” as used in this Section, is any child or day care facility, or an institution of learning for minors, whether public or private, offering instruction in those courses of study required by the California Education Code and maintained pursuant to standards set by the State Board of Education. This definition includes a nursery school, kindergarten, elementary school, middle or junior high school, senior high school, or any special institution of education, but it does not include a vocational or professional institution of higher education, including a community or junior college, college, or university.

(20) Semi-Nude. The term “semi-nude,” as used in this Section, means a state of dress in which clothing covers no more than the genitals, pubic region, buttocks, areola of the female breast, as well as portions of the body covered by supporting straps or devices.

(21) Specified Anatomical Areas. The term “specified anatomical areas,” as used in this Section, means, and includes any of the following:

(a) Less than completely and opaquely covered human: i. Genitals or pubic region; ii. Buttocks; and, iii. Female breast below a point immediately above the top of the areola;

(b) Human male genitals in a discernibly turgid state, even if completely and opaquely covered; and,

(c) Any device, costume, or covering that simulates any of the body parts included in Subsection (B)(20)(a) or (b) of this Section.

(22) Specified Sexual Activities. The term “specified sexual activities,” as used in this Section, shall mean, and includes any of the following, whether performed directly or indirectly through clothing or other covering:

(a) The fondling or other erotic touching of human genitals, pubic region, buttocks, anus, or female breast;

(b) Sex acts, actual or simulated, including intercourse, oral copulation, or sodomy;

(c) Masturbation, actual or simulated; or,

(d) Excretory functions as part of or in connection with any of the other activities described in Subsection (21)(a) through (c) of this Section.

(23) Substantially Enlarged. The term “substantially enlarged,” as used in this Section, means the increase in floor area occupied by an Adult-Oriented Business by more than 10 percent of its floor area as it existed at the time an Adult-Oriented Regulatory Permit was issued for the business.

SECTION 26: Section 5.04.400, subsection (F)(5) of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(5) The City Council shall grant the application and issue the adult-oriented business regulatory permit upon findings that the proposed business meets the locational criteria of Section 17.92.010.C.1 (Adult-oriented businesses development standards) of the City zoning ordinance, and that the applicant has met all of the development and performance standards and requirements of Subsection (I) of this Section, unless the application is denied for one or more of the reasons set forth in Subsection (G) of this Section. The permittee shall post the permit conspicuously in the adult-oriented business premises.

SECTION 27: Section 5.04.400, subsection (G)(1)(c) of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(c) The adult-oriented business does not comply with the zoning ordinance locational standards, Section 17.92.010.C.1 (Adult-oriented businesses development standards);

SECTION 28: Section 5.04.400, subsection (I)(8) of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(8) Reserved.

SECTION 29: Section 5.04.400, subsection (W) of Title 5 of the Palmdale Municipal Code is hereby amended to read in its entirety as follows:

(W) Existing Adult-Oriented Businesses.

The provisions of Title 17, Section 17.92.010(F) (Existing adult-oriented businesses), apply as it relates to the City’s regulations as to non-conforming uses. Any Existing Adult-Oriented Businesses not operating in compliance with Chapter 17.92, including Section 17.92.010(F) (Existing adult-oriented businesses), are not lawful businesses and are subject to the enforcement provisions of this Section 5.04.400 and any other applicable enforcement laws of the City.

SECTION 30: Sections 5.04.410 through 5.04.680 of Title 5 of the Palmdale Municipal Code are hereby repealed and deleted in its entirety; however such repeal shall not affect or excuse any violation of said Section that occurred prior to the effective date of this Ordinance, nor shall such repeal impede, deter, impact, or negate any

administrative, civil, or criminal enforcement of any violation of said Section that occurred prior to the effective date of this Ordinance.

SECTION 31: Section 5.04.410 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.410 Entertainment.

(A) Definitions. For purposes of this Section, the following words shall have the following meanings:

(1) "Entertainment" means and includes, but is not limited to, any act, play, review, pantomime, scene, movie, song, dance act, song and dance act, exhibition, dancing for compensation, or poetry recitation, performed for the benefit of the public, either at a private or public establishment. "Entertainment" as used herein does not include mechanical music alone.

(2) "Adult-oriented entertainment" means any entertainment in an adult arcade, adult cabaret, adult motion picture theater, adult theater, or modeling studio, as those terms are defined in PMC Section 5.04.400(B)(1) (Adult-oriented businesses).

(B) The requirements of this Section shall be inapplicable to adult-oriented entertainment which shall be subject to the permit and regulatory requirements of PMC Section 5.04.400 (Adult-oriented business).

(C) Application Information. In addition to the information required by PMC Section 5.04.140 (Business permits – Contents), the application for an entertainment permit shall include the following information:

(1) The names and addresses of the persons who have authority or control over the location for which the permit is requested, and a brief statement of the nature and extent of such authority or control;

(2) The name and address of the owner of the premises upon which the permitted activity is to be conducted, if the applicant is leasing such premises from the owner;

(3) Whether the entertainment to be provided is adult-oriented entertainment; and

(4) The duration of the entertainment permit requested by the applicant. The Director is specifically authorized to issue a one-day entertainment permit, subject to the permittee's compliance with all applicable provisions of this Section.

(D) Operating Requirements.

(1) Hours of Operation. Entertainment, excluding adult-oriented entertainment, may be provided at an establishment permitted to provide entertainment in any location for which it is permitted except between the hours of 2:00 a.m. and 7:00 a.m. unless the City Council specifically authorizes otherwise upon a showing of good cause and that authorization is expressly set forth on the business permit for the permitted activity.

(2) Exits. No permit may be issued pursuant to this Section to any applicant if the location for which the permitted activity is being sought does not maintain unlocked doors with free and easy access sufficient to assure adequate ingress and egress in the event of an emergency.

(3) Lighting.

(a) Every business establishment at which permitted entertainment, excluding adult-oriented entertainment, may be provided shall be illuminated throughout at an intensity of at least three foot-candles during all hours of operation except while a floor show is in progress.

(b) Every business establishment at which permitted entertainment, excluding adult-oriented entertainment, may be provided shall, if it owns or operates an adjacent parking lot, provide illumination of at least two foot-candles throughout such parking lot.

(E) Prohibitions – Revocation.

(1) Except for entertainment activities or performances conducted in an adult business operating in compliance with PMC provisions regulating such activities and performances, any entertainment activities or performances which present an entertainer in a semi-nude state or reveal specified anatomical areas, or include performances which either:

(a) are distinguished or characterized by an emphasis on the display of specified anatomical areas or specified sexual activities; and/or

(b) feature entertainers who appear semi-nude, as defined in the City adult business ordinances in the PMC, are expressly prohibited.

(2) Any violation of this Section shall result in a denial, revocation, or suspension of an applicable entertainment permit following the procedures set forth in PMC Chapter 5.04 (Business Regulation) and all applicable consequences of such denial, revocation, or suspension apply as provided in PMC Section 5.04.210 (Effect of business permit denial) and PMC Section 5.04.320 (Effect of revocation or suspension) and related Sections of this code.

(3) The City may enforce any violation of this Section by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with or in lieu of each other remedy.

SECTION 32: Section 5.04.420 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.420 Game arcades.

(A) Definitions. For purposes of this Section, the following words shall have the following meanings:

(1) “Coin-operated game” means any game or machine, operated by the insertion of money, coin, or other object, which is predominately a game of skill or amusement. Such games include, but are not limited to, coin-operated pool tables, pinball machines, and video games.

(2) “Card-operated game” means any game or machine, operated by the use of a card system in which consumers purchase credits that are deposited into a card and that card is used in conjunction with a card reader on the game or machine, which is predominately a game of skill or amusement. Such games include, but are not limited to, coin-operated pool tables, pinball machines, and video games.

(3) “Game arcade” means any place open to the public where five or more coin-operated games or card-operated games, or a mixture of both equal to or greater than five such games, are kept or maintained for use and operation by the public.

(B) General Requirements.

(1) Manager Required. A game arcade permittee shall provide a manager to oversee the operation and orderly use of the games in the game arcade. Such manager shall be present in the game arcade during all hours that it remains open.

(2) Visibility of Interior.

(a) The permittee shall maintain the interior premises of the game arcade in a manner such that it is clearly visible from the entrance to the establishment in which the game arcade is located.

(b) Notwithstanding Subsection (B)(2)(a) of this Section, if the game arcade is located in a physically segregated portion of the premises, the permittee shall maintain its interior in a manner such that it is clearly visible from the entrance into the game arcade.

SECTION 33: Section 5.04.430 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.430 Gun dealers.

(A) Definitions. For purposes of this Section, the following term shall have the following meaning:

"Gun dealer" means any person who sells or otherwise transfers to members of the public any pistol, revolver, or other firearm, new or used, capable of being concealed upon the person.

(B) Application Information.

(1) Permit Form. Any permit issued to operate a gun dealer shall be on a form provided by the State Attorney General.

(2) Application Form. Notwithstanding any other provision of this Chapter, every applicant for a gun dealer permit shall fill out the application form provided by the State Attorney General.

(C) Permit Subject to Conditions. All permits issued under this Section are subject to the following conditions, breach of any of which subjects the business permit to forfeiture:

(1) The business activity shall be carried out only in the building designated in the permit.

(2) The permit, or a copy thereof, certified by the issuing authority, shall be posted in a conspicuous manner on the premises in which the business is being conducted.

(3) No pistol, revolver, or other firearm capable of being concealed upon the person shall be delivered:

(a) Within 10 days of the application for the purchase, or, after notice by the Department of Justice ("Department") pursuant to subdivision (c) of Section 12076 of the State Penal Code, within 10 days of the submission to the Department of corrected copies of the register, or within 10 days of the submission to the Department of any fee required pursuant to subdivision (d) of Section 12076 of the State Penal Code, whichever is later:

(i) Unless unloaded and securely wrapped or unloaded and in a locked container;

(ii) Unless the purchaser or transferee either is personally known to the dealer or presents clear evidence of his or her identity to the dealer;

(iii) Whenever the dealer is notified by the Department of Justice that a purchaser is in a prohibited class described in Section 12021 or 12021.1 of the Penal Code or Section 8100 or 8103 of the Welfare and Institutions Code.

(b) No pistol or revolver, or imitation thereof, or placard advertising the sale or other transfer thereof, shall be displayed in any part of the premises where it can readily be seen from the outside.

(c) The permittee shall agree to and shall act properly and promptly in processing transfers of pistols, revolvers, and other firearms capable of being concealed upon the person.

(d) The permittee shall comply with Sections 12073 and 12077 and subdivision (b) of Section 12072 of the State Penal Code.

SECTION 34: Section 5.04.440 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.440 Massage establishments and massage technicians.

(A) Definitions. For purposes of this Section, the following words and phrases have the following meanings:

(1) “Certificate” means a certificate issued by a recognized school of massage (as defined in this Subsection (A)), certifying completion of the required curriculum in massage training.

(2) “Corporate massage” means any massage of the neck, arms, shoulders, and back area above the waist where the client is fully clothed and in a sitting position, where the massage is: (i) administered by a licensed and permitted massage technician; (ii) approved as an accessory use in a permitted location; and (iii) where the massage is limited to the upper body and conducted without the use of supplementary aids, such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, or other similar preparations commonly used in this practice.

(3) “Massage” means any method of treating the external parts of the body for remedial, health, or hygienic purposes by means of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating or stimulating the external parts of the body with the hands or other parts of the body, with or without the aid of any mechanical or electrical apparatus or appliances, or with or without

supplementary aids such as rubbing alcohol, liniments, antiseptics, oils, powders, creams, lotions, ointments, other similar preparations commonly used in this practice, or any other system for treatment or manipulation of the human body with or without any form of bath, such as Turkish, Russian, Swedish, Japanese, Shiatsu, acupressure, vapor, shower, electric tub, sponge, mineral, fomentation or any other type of bath, including herbal body wraps.

(4) “Massage establishment” means any establishment having a fixed place of business where any person provides or attempts to provide, engages in, conducts, carries on, or permits to be engaged in, conducted, or carried on, any business of providing massages, as defined in this Subsection (A), or health treatments involving massage as the principal function, and where more than one massage table or chair will be utilized, or more than one licensed and permitted massage technician will be on duty at any one time.

(5) “Massage technician” includes “masseur,” “masseuse,” “massage practitioner” and “massage therapist,” and means any person who administers to any other person, for any form of consideration or gratuity, a massage as defined in this Section.

(6) “Qualified massage association” means any association that meets all of the following criteria:

(a) The association is a nonprofit organization; and

(b) The association has established, as minimum education requirements for membership, the completion of a minimum of 500 hours of education and training or its equivalent, in anatomy, physiology, hygiene, sanitation, massage therapy and practice, ethics of massage practice, first aid and CPR, from a recognized school of massage and has a written and practical testing of equivalency administered and overseen by its admission committee or by a national certification program endorsed by the National Commission for Certifying Agencies (NCCA), which is required in order to obtain membership; and

(c) The association offers and requires participation and completion by its members of a minimum number of hours of specified continuing education as a condition of continuing membership; and

(d) The association is open to members of the general public who meet the requirements for membership; and

(e) The association has established rules of ethics and has enforcement procedures for the suspension or revocation of membership for violation of those rules.

(7) “Recognized school of massage” means any school or institution of learning that teaches the theory, ethics, practice, profession, and work of massage, which school or institution complies with California Education Code Sections 94310 and 94311, or complies with equivalent regulations from other jurisdictions, and which requires a resident course of study before the student is furnished with a diploma or certificate of graduation. No school offering a correspondence course and not requiring actual attendance will be deemed to be a recognized school of massage. A school of massage may not provide massage services to any member of the general public for any form of compensation, gratuity, or consideration.

(8) “Sheriff” means the Los Angeles County Sheriff or his or her designee.

(B) Exemptions. This Section shall not apply to the following:

(1) The provisions of this Section that require a massage technician permit are not applicable to, and may not be construed as applying to, any of the following persons:

(a) Physicians, surgeons, chiropractors, osteopaths, physical therapists, or any registered or licensed vocational nurse working on the premises of and under the direct supervision of a physician, surgeon, chiropractor, osteopath, or physical therapist duly licensed to practice that profession in the State of California. Practical nurses, or other persons not having a massage technician permit whether or not employed by the physician, surgeon, chiropractor, osteopath, or physical therapist, may not administer or practice massage;

(b) State-licensed acupuncturists;

(c) Registered nurses and licensed vocational nurses;

(d) Coaches or trainers of amateur, semiprofessional, or professional athletes;

(e) Barbers and beauticians, duly licensed under the laws of the State of California, while engaging in their professions; provided, however, that this exception applies solely to the massaging of the neck, scalp, and hair of the customer or client;

(f) State-certified massage technicians pursuant to Division 2, Chapter 10.5, Section 4600 et seq. of the Business and Professions Code who are practicing massage consistent with the requirements therein.

(2) The provisions of this Section that require a massage establishment permit are not applicable to, and may not be construed as applying to, any of the following:

(a) Hospitals, nursing homes, sanitariums, or other health care facilities licensed by the State of California;

(b) Hospices, including those located in residences, that are licensed by the County of Los Angeles;

(c) The athletic departments of accredited high schools, junior colleges, and colleges or universities whose coaches and trainers are acting within the scope of their employment;

(d) Health fairs or similar special events that are reviewed and approved by the Director;

(e) A health club, fitness center, gymnasium, hotel with over 100 rooms, a suntan parlor, a barber or beauty shop where massage is provided as an approved accessory use to the primary business;

(f) Physician's, surgeon's, chiropractor's, osteopath's, or physical therapist's medical practice as an approved accessory to the primary business;

(g) Massage establishments or businesses that are sole proprietorships, where the sole proprietor is certified pursuant to Division 2, Chapter 10.5, Section 4600 et seq. of the Business and Professions Code, and to massage establishments or businesses that employ or use only persons certified to provide massage services pursuant to Division 2, Chapter 10.5, Section 4600 et seq. of the Business and Professions Code who are practicing massage consistent with the requirements therein.

(C) Permit Application – Massage Establishments. It is unlawful for any person, to engage in, conduct, or carry on, or to permit to be engaged in, conducted or carried on, in or upon any premises within the City, the operation of a massage establishment as defined in this Section without first having obtained a permit issued by the City pursuant to the provisions of this Section. A permit is valid as provided for in PMC Section 5.04.230 (Business permit – Operative), unless earlier revoked or suspended. The required permit is in addition to any business license required by this code. The application for a permit does not authorize operation of a massage establishment unless and until the permit has been issued. In addition to the information required by PMC Section 5.04.140 (Business permits – Contents), all applications for a permit to conduct a massage establishment business must contain the following information, as applicable:

(1) The nature of the ownership of the business, i.e., whether by an individual, partnership, corporation, or otherwise. If the applicant is a corporation, the name of the corporation must be set forth exactly as shown in its articles of incorporation, together with the State and date of incorporation and the names and residence addresses and telephone numbers, and business addresses and telephone

numbers, of each of its current officers and directors, and of each stockholder holding more than five percent of the stock of that corporation. If the applicant is a partnership, the application must set forth the name, residence and business addresses, and telephone numbers, of each of the partners, including limited partners. If it is a limited partnership, it shall furnish a copy of its certificate of limited partnership as filed with the Secretary of the State. If one or more of the partners is a corporation, the provisions of this Subsection pertaining to corporations is applicable. The applicant corporation or partnership must designate one of its officers or general partners to act as its responsible managing officer. That designated person must complete and sign all application forms required for an individual applicant under this Subsection, but only one application fee will be charged;

(2) The precise name or names under which the business of the massage establishment is to be conducted;

(3) The business address and all telephone numbers of the massage establishment;

(4) A list of the names, residence addresses, and telephone numbers of all proposed massage technicians and employees to be employed by the massage establishment, and the name, residence address, and telephone number of the manager or managing employee proposed to be principally in charge of the operation of the massage establishment;

(5) A description of any other business operated on the same premises, or within the City or the State of California, that is owned or operated by the applicant;

(6) The present address, telephone number, and the previous addresses, if any, of the applicant for the last 10 years immediately preceding the date of the permit application and the dates of each address;

(7) Written proof of the applicant's or responsible managing officer's age, height, weight, color of hair and eyes, sex, and date of birth;

(8) Two identification photographs at least two inches by two inches taken in the last six months and fingerprints of the applicant or the responsible managing officer;

(9) The employment history and experience of the applicant in the massage or similar business for the last 10 years immediately preceding the date of application including, but not limited to, the massage or similar business history and experience in this City or any other city or state;

(10) Whether the applicant has had any other permit or license issued by an agency, board, city, county, territory, or state; the date of issuance of that permit

or license, and whether the permit or license was denied, revoked or suspended; or, if a vocational or professional license or permit was denied, revoked or suspended, the reason therefor;

(11) All criminal convictions, including ordinance violations and pleas of nolo contendere, within the last 10 years, including those dismissed or expunged pursuant to Penal Code Section 1203.4, but excluding traffic violations, and a statement as to the date and place of each such conviction and reasons therefor;

(12) The name and address of the owner or lessor of the real property upon which the business is to be conducted. If the applicant is not the owner of the property, the application must be accompanied by a copy of the lease and a notarized acknowledgment from the owner of the property that a massage establishment will be located on that property;

(13) Proof of matriculation from a “recognized school of massage,” as defined in Subsection (A) of this Section. If the applicant is a corporation or partnership, then this proof must be supplied for the member of the corporation or partnership who will actively participate in the management of the massage establishment, and who is designated as the responsible managing officer;

(14) Proof of membership in a “qualified massage association,” as defined in Subsection (A) of this Section;

(15) A floor plan of the massage establishment indicating all proposed tenant improvements, including the location of each room, massage table and/or chair dedicated to providing massage services. No alterations to the approved floor plan will be permitted unless and until reviewed and approved by the appropriate City departments;

(16) Authorization for the City, its agents and employees, to seek verification of all information contained in the application;

(17) Such other information as may be deemed necessary by the Director or the Sheriff’s Department;

(18) A statement in writing, signed and dated by the applicant, declaring under penalty of perjury that all information contained in the application is true and correct and that all provisions of this Section will be adhered to.

(D) Massage Establishment – Permit Issuance and Denial. Upon receipt of a written application, the Director will have 60 days to conduct an investigation to ascertain whether the permit should be issued. The Director must forward a recommendation to the City Council, which has the authority to issue the permit unless it makes any of the following findings:

(1) The applicant, if an individual, or any officers, directors, or shareholders of the corporation, if the applicant is a corporation, or any of the partners including limited partners, if the applicant is a partnership, or any person proposed to be engaged or employed in the massage establishment, has within 10 years preceding the date of the application:

(a) Been convicted of a violation of California Penal Code Section 266(h), 266(i), 314, 315, 316, 318, or Subsection (a) or (b) of Penal Code Section 647, or any other provisions of law that require a person to register under the provisions of Penal Code Section 290, or where the prosecution accepted a plea of guilty or nolo contendere to a charge of violating Penal Code Section 415, or any lesser included offense, in satisfaction of or as a substitute for any of the previously listed crimes;

(b) Been convicted of a violation of Health and Safety Code Section 11550, or any offense involving the illegal sale, distribution, or possession of a controlled substance specified in Health and Safety Code Section 11054, 11055, 11056, 11057 or 11058;

(c) Been convicted of an offense in any other state, which offense is the equivalent of any of the above referenced offenses;

(d) Engaged in conduct that would constitute grounds for suspension or revocation under this Section;

(e) Been subjected to a permanent injunction against the conduct or maintenance of a nuisance pursuant to Sections 11225 through 11235 of the California Penal Code, or similar provisions of law of a jurisdiction outside the S of California; and

(f) Been convicted of an act involving dishonesty, fraud, deceit, or moral turpitude, or an act of violence, which act or acts are related to the qualifications, functions, or duties of the applicant;

(2) The applicant had a massage operator or massage technician permit or other similar license or permit denied or revoked for cause by a licensing authority or by any city, county, or state within 10 years prior to the date of application;

(3) The applicant has made false, misleading, or fraudulent statement(s) or omission(s) of fact to the City in the permit application process;

(4) The application does not contain all of the information required by Subsection (C) of this Section;

(5) The massage establishment, as proposed by the applicant, would not comply with all applicable laws, including but not limited to health, zoning, fire, and safety requirements and standards;

(6) The applicant has not satisfied the requirements of this Section within the time specified. If the application is denied for failure to comply with Subsection (D)(3) or (4) of this Section, the applicant may not reapply for a period of 12 months from the date the application was denied.

(E) Massage Establishment – General Provisions. All permittees must comply with the following conditions and any other conditions specified by the City Council in connection with the issuance of a permit:

(1) Prior to occupancy of the massage establishment, a final inspection by the appropriate City departments and agencies will be conducted to verify compliance with the approved plans and with all applicable provisions of this Section. On-going operation of the massage establishment must be in conformance with this code and the zoning ordinance at all times.

(2) No massage technician, employee, or manager may massage the genital or anal area of any patron, or the breasts of any female patron, nor may any permittee or manager of a massage establishment allow such massage. No massage technician, operator, or manager, while performing any task or service associated with the business of the massage establishment, may be present in any room with another person unless that person’s genitals, anus, or, in the case of a female, her breasts, are completely covered by a fully opaque, nontransparent material.

(3) No permittee may conduct business under any name not specified in the permit.

(4) All massage establishments must have a manager on the premises at all times that the massage establishment is open. The permittee of the massage establishment must file a statement with the Director designating the person or persons who are authorized to act as the manager and to ensure compliance with this Section, as well as being the person to whom notices required by this Chapter may be delivered to for receipt by the permittee.

(5) No massage establishment may be or remain open for business without having at least one massage technician on duty on the premises who holds a current valid permit.

(6) The permittee and its designated manager(s) must ensure that the permit for each on-duty massage technician is conspicuously displayed in a location visible to the patrons, and that each massage technician is wearing the photo identification required by Subsection (J)(2) of this Section.

(7) No permittee may employ any person as a massage technician who does not have a valid massage technician permit issued pursuant to this Section. Every permittee must report to the Director any change of employees, whether by way of new or renewed employment, discharge, or termination. The report must set forth the name of the employee and the date of hire or termination. The report must be made within five days of the hire or termination. The permittee must deliver to the Director the permit and photo identification card of any massage technician no longer employed by the permittee.

(8) All persons employed in the massage establishment must be fully clothed at all times. Clothing must be of a fully opaque, nontransparent material and provide complete covering from mid-thigh to three inches below the collar bone.

(9) Each permittee must conspicuously display the current massage establishment permit in a location within the massage establishment that is visible to patrons.

(10) The permittee must comply with all provisions of this Section and all applicable provisions of this code.

(F) Massage Establishment – Facility and Operating Requirements.

(1) Facilities.

(a) Structure. Massage must be conducted in a structure that is located in a zone district where that use is authorized.

(b) Services List. Each permittee must post and maintain in a conspicuous location within the premises, a list, in English, of services available and the cost of those services. No permittee, or responsible managing officer, may permit, and no massage technician may offer or perform, any services other than those posted.

(c) Lighting. Each permittee must provide, in each room where massage is conducted, sufficient lighting and ventilation that complies with the Uniform Building Code. The lighting in each massage room must be provided by at least one 60-watt white light bulb and must be activated at all times while a patron is in that room or enclosure. No strobe flashing lights may be used. No colored lights may be used nor may any coverings be used which change the color of the primary light source.

(d) Bath Facilities. A minimum of one toilet and one separate wash basin must be provided for patrons in each massage establishment. The basin must provide soap or detergent and hot running water at all times and must be located within close proximity to the area devoted to the conduct of massage services. A permanently installed soap dispenser, filled with soap, and a single-service towel dispenser must be provided at the restroom hand

wash sink. In addition, a separate wash basin must be provided for the use of employees. No bar soap may be used. A trash receptacle must be provided in each toilet room. Showers may be provided at the permittee's option.

(e) Linen Storage. Closed cabinets must be provided and used for storage of clean linens, and approved receptacles must be provided for the deposit of soiled linen. All cabinets and receptacles must be clearly labeled.

(f) Separate Rooms. If male and female patrons are to be treated simultaneously at the same massage establishment, then separate massage rooms must be provided for male and female patrons.

(g) Maintenance. All facilities of the massage establishment must be in good repair and must be thoroughly cleaned and sanitized each day that the business is in operation. The surfaces of all walls, floors, and ceilings of each restroom and shower area, if provided, must be made smooth so as to be easily cleaned. No carpeting may be installed in any of these areas.

(h) Massage Table. A massage table must be provided in each massage room dedicated for massage services and the massage must be performed on the massage table.

The tables must be a minimum height of 18 inches. Two-inch-thick foam pads, with a maximum width of four feet, may be used on a massage table and must be covered with durable, washable plastic or other waterproof material. Beds, floor mattresses, and waterbeds may not be used in the administration of a massage.

(2) Operating Requirements.

(a) Same Use. No massage establishment may operate as a school of massage, or use the same facilities that are used by a school of massage.

(b) Equipment. Each permittee must provide and maintain adequate equipment for disinfecting and sterilizing any instruments used in massage. Instruments used in performing massage may not be used on more than one patron unless they have been sterilized using approved sterilizing methods.

(c) Inspections. The permittee must consent to the inspection of the massage establishment by the City's Division of Building and Safety, Code Enforcement Department, Fire Department, Sheriff's Department, and the County Health Department for the purpose of determining that the provisions of this Section, and all other applicable laws or regulations, are met. Routine inspections may not exceed more than two each year, unless

violations are found or complaints are received. During the inspection, verification of the identity of all on-duty massage technicians may occur. Inspections of the massage establishment may be conducted at any time the business is in operation or at any other time that employees are on the premises.

(d) Linen. Common use of towels or linen may not be permitted. Towels and linen must be laundered or changed promptly after each use. Separate enclosed cabinets with doors or covers must be provided for the storage of clean and soiled linen and must be plainly marked “Clean Linen” and “Soiled Linen.”

(e) Living Quarters Prohibited. No person may be permitted to reside within any massage establishment at any time. No kitchen facilities may be provided within any massage establishment, and no food of any kind may be prepared for sale or sold in the massage establishment. The sale of prepackaged herbs and lotions is permitted; provided, that no more than 10 percent of the floor area is dedicated for that use.

(f) Alcoholic Beverages/Drugs. No person may enter, or remain in, any part of a massage establishment while in possession of, consuming, using, or under the influence of, any alcoholic beverage or controlled substance. The permittee and manager are responsible for ensuring that no such person enters or remains upon the premises of the massage establishment. Service or possession of alcoholic beverages by the establishment or any other person on the premises of the establishment, including the area beyond the reception area, is prohibited.

(g) Recordings. No electrical, mechanical, or other device may be used by the permittee or any employee of a massage establishment for audio or video recording, or for monitoring the conduct of a massage or any conversation or other sounds in the massage rooms.

(h) Employee Records. The permittee or manager of the massage establishment must keep a complete and current list of the names and residence addresses of all massage technicians and employees of the massage establishment, and the name and residence addresses of the manager or managing employee who is designated to be primarily in charge of the operation of the massage establishment. This roster must be kept on the premises for immediate inspection by officials charged with enforcement of this Section.

(i) Coverings. Each massage establishment must provide to all patrons clean, sanitary, and opaque nontransparent coverings capable of covering the patron’s specified anatomical areas, including the genital area, anus,

and female breasts. No common use of these coverings is permitted, and reuse of these coverings is prohibited unless properly cleaned.

(j) Client Records. Every massage establishment must require all patrons to print and sign a register book in a legible manner. Records must be kept of the dates and hours of each massage treatment or service, the name and address of the patron, the name of the massage technician administering that service, and a description of the massage treatment or service rendered. A short medical history form must be completed by the permittee to determine whether the patron has any physical condition which may be adversely affected by the massage. These records must be prepared prior to administering any massage or treatment and must be retained on the premises for a period of 24 months after the treatment or service. These records must be open to immediate inspection only by officials charged with enforcement of this Section and for no other purpose. Any unauthorized disclosure or use of that information by any officer or employee of the City constitutes a misdemeanor.

(k) Hours of Operation. No person may operate a massage establishment or administer a massage in any massage establishment, or as an accessory use, between the hours of 10:00 p.m. and 7:00 a.m. A massage that is commenced anytime before 10:00 p.m. must nevertheless terminate at 10:00 p.m. All customers, patrons, and visitors must be excluded from the massage establishment or the massage area between 10:00 p.m. and 7:00 a.m.

(l) Advertising. No massage establishment or other business that is issued a permit under this Section may place, publish, distribute, or cause to be placed, published or distributed, any advertising matter that depicts any portion of the human body that would reasonably suggest to prospective clients or customers that any service is available other than those services described in this section, nor may any massage establishment employ language in the text of that advertising that would reasonably suggest to a prospective patron that any service is available other than those services authorized by this section.

(m) Persons with Disabilities. All massage establishments must comply with all State and Federal laws and regulations relating to persons with disabilities.

(n) Doors. All front, reception, hallway, or front exterior doors (except back or rear exterior doors used for employee entrance to and exit from the massage establishment) must remain unlocked during business hours. No massage may be given within any cubicle, room, booth, or any other area within a massage establishment that is fitted with a door capable of being locked, unless the only door is an exterior door.

(o) Tinted or “One-Way” Glass. No massage establishment may be equipped with tinted or “one-way” glass in any room, office, or store front window.

(3) Exception. The provisions of this Subsection, facility and operating requirements for a massage establishment, are not applicable to and may not be construed as applying to massage establishments or businesses that are sole proprietorships or to massage establishments or businesses that employ or use only persons certified to provide massage services pursuant to Division 2, Chapter 10.5, Section 4600 et seq. of the Business and Professions Code and who are practicing massage consistent with the requirements therein.

(G) Change of Management or Ownership.

(1) Every permittee of a massage establishment must immediately report to the Director any change of ownership or management of the massage establishment, including, but not limited to, the change of manager or other person primarily in charge, a change in the mailing address of the owner, permittee, manager, or other person primarily in charge, a change in stockholders holding more than five percent of the stock of the corporation, changes in officers, directors or partners, changes in the mailing address of the officers, directors or partners, any change of name, style, or designation under which the business is to be conducted, and all changes of address or telephone numbers of the massage establishment. A change in the location of any premises will require a new application for a massage establishment.

(2) No massage establishment permit may be sold, transferred, or assigned by a permittee, or by operation of law, to any other person or persons. Any such sale, transfer, or assignment, or attempted sale, transfer, or assignment, will be deemed to constitute a voluntary surrender of that permit, and that permit will thereafter be null and void; provided, however, that if the permittee is a partnership, and one or more of the partners dies, one or more of the surviving partners may acquire, by purchase or otherwise, the interest of the deceased partner or partners without effecting a surrender or termination of the permit, and, in such case, upon notification to the Director, the permit will be placed in the name of the surviving partners. A massage establishment permit issued to a corporation will be terminated when either: (i) any outstanding stock of the corporation is sold, transferred, or assigned after the issuance of a permit; or (ii) any stock authorized but not issued at the time of the granting of the permit is thereafter issued, sold, transferred, or assigned. No massage technician permit may be sold, transferred, or assigned by a permittee, or by operation of law, to any other person or persons.

(H) Permit Application – Massage Technicians. No person may perform or administer a massage, or advertise to provide massage services in the City, without first obtaining a permit issued by the City pursuant to the provisions set forth below. A permit is valid as

provided for in PMC Section 5.04.230 (Business permit – Operative), unless earlier revoked or suspended. The required permit is in addition to any business license required by this code. In addition to the information required by PMC Section 5.04.140 (Business permits – Contents), an application for a massage technician permit must include the following information, as applicable:

(1) The primary business location at which the applicant will be working as a massage technician, including the full name of the business, street address, and all telephone numbers associated with that business location. If the massage technician will be providing massage at more than one location, the primary business location must be identified as well as all other locations, including the names, addresses, and telephone numbers of those other locations;

(2) The full true name and any other name used by the applicant;

(3) The present address and telephone number, and all previous addresses of the applicant for the last 10 years immediately prior to the date of application;

(4) Written proof of the applicant's age, height, weight, sex, color of eyes and hair, and date of birth;

(5) Two identification photographs at least two inches by two inches taken in the last six months, and the applicant's fingerprints;

(6) The employment history or experience of the applicant in the massage or similar business for the last 10 years immediately preceding the date of application, including, but not limited to, the massage or similar business history and experience in this City or any other city or state;

(7) Whether the applicant has had any other permit or license as a massage technician issued by an agency, board, city, county, territory, or state; the date of issuance of that permit or license, and whether the permit or license was denied, revoked or suspended, and the reason therefor. That information must include the business activity or occupation engaged in by the applicant subsequent to any suspension or revocation;

(8) All criminal convictions, including ordinance violations and pleas of nolo contendere, within the last 10 years, including those dismissed or expunged pursuant to Penal Code Section 1203.4, but excluding for traffic violations, and a statement as to the date and place of each such conviction and reasons therefor;

(9) Documentation of the applicant's experience as a practicing massage technician, as applicable;

(10) Proof of matriculation from a "recognized school of massage," as defined in Subsection (A) of this Section;

(11) Proof of membership in a “qualified massage association,” as defined in Subsection (A) of this Section;

(12) Authorization for the City, its agents, and employees, to seek verification of all information contained in the application;

(13) Such other information as may be deemed necessary by the Director or the Sheriff’s Department;

(14) A statement in writing, signed and dated by the applicant, declaring under penalty of perjury that all information contained in the application is true and correct and that all provisions of this Section will be adhered to.

(I) Massage Technician – Permit Issuance and Denial. Upon receipt of a written application, the Director will have 60 days to conduct an investigation to ascertain whether the permit should be issued. The Director must forward a recommendation to the City Council, which has the authority to issue the permit unless it makes any of the following findings:

(1) The applicant has, within 10 years preceding the date of the application, been convicted of any of the following:

(a) A violation of California Penal Code Section 266(h), 266(i), 314, 315, 316, 318, or Subsection (a) or (b) of Penal Code Section 647, or any other provisions of law that require a person to register under the provisions of Penal Code Section 290, or where the prosecution accepted a plea of guilty or nolo contendere to a charge violating Penal Code Section 415, or any lesser included offense, in satisfaction of or as a substitute for any of the previously listed crimes,

(b) A violation of Health and Safety Code Section 11550, or any offense involving the illegal sale, distribution, or possession of a controlled substance specified in Health and Safety Code Section 11054, 11055, 11056, 11057 or 11058,

(c) Conviction for an offense in any other state, which offense is the equivalent of any of the above referenced offenses;

(2) The applicant has been convicted of an act involving dishonesty, fraud, deceit, or moral turpitude, or an act of violence, which act or acts are related to the qualifications, functions, or duties of a massage technician;

(3) The applicant has had a massage operator or massage technician permit or other similar license or permit denied or revoked for cause by a licensing authority or by any city, county, or state within 10 years prior to the date of application;

(4) The applicant has made false, misleading or fraudulent statement(s) or omission(s) of fact to the City in the permit application process;

(5) The application does not contain all of the information required by Subsection (H) of this Section;

(6) The applicant has not satisfied the requirements of this Section within the time specified.

If the application is denied for failure to comply with Subsection (I)(4) or (5) of this Section, the applicant may not reapply for a period of 12 months from the date the application was denied.

(J) Massage Technicians – General Provisions. All massage technicians must comply with the following conditions and any other conditions specified by the City Council in connection with the issuance of a permit:

(1) No massage technician may massage the genital or anal area of any patron, or the breasts of any female patron. No massage technician, while performing any task or service associated with the massage business, may be present in any room with another person unless that person's genitals, anus, or, in the case of a female, her breasts, are completely covered by a fully opaque nontransparent material.

(2) The massage technician must wear a photo identification card issued by the City at all times when acting as a massage technician in the massage establishment or other approved place of business. The identification card must be worn on the outer clothing with the photo side facing out. If a massage technician changes his or her business address, he or she must, prior to that change, obtain from the Director a new photo identification card and advise the Director in writing of the new business address.

(3) Massage technicians may not perform any massage at any location other than the location specified in the permit.

(4) While on duty, the massage technician may not use any name other than that specified on the photo identification card.

(5) Massage technicians must be fully clothed at all times. Clothing must be of a fully opaque, nontransparent material and provide complete covering from mid-thigh to three inches below the collar bone.

(6) The massage technician must consent to the inspection of the entire massage establishment, including occupied and unoccupied massage rooms or other areas, by the City's Division of Building and Safety, Code Enforcement Department, Fire Department, Sheriff's Department, and the Health Department for the purpose of

determining that the provisions of this Section and other applicable laws or regulations are met.

(7) No massage technician permit may be sold, transferred, or assigned by a permittee, or by operation of law, to any other person or persons.

(8) The massage technician must comply with all provisions of this Section and any applicable provisions of this code.

(K) Corporate Massage Businesses.

(1) Any person desiring to perform corporate massage, as defined in Subsection (A) of this Section, must first be conducting business at a fixed location that has a massage establishment permit or that is authorized to provide massage as an accessory use.

(2) Corporate massage may be performed only by a person who possesses a valid massage technician permit issued by the City.

(3) The massage technician or massage establishment offering corporate massage must have a signed contract for service at each location where the service is to be provided, and copies of all contracts must be provided to the City for review upon submittal of the business permit application. The contract must specify the location, days, and times the service is to be offered.

(4) Corporate massage must be conducted at a commercial or industrial place of business and must be administered only to the employees of that business.

(5) Corporate massage must be provided only in a public area, to which all employees are provided free access.

(6) Corporate massage must be offered at a specified time and day at each location and may not be offered at any other time. In no event may corporate massage be permitted or offered between the hours of 9:00 p.m. and 7:00 a.m.

(L) Fees.

(1) The City Council will establish by resolution, and may from time to time amend, the fees for the administration of this Section. Fees required by that resolution are in addition to any other fees required under other sections of this code.

(M) Existing Permits/Compliance.

(1) Commencing on the effective date of the ordinance amending this section, permits will be issued pursuant to the provisions of this Section.

(2) All persons holding existing massage establishment permits or massage technician permits will have one year from the effective date of the ordinance amending this section to comply with all requirements of this Section.

(N) Duration of Permits.

(1) Permits for massage establishments and massage technicians will be renewed to coincide with the duration of permits issued as provided for in PMC Section 5.04.230 (Business permit – Operative); provided, that the applicant continues to meet the requirements of this Section.

(2) A renewal application for an existing permit must be filed with the Director before the expiration date of the existing permit. Temporary permits will not be issued, and renewal applications must be filed no later than 60 days prior to the expiration of the permit to prevent a lapse of the permit.

(3) Renewal applications will require such information as may be required by the Director to update the information contained in the original permit application and to conduct an investigation to ascertain whether a renewal should be issued. The Director must forward a recommendation to the City Council, which has the authority to renew a permit, as provided for in Subsections (D) and (I) of this Section. The appropriate filing fee must accompany the application for renewal.

(O) Suspension, Revocation, and Nonrenewal.

(1) Revocation, Suspension, and Nonrenewal of an Operator's Permit.

(a) The City Council may suspend a massage establishment permit for a period of 30 days for each violation of the provisions of Subsection (E) or (F) of this Section or on the grounds that the applicant or permittee has failed to comply with any of the permit conditions or other requirements of this Section as determined by the Director and recommended to the City Council by the Director. If a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period.

(b) The City Council may revoke or refuse to renew a massage establishment permit under the following circumstances: (i) facts exist that would support findings for denial of a permit under any provision of Subsection (D) of this Section; or (ii) there is a subsequent violation of any provision of Subsection (E) or (F) of this Section within one year following suspension of the permit under Subsection (O)(1)(a) of this Section; or (iii) the permittee has demonstrated its inability to operate or manage the massage establishment in a lawful manner, thereby necessitating one or more responses by law and/or code enforcement, including officials from the City's Division of Building and Safety, Code Enforcement Department, Fire Department, Sheriff's Department and the Health Department.

(c) The Director must notify the applicant, permittee, or manager in writing, delivered either by personal service or by certified mail, addressed to the business or residence address of the applicant, permittee, or manager with a notice of intent to suspend, revoke or refuse to renew a permit. This notice must state the reasons for the recommendation and date the City Council will consider the recommendation.

(2) Revocation, Suspension, and Nonrenewal of a Massage Technician's Permit.

(a) The City Council may suspend a massage technician permit for a period of 30 days for each violation of the provisions of Subsection (J) of this Section or on the grounds that the applicant or permittee has failed to comply with any of the permit conditions or other requirements of this Section as determined by the Director and recommended to the City Council by the Director if a suspended permit lapses during the suspension period, a new application must be filed at the end of the suspension period.

(b) The City Council may revoke or refuse to renew a massage technician permit under the following circumstances: (i) facts exist that would support findings for denial of a permit under any provision of Subsection (I) of this Section; or (ii) there is a subsequent violation of any provision of Subsection (J) of this Section within one year following suspension of the permit under Subsection (O)(2)(a) of this Section; or (iii) the permittee has demonstrated its inability to conduct massage services within a massage establishment in a lawful manner, thereby necessitating one or more responses by Law Enforcement Officers.

(c) The Director must notify the applicant or permittee in writing, delivered either by personal service or by certified mail, addressed to the business or residence address of the applicant or permittee, with a notice of intent to suspend, revoke or refuse to renew a permit. This notice must state the reasons for the recommendation and date the City Council will consider the recommendation.

(3) Notice.

(a) If the City Council determines that grounds exist for the suspension, revocation, or nonrenewal of a permit, the Director must serve the applicant, permittee, or manager in writing, delivered either by personal service or by certified mail, addressed to the business or residence address of the applicant, permittee, or manager, with a notice of denial or notice of suspension, revocation or refusal to renew permit. This notice must state the reasons for the action and the effective date of the decision.

(4) Violation and Penalty.

(a) Every person, who is subject to this section, and who violates any of the provisions of this Section by administering a massage, or by operating a massage establishment, or by advertising the availability of massage, without first obtaining a permit and a business license from the City to do so, or who violates any other provisions of this Section is guilty of a misdemeanor.

(b) Any massage establishment that is operated, conducted, or maintained contrary to the provisions of this Section may be declared to be unlawful and a public nuisance, and the City, in addition to or in lieu of prosecuting a criminal action, may commence an action or proceeding to abate that public nuisance in the manner provided by law, and to restrain and enjoin any person from operating, conducting, or maintaining a massage establishment contrary to the provisions of this code.

SECTION 35: Section 5.04.450 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.450 Pawnbrokers and secondhand dealers.

(A) Definitions. For purposes of this Section, the following terms shall have the following meanings:

(1) “Builders’ tools” means all tools customarily used in the construction, alteration, or repair of buildings.

(2) “Coin dealer” means any person, firm, partnership, or corporation whose principal business is the buying, selling, and trading of coins, monetized bullion, or commercial-grade ingots of gold, or silver, or other precious metals.

(3) “Pawnbroker” means any person engaged in the business of receiving goods, including motor vehicles, in pledge as security for a loan.

(4) “Secondhand dealer” means and includes any person, copartnership, firm, or corporation whose business includes buying, selling, trading, accepting for sale or consignment, accepting for auctioning, or auctioning secondhand tangible personal property. A “secondhand dealer” does not include a coin dealer or participants at gun shows or events, as defined in Section 478.100 of Title 27 of the Code of Federal Regulations, or its successor, who are not required to be licensed pursuant to Section 12071 of the Penal Code, who are acting in compliance with the requirements of Section 12070 and subdivision (d) of Section 12072 of the Penal Code, and who are not gun show traders, as described in paragraph (5) of subdivision (b) of Section 12070 of the Penal Code.

(5) “Tangible personal property” has the same meaning as set forth in Section 21627 of the Business and Professions Code of the State of California.

(B) Application Information. In addition to the information required by PMC Section 5.04.140 (Business permits – Contents), every applicant for a business permit to operate as a pawnbroker or a secondhand dealer shall provide the following information, as applicable:

(1) The applicant’s age, height, weight, sex, and color of hair and eyes;

(2) The applicant’s current address and prior addresses within the 12 months preceding the date of the application;

(3) Whether the applicant has ever conducted a similar business in the City or elsewhere and the name under which the applicant conducted such similar business;

(4) Fingerprints and photographic identification, as defined in PMC Section 1.04.100 (Photographic identification); and

(5) A copy of the applicant’s current secondhand dealer or pawnbroker license issued by the State of California.

(6) Security Plan Required. The applicant shall submit a security plan. The plan should detail systems that the tenant intends on installing to protect patrons, visitors, employees, and company property/assets on site. The plan shall address issues such as safes to be installed, alarm systems, deployment of any security personnel, funds-transportation measures, hours of operation, shift personnel staffing, CCTV applications, type of loss-prevention/crime-prevention training provided to employees, and any other applicable measures.

(C) Operating Requirements.

(1) Hours of Operation. No pawnbroker or secondhand dealer, nor any employee thereof, shall accept any pledge, or loan any money for personal property, or purchase or receive any goods, wares or merchandise, or any article or thing, or in any manner whatsoever engage in or conduct business as a pawnbroker or secondhand dealer between the hours of 7:00 p.m. of any day and 7:00 a.m. of the following day.

(2) Reporting. Every permittee under this section shall comply with Section 21628 et seq. of the Business and Professions Code or Section 21208 et seq. of the Financial Code.

(3) Any business who buys. or receives as a pledge. any builders' tools, as defined by this section, shall comply with Sections 21550 et seq. of the Business and Professions Code.

(4) Disposal of Property. Every permittee under this section shall be subject to and shall comply with the requirements of State law for holding and inspection of property.

(5) No transactions that require reporting under Section 21628 of the Business and Professions Code shall be engaged in with any person under 18 years of age.

SECTION 36: Section 5.04.460 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.460 Sidewalk vending.

(A) Definitions. As used in this Section, the terms listed below shall have the following meaning assigned to them:

(1) "Cart" means a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance.

(2) "Certified farmers' market" means a location operated in accordance with Chapter 10.5 (commencing with Section 47000) of Division 17 of the Food and Agricultural Code and any regulations adopted pursuant to that Chapter.

(3) "Roaming sidewalk vendor" means a sidewalk vendor who moves from place to place and stops only to complete a transaction.

(4) "Sidewalk vendor" means a person who sells food or merchandise from a pushcart, stand, display, pedal-driven cart, wagon, showcase, rack, or other nonmotorized conveyance, or from one's person, upon a public sidewalk or other pedestrian path. Sidewalk vendors include roaming sidewalk vendors and stationary sidewalk vendors.

(5) "Stationary sidewalk vendor" means a sidewalk vendor who vends from a fixed location.

(6) "Swap meet" means a location operated in accordance with Article 6 (commencing with Section 21660) of Chapter 9 of Division 8 of the Business and Professions Code, and any regulations adopted pursuant to that article.

(7) "Vend" or "vending" means operating as a sidewalk vendor.

(B) Applicability. The requirements of this Chapter shall not apply to the following persons:

(1) Persons delivering goods, wares, merchandise, or food upon order of, or by agreement with, a customer from a store or other fixed place of business or distribution.

(2) Persons selling goods, wares, merchandise, or food from a motorized vehicle, including food trucks and ice cream trucks.

(C) Business License and Special Business Permit Required.

(1) No person shall operate as a sidewalk vendor without first obtaining, and at all times maintaining, a valid City business license in accordance with PMC Section 5.04.050 (Permits required) and related Sections of PMC Chapter 5.04 (Business Regulations), and complying with all requirements of the business license, unless such person qualifies for an exemption under PMC Chapter 5.04 (Business Regulations).

(2) No person shall operate as a sidewalk vendor without first obtaining, and all times maintaining, a special business permit in accordance with this Section and complying with all requirements of the permit.

(3) The special business permit shall be valid for one year unless revoked or suspended prior to expiration. An application to renew a special business permit under this Section shall be made not less than 30 days prior to the expiration of the current permit. A valid business license shall be applied for or renewed concurrently with the special business permit each year.

(4) A separate business license and special business permit shall be required for each cart.

(D) Requirements for Permit Application. An application for a special business permit for sidewalk vending shall include all of the following, to the extent applicable:

(1) The name, address, and telephone number of the applicant and each person who will operate the cart.

(2) A photo identification of the applicant and each person who will operate the cart.

(3) A description of the cart, including the dimensions of the cart, and a photograph of the cart.

(4) A complete list of the food or merchandise to be sold.

(5) If the sidewalk vendor is an agent of an individual, company, partnership, or corporation, the name and business address of the principal.

(6) The vendor's California seller's permit number (California Department of Tax and Fee Administration sales tax number).

(7) A City of Palmdale business license.

(8) A copy of any license or permit required from any other state or local agency that is required by law, including, but not limited to, a copy of any required permit from the County health department, if required.

(9) A certification by the applicant that to his or her knowledge and belief, the information contained in the application is true.

(E) Identification Numbers – Confidentiality. Notwithstanding any other requirement in this code, an applicant for a business license or special business permit to operate as a sidewalk vendor shall not be required to submit a social security number for the issuance of such license or permit. In lieu of an otherwise required social security number, the City shall accept a California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number along with the permit application, which must be provided at the time of application. Identification numbers submitted under this Section shall not be made available to the public for inspection, shall be treated as confidential, and shall not be disclosed except as required to administer the license or permit program or to comply with a State law or State or Federal court order.

(F) Operational Standards.

(1) Each cart used by a sidewalk vendor must display a valid special business permit sticker at all times, which shall be issued by the City.

(2) All sidewalk vendors shall comply with the terms and conditions of the special business permit and shall not sell any food or merchandise that was not listed in the special business permit application.

(3) No stationary sidewalk vendor may operate in any residential zone; however, roaming sidewalk vendors shall not be prohibited from operating in such zones.

(4) In order to preserve the peace, safety, and tranquility of residential neighborhoods, no roaming sidewalk vendor may operate in any residential zone earlier than sunrise or later than sunset.

(5) In order to prevent obstructions of the public right-of-way, the total display area footprint of the cart, including the cart itself and any accompanying display, signage, or related items, shall not exceed a length of 72 inches, a width of 54 inches, or a height, including roof, awning, or canopy, of 78 inches.

(6) In order to prevent obstructions of the public right-of-way, no sidewalk vendor may set up or allow the use of an additional structure, including a table, crate,

carton, or rack, to increase the selling or display capacity of the cart unless such items are explicitly allowed in the special business permit obtained by the sidewalk vendor.

(7) In order to preserve sanitary conditions in all public rights-of-way, all sidewalk vendors shall provide a trash receptacle for customers and must ensure proper disposal of customer and vendor trash. The trash receptacle must be large enough to accommodate customer trash without resort to existing trash receptacles located on any block for use by the general public. A sidewalk vendor may not dispose of customer trash in existing trash receptacles on sidewalks.

(8) In order to preserve sanitary conditions in all public rights-of-way, all sidewalk vendors shall maintain a clean and trash-free area, including a sanitized and neat appearing cart, within a 10-foot radius around the vendor's cart during hours of operation and shall ensure that such area is clean and trash-free before relocating or closing.

(9) In order to prevent damage to public property and prevent obstructions of the public right-of-way, no cart may be chained or fastened to any pole, sign, tree, or other object in the public right-of-way.

(10) In order to preserve the safety of the public, and prevent misuse of carts, no cart may be left unattended at any time.

(11) In order to preserve the safety of the public, to prevent misuse of carts, and to prevent obstructions of the public right-of-way, no cart may be stored, parked, or left overnight on any public street or right-of-way, or in any public park or other public property.

(12) In order to preserve the safety of vehicular travelers, no sidewalk vendor may solicit business from or conduct business with persons in motor vehicles.

(13) In order to preserve the safety of vehicular travelers and pedestrians, and to preserve public peace and welfare, no cart may be outfitted with any equipment, signage, or mechanism that endangers or detracts from the health, safety, or welfare of the public by causing an excessive distraction to motorists or interfering with nearby residences, business, or pedestrians including, but not limited to, sound amplification, flashing lights, smoke, steam, bubbles, gas-powered generators, or excessive fumes.

(14) In order to preserve the safety of vehicular travelers and pedestrians, any cart operated before sunrise or after sunset, or in location with insufficient lighting, shall be equipped with sufficient lighting or reflectors to alert pedestrians and vehicular travelers to the presence of the cart.

(15) In order to prevent obstructions of the public right-of-way, all signage related to the vending operation shall be affixed to the cart, or otherwise shall be in compliance with the zoning code.

(G) Location of Carts. In order to ensure access to public rights-of-way by pedestrians and emergency personnel, and avoid interference with vehicular traffic, certified farmers' markets, swap meets, and City-permitted special events, sidewalk vendors shall not operate in the following areas of the public right-of-way:

(1) Any area other than a public sidewalk or pedestrian path.

(2) Within 15 feet of a fire hydrant, fire call box, or other emergency facility.

(3) Within 10 feet of an entrance to, or emergency exit of, any building or business during the hours that the building or business is open to the public.

(4) Within 15 feet of the outer edge of a driveway or driveway apron.

(5) Within 15 feet of a transit stop.

(6) Adjacent to any marked loading zone or bus zone.

(7) Within five feet of a curb return.

(8) Any location that would impede entering or exiting a parked vehicle.

(9) Any location that impedes the flow of pedestrian traffic by reducing the clear space to less than four feet or impedes access to or the use of abutting property, including, but not limited to, residences and places of business.

(10) Within 100 feet in any direction of the nearest vendor or concessionaire participating in a certified farmers' market or swap meet during the operating hours of the certified farmers' market or swap meet.

(11) Within 100 feet of a City-permitted special event including, but not limited to, parades, concerts, and movie filmings, unless vendor has received a permit to vend as part of the event. For moving events, vending shall be prohibited within 100 feet of any portion of the approved event route. For stationary events, vending shall be prohibited within 100 feet of the parcel boundary for the location of the event.

(12) Within 200 feet of any public or private school grounds between 7:00 a.m. and 4:00 p.m. on school days, and during any other time when in use and creating high vehicular traffic, such as uses for major sporting events.

(13) Upon or within any roadway, median strip, or dividing section.

(14) Any public sidewalk location when the straight path would not allow for 48 inches, or as the law updates, of clear width walking space of any sidewalk to be in compliance with Americans with Disabilities Act (ADA) regulations.

(15) Any public sidewalk where there is a 180 degree turn path for sidewalk ramps and corner curbs when the location would not allow for 42 inches approaching the turn, 48 inches at the turn, and 42 inches leaving the turn, or as the law updates, of clear width walking space of any sidewalk to be in compliance with ADA regulations.

(H) Special Requirements for the Sale of Food. All sidewalk vendors that prepare or sell food must be in compliance with all County and State permitting and licensing requirements for the preparation or sale of food.

(I) Penalties. For purposes of this Section, “sidewalk vending program” refers to the provisions of Subsections (F) through (H) of this Section and PMC Section 8.24.210 (Vending), inclusive, and the requirement to obtain a special business permit pursuant to PMC Section 5.04.590(C)(2) (Sidewalk vending – business license and special business permit required).

(1) A violation of any provision in Subsections (F) through (H) of this Section and PMC Section 8.24.210 (Vending), inclusive, may only be punished by the following:

(a) An administrative fine not exceeding $100.00 for a first violation.

(b) An administrative fine not exceeding $200.00 for a second violation within one year of the first violation.

(c) An administrative fine not exceeding $500.00 for each additional violation within one year of the first violation.

(d) Rescission of the sidewalk vendor’s special business permit for the term of that permit upon the fourth violation or subsequent violations.

(2) Vending without a special business permit may be punished by the following:

(a) An administrative fine not exceeding $250.00 for a first violation.

(b) An administrative fine not exceeding $500.00 for a second violation within one year of the first violation.

(c) An administrative fine not exceeding $1,000 for each additional violation within one year of the first violation.

(3) Upon proof of a valid special business permit, an administrative fine imposed under Subsection (I)(2) of this Section shall be reduced to the respective administrative fine set forth in Subsection (I)(1) of this Section.

(4) No other fines, fees, assessments, or financial conditions shall be imposed for violation of the sidewalk vending program other than those imposed by Subsections (I)(1) and (2) of this Section.

(5) Notwithstanding any other provision of this code, neither a violation of the sidewalk vending program as codified in Subsections (F) through (H) of this Section and PMC Section 8.24.210 (Vending), inclusive, nor a failure to pay an administrative fine, imposed by Subsection (I)(1) or (2) of this Section shall be punishable as an infraction or misdemeanor.

(6) Any person who receives an administrative fine under Subsection (I)(1) or (2) of this Section shall have the right to request an ability-to-pay determination.

(a) The City shall give any such person written notice of his or her right to request an ability-to-pay determination as well as instructions and other materials for requesting an ability-to-pay determination at the time that the administrative fine citation is issued.

(b) A right-to-pay determination may be requested at any time following the issuance of the administrative fine citation until the fine is paid, including when payment of the fine is delinquent or has been referred to a collection program.

(c) Upon receipt of a request for an ability-to-pay determination, the City manager or his or her designee shall determine whether such person meets the criteria described in subdivision (a) or (b) of Section 68632 of the Government Code. The determination of the City Manager or his or her designee shall be final.

(d) If the person meets the criteria described in subdivision (a) or (b) of Section 68632 of the Government Code, the City shall reduce the fine to 20 percent of the amount of the fine originally imposed.

(7) The City Manager may, in his or her discretion, allow a person who receives an administrative fine under Subsection (I)(1) or (2) of this Section to complete community service in lieu of paying the total administrative fine, may waive the administrative fine, or may offer an alternative disposition.

(8) Nothing in the Chapter shall be construed to limit the City’s ability to enforce, or remedies for enforcing, laws of general applicability or other provisions of this code against sidewalk vendors, or to take any other enforcement actions against

sidewalk vendors that are not prohibited by State or Federal law, or which are allowed by this code.

SECTION 37: Section 5.04.470 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.470 Mobile vending.

(A) Purpose and Intent. It is the City's responsibility to promote the health, peace, safety, welfare, and convenience of all persons in regards to their use and enjoyment of public lands. The City Council finds it necessary to regulate mobile vending for this purpose while ensuring that all such regulations comport with applicable law.

Reasonable regulations are necessary to ensure that mobile vending is operated in accordance with health, safety and traffic laws of the State and the parking ordinances of the City; do not cause public safety problems by contributing to traffic congestion or by creating pedestrian and vehicular conflicts; and do not disturb the quiet use and peaceful enjoyment of residential neighborhoods. The regulations in this Section are enacted to ensure consistency with State law, including Section 22455 of the California Vehicle Code related to ice cream truck vending and California Health and Safety Code Section 114315 et seq. (the "California Retail Food Code") for food handling, as each may be amended.

(B) Definitions. As used in this Section, the terms listed below shall have the following meaning assigned to them:

(1) "Food establishment" means any restaurant or grocery store with a permanent storefront location.

(2) "Goods or merchandise" means and includes items and tangible things and products of every kind and description, including any food, produce, and/or beverage items.

(3) "Human powered device" means any device moved by human power, including, but not limited to, any pushcart, wagon, bicycle, tricycle, or other wheeled device or conveyance.

(4) "Ice cream truck" means any motor vehicle requiring license from the California Department of Motor Vehicles which is used to vend at retail:

(a) Prepackaged frozen dairy or water-based food products; or

(b) Soft-serve or hand-dipped frozen dairy or water-based products; irrespective of whether or not the ice cream truck carries other prepackaged food products.

(5) “Mobile food truck” means a motorized vehicle or mobile food unit that should be licensed by the California Department of Motor Vehicles (whether licensed or not), designed and equipped to prepare, or serve, and sell food, and temporarily stored in a location where food items are sold to the general public.

(6) “Pedestrian solicitor” means a person vending goods or merchandise from their person without the use of a vehicle.

(7) “Person” means any natural person, firm, partnership, association, corporation, or other entity of any kind or nature.

(8) “Public property” means any real property, or interest therein, owned, leased, operated, or otherwise controlled by the City other than a street, alley, parkway, or sidewalk.

(9) “Vehicle” means a motorized vehicle or mobile food unit that should be licensed by the California Department of Motor Vehicles (whether licensed or not), designed and equipped to prepare, or serve, and sell food, and temporarily stored in a location where food items are sold to the general public as well as any trailer or other similar apparatus that can be attached to a motorized vehicle whether attached at the time of vending or not, and shall not include any human powered device and shall include an ice cream truck and mobile food truck.

(10) “Vehicle operator” means any person or entity owning a 10 percent or greater interest in, or operating or otherwise controlling, any business involving the vending of goods or merchandise from a vehicle.

(11) “Vend” or “vending” means the sale or offering for sale of any goods or merchandise to the public by a vehicle operator or pedestrian solicitor on a public street, private street open to the public, or other public property.

(12) “Vendor” means any pedestrian solicitor or any vehicle operator, and/or any employee, independent contractor, or other person acting on behalf of or for the benefit of a pedestrian solicitor or vehicle operator, who engages in the act of vending.

(C) Applicability. This Section is intended to apply to all vending at any locations within the City. However, it does not apply in the following circumstances:

(1) Sidewalk vending described in PMC Section 5.04.460 (Sidewalk vending) if all legal requirements therein are met.

(2) Contractual or other private arrangement between a vendor and an individual or entity that wishes to have food catered to a specific location on private land and which is not open to the public, subject to the following: the vendor shall possess and at all times display in conspicuous view upon their vehicle, in connection with

a vehicle operator, or upon their person, in connection with a pedestrian solicitor, a copy of the contractual document or other private arrangement detailing the terms of the agreement along with the name and contact information of the individual or entity that agreed to have food catered on private lands.

(3) Any person delivering any goods or merchandise by vehicle where such goods or merchandise have been ordered in advance for such delivery from any business located at a permanent location.

(4) Any person vending where such person has been authorized to engage in such activity by a permit, lease, real property license, agreement, or other entitlement issued by the City, State or Federal government for such purpose.

(5) Any person exempted from the provisions of this Chapter by any local, State, or Federal law, regulation, or statute.

(D) Vehicle Operator and Pedestrian Solicitor Permits. Any person desiring to obtain a vehicle operator's permit to conduct or otherwise operate the business of vending goods or merchandise from a vehicle pursuant to this Chapter shall file an application with the Business License Division. Such application shall be accompanied by a nonrefundable application fee in such amount as established by resolution of the City Council. Any such permit shall be valid for one year from date of issuance. The permit may be renewed annually, subject to filing of a new application and payment of a new application fee.

(1) Vehicle Operator. Each permit applicant for a vehicle operator permit shall furnish the following information and documentation in the application:

(a) The street address where the office of the business is or will be located;

(b) The full, true name under which the business will be conducted;

(c) The full, true name and any other names used by the applicant along with a copy of a corresponding California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number. Identification numbers submitted under this Section shall not be made available to the public for inspection, shall be treated as confidential, and shall not be disclosed except as required to administer the permit program or to comply with a State law or State or Federal court order;

(d) The present residence and business addresses and telephone numbers of the applicant, each 10 percent or greater owner of the business, and all persons who will act as a vendor for the applicant, whether as an employee, contractor, or otherwise;

(e) A detailed description of the goods or merchandise which the applicant will vend;

(f) The make, body style, year, VIN number, State license plate number, names and addresses of each registered and legal owner of each vehicle and a copy of a valid vehicle registration for the subject vehicles;

(g) A description of the logo, color scheme, insignia, and any other distinguishing characteristics identifying applicant's business that will appear on each vehicle;

(h) The name, residential address, and telephone number of the applicant and individuals primarily responsible for managing the day-to-day operation of the vending business and/or performing any vending on behalf of the operator along with an email and cellular number for such individuals;

(i) Evidence of compliance with the insurance requirements of the Vehicle Code as to each vehicle; and

(j) The details of any known contractual or other private arrangement between a mobile food truck and an individual or entity that wishes to have food catered to a specific location on private land and which is open to the public. If this Section is applicable, the permit application shall include the name and contact information of the individual or entity that wishes to have food catered on private lands as well as a copy of the contractual document or other private arrangement detailing the terms of the agreement.

(2) Pedestrian Solicitor. Each permit applicant for a pedestrian solicitor permit shall furnish the following information and documentation in the application:

(a) The street address where the office of the business is or will be located;

(b) The full, true name under which the business will be conducted;

(c) The full, true name and any other names used by the applicant along with a copy of a corresponding California driver's license or identification number, an individual taxpayer identification number, or a municipal identification number. Identification numbers submitted under this Section shall not be made available to the public for inspection, shall be treated as confidential, and shall not be disclosed except as required to administer the permit program or to comply with a State law or State or Federal court order;

(d) The present residence and business addresses and telephone numbers of the applicant, each 10 percent or greater owner of the business, and all persons who will act as a vendor for the applicant, whether as an employee, contractor, or otherwise;

(e) A detailed description of the goods, merchandise, or services which the applicant will vend;

(f) The name, residential address, and telephone number of the applicant and individuals primarily responsible for managing the day-to-day operation of the vending business and/or performing any vending on behalf of the pedestrian solicitor along with an email and cellular number for such individuals; and

(g) The details of any known contractual or other private arrangement between a pedestrian solicitor and an individual or entity that wishes to have food catered to a specific location on private land and which is open to the public. If this Section is applicable, the permit application shall include the name and contact information of the individual or entity that wishes to have food catered on private lands as well as a copy of the contractual document or other private arrangement detailing the terms of the agreement.

(3) The Business License Division shall be authorized to investigate the truth of the facts set forth in the application. Each application shall be approved or denied within a reasonable amount of time.

(4) Permit Denial. Any permit applied for under the provisions of this Chapter may be denied for any of the following causes:

(a) One of the departments or officers performing a review of the permit renewal application has recommended denial of, or the imposition of additional conditions upon, such permit.

(b) If the City finds that the applicant knowingly made any false, misleading, or fraudulent statements of material fact in the application for the permit.

(c) The applicant has been convicted of any violation of this code, any code adopted and incorporated by the City into this code, the California Penal Code, the Health and Safety Code, the Business and Professions Code, or any other State or Federal law.

(d) Failure to comply with the requirements of this Section or other provisions of the code by the applicant and/or the vehicle operator or pedestrian solicitor in connection with any property, business, or other dealing with the City.

(e) Fees, fines, or other penalties owing the City that are due and payable by the applicant and/or the vehicle operator or pedestrian solicitor in connection with any property, business, or other dealing with the City.

(5) Appeal Procedure. Written notice of denial, setting forth the grounds for denial, shall be served on the applicant. Any person aggrieved by a denial of a permit pursuant to this Section may appeal such denial to the City Manager or designee pursuant to the procedures set forth in PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq. To seek an appeal, said person must submit a written request for an administrative hearing with a statement of why the denial did not merit any of the grounds for denial under Subsection (D)(4) of this Section to the City Clerk within 10 days after service of notice of the City Manager's or designee's decision. Upon receipt of a timely appeal, the aggrieved party shall be given notice of a hearing, and a hearing shall be held pursuant to PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq.

(6) Each permittee shall notify the Business License Division, in writing, within 10 business days of any change in the required application information under Subsections (D)(1) and (D)(2) of this Section.

(E) Suspension and Revocation of Permit.

(1) Any vehicle operator's permit or pedestrian solicitor's permit may be temporarily suspended or revoked by the Business License Division for any of the following reasons:

(a) Provision of false information on the permit application.

(b) Failure of the permittee to notify the Business License Division within 10 business days of any change in the information supplied by the permittee upon which issuance of the permit was based, occurring subsequent to the issuance of the permit.

(c) There is substantial evidence of a violation by the permittee, any employee, subcontractor of the permittee, or any other person acting on the permittee's behalf, of this Chapter or any other local, State, or Federal law constituting a misdemeanor or felony while in the course of conducting vending operations pursuant to the permit.

(d) While in the course of vending, driving of a vehicle by a vendor not possessing a valid driver's license, or operation of a vehicle found by police inspection to be unsafe and in violation of the Vehicle Code.

(e) The permittee no longer operates in accordance with the information and documentation supplied in connection with the vehicle operator permit application set forth in Subsection (D)(1) of this Section.

(f) The permittee no longer operates in accordance with the information and documentation supplied in connection with the pedestrian solicitor permit application set forth in Subsection (D)(2) of this Section.

(g) The permittee has been convicted of any violation of this code, any code adopted and incorporated by the City into this code, the California Penal Code, the Health and Safety Code, the Business and Professions Code, or any other State law.

(h) Fees, fines, or other penalties owing the City that are due and payable by the applicant and/or the vehicle operator or pedestrian solicitor in connection with any property, business, or other dealing with the City.

(2) Appeal Procedure. Written notice of suspension or revocation, setting forth the grounds for suspension or revocation, shall be served on the offending permittee. The notice shall advise the permittee of the right to file a written appeal. Any person aggrieved by a suspension or revocation of a permit pursuant to this Section may appeal such denial to the City manager or designee pursuant to the procedures set forth in PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq. To seek an appeal, said person must submit a written request for an administrative hearing with a statement of why the suspension or revocation did not merit any of the grounds for suspension or revocation under Subsection (E)(1) of this Section to the City Clerk within 10 days after service of notice of the City Manager's or designee's decision. Upon receipt of a timely appeal, the aggrieved party shall be given notice of a hearing and a hearing shall be held pursuant to PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq.

(3) No person whose permit is revoked shall be eligible to apply for a new permit for a period of one year following such revocation.

(4) Notices required or permitted to be served pursuant to this Section may be served personally, or by mailing by certified or registered mail with proof of delivery at the residential address of record, or by licensed courier or delivery service with proof of personal delivery, or in any other manner provided by law.

(F) Conditions and Prohibitions. It is unlawful for any pedestrian solicitor or vehicle operator to sell or offer for sale any goods, merchandise, or services upon any public street or private street open to the public, except in accordance with all applicable provisions of this code, all State and Federal laws and regulations, the terms of their City-issued permit, and in compliance with each of the following requirements:

(1) Information Made Available to the Public and City.

(a) Each vendor shall possess and at all times display in conspicuous view upon their person or upon each vehicle, as the case may be, the actual

business name and telephone number, and a City business certificate issued pursuant to this Title.

(b) Each vendor shall possess and display, upon request by any potential customer or City representative, a vehicle operator's permit or pedestrian solicitor's permit issued pursuant to this Chapter, or a full, true, and correct copy thereof.

(c) Each vendor causing the sale of or offering for sale any produce or other food item for which a food handling permit or other health permit from the county health department is required by law, shall possess and present such required permits. Vendors must, at all times, display such required permits in conspicuous view upon such vehicle or have on their immediate person ready to present at all times.

(d) Each vendor who enters into a contractual or other private arrangement with an individual or entity that agrees to have food catered to a specific location on private land and which is open to the public shall possess and at all times display in conspicuous view upon their person or vehicle a copy of the contractual document or other private arrangement detailing the terms of the agreement along with the name and contact information of the individual or entity that agreed to have food catered on private lands.

(e) Each vendor shall possess and wear upon their person a City-issued badge, issued in connection with this Chapter.

(2) Location.

(a) Vending is permitted only on public streets or private streets open to the public, and is not permitted in or upon any alley, parkway, sidewalk, or other kind of public property. Further, vending with a vehicle is not permitted in residential zones unless said vending is approved by the City in such zone in connection with a validly issued special event permit or temporary use permit, pursuant to PMC Section 17.26.100 (Temporary use and special events permits), prior to engaging in any residential vending.

(b) No vending shall be permitted within 50 feet of any intersection of two or more streets or any location that may impede a sidewalk or pedestrian traffic.

(c) No vending shall be permitted within 1,000 feet of the front entrance of any public or private elementary, junior high, or high school.

(d) No vending shall be permitted within 1,000 feet of the front entrance of any food establishment.

(e) No vending shall be permitted on City streets with a speed limit at or above 45 miles per hour.

(f) No vending shall be permitted at any public park unless the vending occurs as part of a City-sponsored function and the vendor has applied for and received a written endorsement on the operator permit expressly authorizing such vending.

(g) No vehicle shall be parked, stopped, or left standing in any manner which blocks or impedes vehicular access to any driveway or restricts the free movement of other vehicles upon the public street.

(h) No vending shall be permitted until the vehicle has been brought to a complete stop and lawfully parked adjacent to the curb.

(i) No vendor shall operate in any manner which blocks or impedes vehicular access to any driveway or restricts the free movement of other vehicles upon the public street.

(j) Vehicle vending shall be only by means of a vehicle duly registered and licensed by the State with an unladen weight of less than 6,000 pounds.

(k) All vending must ensure the safe and proper disposals of fats, oils, and greases (“FOGs”) and be in compliance with applicable disposal regulations, including Los Angeles County Code (LACC), Title 20, Division 2, other laws, regulations, and ordinances concerning proper disposal of FOGs and other industrial wastes and health and safety State, local, and Federal laws.

(3) Sanitation and Trash.

(a) Each vehicle shall be equipped with a trash receptacle of a size adequate to accommodate all trash and refuse generated by vending therefrom.

(b) Each vendor shall pick up and deposit in the trash receptacle on the vehicle all paper, cups, wrapper, litter, or other refuse of any kind that was a part of the goods or merchandise supplied from the vehicle and which has been left or abandoned within 50 feet of such vehicle on any public property, other than in a trash receptacle provided for such purposes. No person shall dispose of any trash or refuse from vending operations in any such public or private trash receptacle other than a trash receptacle owned, operated, or otherwise provided by and under the control of the vendor or operator.

(c) Each pedestrian solicitor shall operate within 100 feet of a trash receptacle.

(4) Operation – Hours, Amplified Sounds, Equipment, Prohibited Sales.

(a) Vending is permitted only between sunrise and sunset in residential zones.

(b) Any use of amplified sound-making devices, to advertise, draw attention to, or announce the presence of a vendor, shall also comply with all applicable noise and sound regulations effective within the City.

(c) No vending under this Section may utilize chairs, tables, or other equipment unless City approval is given through an issued permit under this Section.

(d) It is unlawful for any vendor to sell any item or thing which is otherwise prohibited from being sold within the City, including, but not limited to, any goods or products not identified in the application for a vehicle operator's permit or pedestrian solicitor's permit.

(5) Additional Regulations on Ice Cream Truck Vending.

(a) Safety and Sanitation.

(i) Each vendor shall ensure that the standard warning flashers shall be in operation immediately upon the vehicle stopping to vend and cease operation as the vehicle begins to move after vending.

(ii) Each vendor shall have signs painted or mounted on the front and back of each vehicle using black four-inch-tall letters on a yellow background with a black one-inch border around each sign. The sign on the front and back of each vehicle shall read "CHILDREN CROSSING" and be eight inches high by 48 inches wide. An additional sign or signs shall be painted or mounted on the rear of each vehicle above the first sign and shall read "WARNING" in English, Spanish, and Vietnamese, using the same size letter and paint requirements.

(iii) Each ice cream truck vendor shall pick up and deposit in the trash receptacle on the ice cream truck all paper, cups, wrapper, litter, or other refuse of any kind that was a part of the goods or merchandise supplied from the vehicle and which has been left or abandoned within 50 feet of such vehicle on any public property, other than in a trash receptacle provided for such purposes. No person shall dispose of any trash or refuse from vending operations in any such public or private trash receptacle other than a trash receptacle

owned, operated, or otherwise provided by and under the control of the vendor or operator.

(iv) Each vendor shall have any other safety equipment and follow any other requirements mandated by the California Vehicle Code.

(b) Operation – Hours, Amplified Sounds, Location, Required Sales.

(i) Hours. Ice cream truck vending is permitted only between sunrise and sunset.

(ii) Amplified Sound Use by Ice Cream Truck Vendors. Any use of amplified sound-making devices, to advertise, draw attention to, or announce the presence of such vendor, shall also comply with all applicable noise and sound regulations effective within the City in addition to the following:

A. No person shall use, play, or employ any sound, outcry, amplifier, loudspeaker, or any other instrument or device for the production of sound from an ice cream truck when the ice cream truck is stationary.

B. No person shall use, play, or employ any sound, outcry, amplifier, loudspeaker, or any other instrument or device for the production of sound from an ice cream truck after sunset.

C. No person shall use, play, or employ any sound, outcry, amplifier, production loudspeaker, or any other instrument or device for the production of sound from an ice cream truck in such a manner to create a disturbance of the peace.

(c) Location.

(i) No vending from such vehicle shall be permitted on City streets with a speed limit above 25 miles per hour.

(ii) No person shall stop to vend from an ice cream truck within 200 feet of another ice cream truck that has already stopped to vend.

(d) Prohibited Sales. Ice cream truck vendors shall only sell frozen or refrigerated desserts, confections, or novelties commonly known as ice cream, or prepackaged candies, prepackaged snack foods, or soft drinks.

(G) Special Events. Nothing in this Section shall affect the City’s ability to host, sponsor, allow, or authorize special events approved for vending purposes or with vending components.

SECTION 38: Section 5.04.480 is hereby added to Title 5 of the Palmdale Municipal Code and is to read in its entirety as follows:

5.04.480 Tobacco/smoking product retailer.

(A) Definitions. For the purpose of this Section, the following terms shall have the following meanings:

(1) “Arm’s length transaction” means a sale in good faith and for valuable consideration that reflects the fair market value in the open market between two informed and willing parties, neither of which is under any compulsion to participate in the transaction. A sale between relatives, related companies, or partners, corporate or other entities which have some or all of the same directors and/or principals, or any sale for which a significant purpose is avoiding the effect of the violations of this Section, is not an arm’s length transaction.

(2) “Drug paraphernalia” shall have the definition set forth in California Health and Safety Code Sections 11014.5 and 11364.5, as those sections may be amended from time to time.

(3) “Electronic cigarette” shall mean an electronic and/or battery-operated device that can deliver an inhalable dose of nicotine to the user. “Electronic cigarette” includes any product meeting this definition, regardless of whether it is manufactured, distributed, marketed, or sold as an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, electronic hookah, electronic vape, vaporizer, or any other product name or descriptor.

(4) “Flavored electronic cigarette product” shall mean any product used in an electronic cigarette, containing, as a constituent or additive, an artificial or natural flavor or an herb or spice, including but not limited to tobacco, mint, menthol, spearmint, wintergreen, strawberry, grape, orange, clove, cinnamon, pineapple, vanilla, coconut, licorice, cocoa, chocolate, cherry, or coffee, that is a characterizing flavor of the product, or the smoke or vapor produced by the product.

(5) “Proprietor” means a person with an ownership or managerial interest in a business. An ownership interest shall be deemed to exist when a person has a 10 percent or greater interest in the stock, assets, or income of a business other than the sole interest of security for debt. A managerial interest shall be deemed to exist when a person can or does have, or can or does share, ultimate control over the day-to-day operations of a business.

(6) “Self-service display” means the open display or storage of tobacco products, smoking products or tobacco/smoking paraphernalia in a manner that is physically accessible in any way to the general public without assistance of the retailer or

employee of the retailer and a direct person-to-person transfer between the purchaser and the retailer or employee of the retailer. A vending machine is a form of self-service display.

(7) “Smoking product” means any substance produced or sold to be used for smoking, ingestion, or consumption in cigarettes, cigars, pipes, hookahs, e-cigarettes, or other similar objects.

(8) “Tobacco product” means any of the following: (1) A product containing, made, or derived from tobacco or nicotine that is intended for human consumption, whether smoked, heated, chewed, absorbed, dissolved, inhaled, snorted, sniffed, or ingested by any other means, including, but not limited to, cigarettes, cigars, little cigars, chewing tobacco, pipe tobacco, or snuff. (2) An electronic device that delivers nicotine or other vaporized liquids to the person inhaling from the device, including, but not limited to, an electronic cigarette, cigar, pipe, or hookah. (3) Any component, part, or accessory of a tobacco product, whether or not sold separately. Tobacco product does not include a product that has been approved by the United States Food and Drug Administration for sale as a tobacco cessation product or for other therapeutic purposes where the product is marketed and sold solely for such an approved purpose.

(9) “Tobacco/smoking paraphernalia” means cigarette papers, wrappers, or blunt wraps as defined in Section 308 of the Penal Code, pipes, holders of smoking materials of all types, cigarette rolling machines, and any other instrument or paraphernalia designed for the smoking, preparation, storing, ingestion or consumption of tobacco and other smoking products.

(10) “Tobacco/smoking product retailer” means any person who sells, offers for sale, or does or offers to exchange for any form of consideration, in public view, tobacco, tobacco/smoking products or tobacco/smoking paraphernalia. Any person who distributes free or low-cost samples of tobacco products, smoking products, or tobacco/smoking paraphernalia shall be deemed to be a tobacco/smoking product retailer under this Chapter. “Tobacco/smoking product retailing” shall mean the doing of any of these things. This definition is without regard to the quantity of tobacco, tobacco or smoking product, or tobacco or smoking paraphernalia sold, offered for sale, exchanged, or offered for exchange.

(11) “Vending machine” as used in this Section means a machine, appliance, or other mechanical device operated by currency, token, debit card, credit card, or any other form of payment that is designed or used for vending purposes, including, but not limited to, machines or devices that use remote control locking mechanisms.

(12) “Youth decoy” means a person under the age of 18 who is used by the Los Angeles County Sheriff’s Department or any City official or employee authorized

to enforce provisions of this Chapter to conduct random on-site sting investigations to determine compliance with tobacco retailing laws.

(B) Permits Required.

(1) Any person intending to act as a tobacco/smoking product retailer shall, within one year of the effective date of the ordinance codified in this Section, obtain a tobacco/smoking product retailer permit for each location at which tobacco/smoking product retailing is to occur. This applies to all existing and future tobacco/smoking product retailers in the City.

(2) It shall be unlawful for any person to act as a tobacco/smoking product retailer in the City without first obtaining and maintaining a valid tobacco/smoking product retailer's permit pursuant to this Section for each location at which that activity is to occur.

(3) The sale of tobacco/smoking products or tobacco/smoking paraphernalia from other than a fixed location, including but not limited to tobacco/smoking product retailing by persons on foot or from vehicles, is prohibited and no permit shall be issued under this Section to any such activity.

(4) Nothing in this Section shall be construed to grant any person obtaining and maintaining a tobacco/smoking product retailer's permit any status or right other than the limited conditional privilege to act as a tobacco/smoking product retailer at the location in the City identified in the permit application and/or on the face of the permit. Nothing in this Chapter is intended to be construed to render inapplicable, supersede, or affect any other provision of applicable law, including but not limited to any provision of this code, or any condition or limitation on smoking in an enclosed place of employment pursuant to California Labor Code Section 6404.5.

(5) No permit shall be issued to authorize a tobacco/smoking product retailer at a location that is permitted under State law to serve alcoholic beverages for consumption on the premises (e.g., an "on sale" license issued by the California Department of Alcoholic Beverage Control) and no permit shall issue to authorize a tobacco/smoking product retailer at any location offering food for sale for consumption by guests on the premises.

(C) Applications. In addition to the information requirement by PMC Section 5.04.140 (Business permits – Contents), the application for a tobacco/smoking product retailer permit shall contain the following information:

(1) Proof that the location for which a tobacco/smoking product retailer permit is sought has been issued a valid State tobacco/smoking product retailer's permit by the California Board of Equalization.

(2) A signed affirmation by each proprietor that the proprietor is informed of the laws affecting tobacco/smoking product retailer permits. No proprietor may rely on the issuance of a permit as a determination by the City that the proprietor has complied with all laws applicable to tobacco/smoking product retailing.

(3) Whether or not any proprietor or any agent admitted violating or has been found to have violated this Section and, if so, the dates and locations of all such violations within the previous five years.

(4) Each permit application must be accompanied by the required permit fee, established from time to time by resolution of the City Council. The fee shall be calculated so as to recover the total cost of both permit administration and permit enforcement, including, for example, issuing the permit, administering the permit program, retailer education, retailer inspection and compliance checks, documentation of violations, and prosecution of violators, but shall not exceed the costs of the regulatory program authorized by this Section. Fees are nonrefundable except as may be required by law.

(5) Such other information as the Director deems necessary for the administration or enforcement of this Section as specified on the application form required by this Section.

(6) A permitted tobacco/smoking product retailer shall inform the Director in writing of any change in the information submitted on an application for a tobacco/smoking product retailer's permit within 10 business days of a change.

(7) All information specified in an application pursuant to this Section shall be subject to disclosure under the California Public Records Act (California Government Code Section 6250 et seq.) or any other applicable law, subject to the law's exemptions.

(8) A statement signed by each proprietor that no drug paraphernalia is or will be sold at the business seeking the permit.

(D) Issuance and Renewal of Permit.

(1) Except as otherwise provided herein, upon receipt of a complete application for a tobacco/smoking product retailer's permit and the payment of the applicable permit fee, the Director shall issue a permit unless substantial evidence demonstrates that one or more of the following bases for denial exists:

(a) One or more of the bases for denial listed in PMC Section 5.04.200 (Grounds for denial of business permit) exists.

(b) The application seeks authorization for tobacco/smoking product retailing that is prohibited pursuant to this Section (e.g., mobile vending),

that is unlawful pursuant to this code, including without limitation the zoning ordinance, building code, business license ordinance, or that is unlawful pursuant to any other law.

(c) The application seeks authorization for tobacco/smoking product retailing for a proprietor to whom this Section prohibits a permit to be issued.

(d) Suspension or revocation proceedings have been initiated by any local, State or Federal agency for violations of local, State or Federal tobacco control laws within the preceding 60-day period.

(2) Notwithstanding any other provision of this Section, prior violations at a location shall continue to be counted against a location and permit ineligibility periods shall continue to apply to a location unless:

(a) The location has been fully transferred to a new proprietor or fully transferred to entirely new proprietors; and

(b) The new proprietor provides the City with clear and convincing evidence that the new proprietor has acquired the location in an arm's length transaction.

(3) Every permit issued under this Chapter shall be posted pursuant to PMC Section 5.04.100 (Presentment of permit).

(4) A tobacco/smoking product retailer's permit is valid only for the location for which it has been issued and may not be transferred from one person to another or from one location to another.

(5) The duration of a tobacco/smoking product retailer permit shall be consistent with the provisions of PMC Section 5.04.230 (Business permit – Operative) and shall be renewed consistent with the provisions of PMC Section 5.04.250 (Business permit renewal) except that any permit that is suspended, has been permanently revoked, or is subject to suspension or revocation proceedings shall not be renewed.

(6) A tobacco/smoking product retailer permit which is not timely renewed pursuant to PMC Section 5.04.250 (Business permit renewal) is an expired permit. The tobacco/smoking product retailer shall not engage in tobacco/smoking product retailing at the permitted location until a new permit has been issued for that location.

(7) A denial by the Director of a tobacco/smoking product retailer's permit may be appealed pursuant to PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq. An appeal shall stay all proceedings in furtherance of the appealed action.

(8) A valid City business license is required before a tobacco/smoking product retailer's permit may be issued.

(E) Positive Identification Required. No person engaged in tobacco/smoking product retailing shall sell or transfer a tobacco or smoking product or tobacco/smoking paraphernalia to another person who appears to be under the age of 27 years, without first examining the identification of the recipient to confirm that the recipient is at least the minimum age under State law to purchase and possess the tobacco or smoking product or tobacco/smoking paraphernalia.

(F) Minimum Age to Sell Tobacco Products. No tobacco/smoking product retailer shall permit any person who is younger than 18 years of age to engage or participate in the sale of tobacco or smoking products or tobacco/smoking paraphernalia.

(G) Compliance Monitoring and Enforcement.

(1) Compliance with this Section shall be monitored by any City official or employee authorized to enforce provisions of this Chapter or this code. Compliance checks shall determine, at a minimum, if the tobacco/smoking product retailer is conducting business in a manner that complies with tobacco laws regulating youth access to tobacco. When appropriate, the compliance checks shall determine compliance with other laws applicable to tobacco/smoking product retailing. Nothing in this Subsection shall create a right of action in any permit or other person against the City or its agents.

(2) Youth decoys may be utilized during enforcement of this Chapter. The City shall not enforce any law establishing a minimum age for tobacco purchases or possession against a person who otherwise might be in violation of such law because of such person's age (herein "youth decoy") if the potential violation occurs when the youth decoy is participating in a compliance check supervised by any City official or employee authorized to enforce provisions of this Chapter or this code.

(H) Permit Violations and Penalties.

(1) It shall be a violation of this Section for a permittee, or his/her agents or employees, to violate any Federal, State, or local law or regulation, including any provision of this Chapter, applicable to tobacco or smoking products, tobacco/smoking paraphernalia or tobacco/smoking product retailing.

(2) Tobacco/smoking product retailing by means of a self-service display is prohibited.

(3) It shall be a violation of this Section for a permittee or any permittee's agents or employees to violate any local, State or Federal law regulating controlled

substances or drug paraphernalia, such as, for example, California Health and Safety Code Section 11364.7.

(4) It shall be a violation of this Section for any tobacco retailer or any of permittee's agents or employees to sell or offer for sale, or to possess with intent to sell or offer for sale, any flavored electronic cigarette product.

(a) There shall be a rebuttable presumption that a tobacco retailer in possession of four or more flavored electronic cigarette products, including but not limited to individual flavored electronic cigarette products, packages of flavored electronic cigarette products, or any combination thereof, possesses such flavored electronic cigarette products with intent to sell or offer for sale.

(5) Causing, permitting, aiding, abetting, or concealing a violation of any provision of this Section shall constitute a violation.

(6) Failure to prominently display the tobacco/smoking product retailer permit in a publicly visible location at the permitted premises shall constitute a violation.

(7) The failure of the permittee to allow any law enforcement service, the Director, or any authorized City official to conduct unscheduled inspections of the premises of the business for the purpose of ensuring compliance with any Federal, State, or local tobacco law or regulation, including any provision of this Chapter, at any time the business is open for business shall constitute a violation.

(8) Any continuing violation shall constitute a separate offense for each day of the violation.

(9) Violations of this Chapter are hereby declared to be public nuisances.

(10) Violations of this Chapter are hereby declared to be unfair business practices and are presumed to at least nominally damage each and every resident of the community in which the business operates.

(11) In addition to other remedies provided by this Chapter or by other law, any violation of this Section may be remedied by a civil action brought by the City Attorney in the name of the City, including, for example, administrative or judicial nuisance abatement proceedings, civil or criminal code enforcement proceedings and suits for injunctive relief.

(l) Revocation of Permit.

(1) In addition to any other penalty authorized by law, a tobacco/smoking product retailer's permit may be revoked by the City Council pursuant to PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of

hearing) through 5.04.300 (Hearing to contest modification, suspension, or revocation – Procedure for hearing).

(2) Upon a finding by the City Council of a first violation of any provision of this Chapter within any five-year period the City shall:

(a) Issue a written warning to the permittee.

(b) Advise the permittee of the penalties for further violations of this Section.

(c) Require the permittee to provide documentation to the City that all employees engaged in the retail sales of tobacco or smoking products and/or tobacco/smoking paraphernalia have received training in a City-approved program within 60 days after the warning, or such other time as shall be set by the Director of Planning.

(d) Revoke said tobacco/smoking product retailer's permit for 90 days.

(3) Upon a finding by the City of a second permit violation of any provision of this Chapter, within any five-year period, the tobacco/smoking product retailer's permit may be revoked for up to one year.

(4) Upon finding by the City of a third permit violation of any provision of this Section, within any five-year period, the tobacco/smoking product retailer's permit may be permanently revoked.

(5) A tobacco/smoking product retailer's permit may be revoked by the City Council if one of the following conditions exist:

(a) One or more of the grounds for denial listed in PMC Section 5.04.200 (Grounds for denial of business permit) existed before the permit was issued; or

(b) A permittee is convicted of a misdemeanor or felony violation of any Federal, State, or local tobacco law or regulation, including any provision of this Section, or in a different legal proceeding has pleaded guilty, "no contest" or its equivalent, or admitted to a violation of any law designated in this section.

(6) A tobacco/smoking product retailer whose permit has been revoked may not apply for a new tobacco/smoking product retailer's permit until 30 days prior to the expiration of the revocation period.

(7) During any period of permit revocation, the tobacco/smoking product retailer must remove from public view all tobacco or smoking products, tobacco/smoking

paraphernalia and tobacco-related advertising. Failure to do so may be considered a subsequent violation.

(8) A decision of the City Council to revoke a permit is final.

(J) Tobacco Retailing without a Permit.

(1) In addition to any other penalty authorized by law, if the Director finds that any person has engaged in tobacco/smoking product retailing at any location without a valid tobacco/smoking product retailer's permit, either directly or through the person's agent or employees, the person shall be ineligible to apply for or be issued a tobacco/smoking product retailer's permit for that location as follows:

(a) After the first violation of this Section at a location within any 18-month period, no new permit may be issued for the person at the location until 120 days have passed from the date of the violation.

(b) After the second violation of this Section at a location within any 18-month period, no new permit may be issued for the person at the location until six months have passed from the date of the violation.

(c) After the third violation of this Section at a location within any 18-month period, no new permit may be issued for the person at the location until one year has passed from the date of the violation.

(2) The display of any advertisement relating to tobacco or smoking products or tobacco/smoking paraphernalia that promotes the sale or distribution of such products from the tobacco/smoking products retailer's location or that could lead a reasonable consumer to believe that such products can be obtained at that location without first obtaining and maintaining a valid tobacco/smoking products retailer's permit pursuant to this Section for each location at which the advertisement is displayed is prohibited.

(3) Tobacco or smoking products and tobacco/smoking paraphernalia offered for sale or exchange in violation of this Section are subject to seizure by any City official or employee authorized to enforce provisions of this Chapter or this code and shall be forfeited after the permittee and any other owner of the tobacco or smoking products or tobacco/smoking paraphernalia seized is given reasonable notice and an opportunity to demonstrate that the tobacco or smoking products or tobacco/smoking paraphernalia were not offered for sale or exchange in violation of this Section. The decision by law enforcement services may be appealed pursuant to the procedures set forth in PMC Section 5.04.280 (Hearing to contest modification, suspension, or revocation – Initiation of hearing), et seq. Forfeited tobacco or smoking products and tobacco/smoking paraphernalia shall be destroyed after the time in which to seek judicial review pursuant to California Code

of Civil Procedure Section 1094.6 or other applicable law has expired without the filing of a lawsuit or, if such a suit is filed, after judgment in that suit becomes final.

(4) For the purposes of the civil remedies provided in this Section, whichever of the following is greater shall constitute a separate violation of this Section:

(a) Each day on which a tobacco or smoking product or tobacco/smoking paraphernalia is offered for sale in violation of this Section; or

(b) Each individual retail tobacco or smoking product and each individual retail item of tobacco/smoking paraphernalia that is distributed, sold, or offered for sale in violation of this Section.

SECTION 39: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective, provided the basic purposes of this Ordinance and the benefits to the City and the public are not substantially impaired.

SECTION 40: This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 41: The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published or posted as required by law.

SECTION 42: The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

PASSED, APPROVED and **ADOPTED** this _____ day of January, 2024.

_____
Austin Bishop, Mayor

Approved as to form:

_____
William P. Curley, III, City Attorney

Attest:

_____
Rochelle Scott, Acting City Clerk

I, Rochelle Scott, Acting City Clerk of the City of Palmdale, California, do hereby certify that the foregoing Ordinance was duly introduced, passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the 24th day of January, 2024 effective on the 23rd day of February, 2024 by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

Date: _____ _____
Rochelle Scott, Acting City Clerk

ECONOMIC AND COMMUNITY DEVELOPMENT DEPARTMENT

Ordinance No. 1612

City of Palmdale

City Council

January 24, 2024

Amendments to the Palmdale Municipal Code (PMC) include the following:

Titles 3 Revenue and Finance and 5 Business licenses, taxes, and regulations.

- Update references to ensure consistency related to the comprehensive update of Title 17
- Streamline procedures for business licenses and permits
- Update definitions related to adult-oriented business and tobacco retail establishments

Recommendation

Adopt Ordinance No. 1612 approving various amendments to the Palmdale Municipal Code.

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **PUBLIC SAFETY DEPARTMENT**

DISTRICT: **ALL**

SUBJECT: **INTRODUCTION AND ADOPTION OF ORDINANCE NO. 1634, AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE APPROVING VARIOUS AMENDMENTS TO TITLES 1, 8, AND 9 OF THE PALMDALE MUNICIPAL CODE (PMC) TO ENHANCE PUBLIC SAFETY**

RECOMMENDATION

Staff recommends that the City Council:

1. Receive public testimony regarding Ordinance No. 1634; and

2. Adopt Ordinance No. 1634, an Ordinance approving various amendments to Titles 1, 8, and 9 of the PMC to enhance public safety.

BACKGROUND

On September 21, 2022, the City Council adopted a new General Plan, *Palmdale 2045*, which replaced the previously adopted Plan in 1993. State law requires that the regulations governing the use and development of lands within the municipal limits of a city be consistent with the adopted General Plan. Accordingly, on March 15, 2023, the City Council adopted a new Zoning Ordinance and a Zoning Map, *ZOA 21-007*, which amended Title 17 of the PMC to implement the vision of *Palmdale 2045*, as well as support new land use patterns and future development. Furthermore, on August 16, 2023, the City Council adopted Ordinance No. 1614, which included various amendments to the PMC to correct inconsistencies, typographical errors, and update section references.

Ordinance No. 1634 will update select provisions within Titles 1, 8, and 9 of the PMC to account for the noted legal changes. Additionally, the Ordinance will expand the authority to enforce and issue citations to include peace officers in line with legal authority. It will also clarify the responsible parties for violations of health, safety, and technical construction codes adopted by the City, including firework regulations for consistent enforcement methods and abatement tools. It will also clarify the definition of public nuisances as it relates to inoperable vehicles. Ordinance No. 1634 will enhance public understanding and include regulations for seasonal lights, decorations, or displays to promote community engagement and mitigate negative impacts on

neighborhoods. It will define and expand on prohibitions relating to public peace, health, sanitation, and welfare and related penalties and enforcement mechanisms to promote and streamline processes.

DISCUSSION

The proposed amendments to the PMC impact Title 1 General Provisions, Title 8 Health and Safety, and Title 9 Public Peace, Morals, and Welfare as follows:

Title 1 General Provisions

The proposed amendments to Title 1 include authorizing peace officers to make arrests for violations of the PMC per state law.

Title 8 Health and Safety

The proposed amendments to Title 8 include expanding the definition of inoperable vehicles to include unregistered vehicles; adding regulations for seasonal lights, decorations, or displays; and updating the City's rental unit inspection program to enhance timely compliance, including requiring rental property owners to affirmatively contact the Building and Safety Division concerning property ownership changes and scheduling of required inspections. The amendments also add a new definition and clarify other existing definitions within the City's rental unit inspection program and provide a chart outlining the Registration and Inspection Frequency Schedule for ease of the public's understanding and City enforcement.

Title 9 Public Peace, Morals, and Welfare

The proposed amendments to Title 9 include adding prohibitions on urination and defecation in public places, harassment of City staff, and aggressive panhandling in line with applicable state and federal law. The proposed amendments also streamline penalty and enforcement provisions in various public safety chapters to ensure consistency and clarity for the public.

This will provide greater efficiency and authority for City code enforcement efforts and enhanced transparency, clarity, and ease of reference for the prohibitions and related enforcement mechanisms, which are all designed to improve public peace, health, sanitation, and welfare.

FISCAL IMPACT

None.

STRATEGIC PLAN

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:	Mario Vallarta, Community Compliance Manager
Certified as to availability of Funds:	Janelle Samson, Director of Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P. Curley, III, City Attorney

ATTACHMENT

Ord. No. 1634

CITY OF PALMDALE
COUNTY OF LOS ANGELES, CALIFORNIA
ORDINANCE NO. 1634

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE APPROVING VARIOUS AMENDMENTS TO TITLES 1, 8, AND 9 OF THE PALMDALE MUNICIPAL CODE TO ENHANCE PUBLIC SAFETY

WHEREAS, Section VII of Article XI of the California Constitution provides that a City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, the City Council finds it necessary to update, consolidate, and streamline the Palmdale Municipal Code ("PMC") periodically to achieve more efficient enforcement of code violations to promote public health, safety, and welfare; and

WHEREAS, the City Council finds it necessary to expand authority to enforce and issue citations to include peace officers; and

WHEREAS, the City Council finds it necessary to update select provisions relating to the City's rental unit inspection program to ensure timely inspections of rental properties for the welfare of occupants and the community; and

WHEREAS, the City Council finds it necessary to clarify the responsible parties for violations of health, safety, and technical construction codes adopted by the City, including firework regulations, to provide for consistent enforcement methods and abatement tools in the City; and

WHEREAS, the City Council finds it necessary to clarify the definition of public nuisances as it relates to inoperable vehicles to enhance public understanding and include regulations for seasonal lights, decorations, or displays to promote community engagement and mitigate negative impacts on neighborhoods; and

WHEREAS, the City Council finds it necessary to define and expand on prohibitions relating to public peace, health, sanitation, and welfare and related penalties, such as aggressive panhandling, by imposing reasonable restrictions on aggressive, intrusive, or unsafe panhandling while respecting the constitutional rights of free speech for all citizens, public urination and defecation, fighting on public property, causing nuisances while under the influence, public consumption of alcohol or possession of open containers in areas not otherwise approved for such purposes, and engaging in annoying and harassing contact with City staff; and

WHEREAS, said amendments, adoptions, and/or deletions of the PMC are permitted by law, including the California Constitution, Government Code, and Civil Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALMDALE HEREBY ORDAINS AS FOLLOWS:

SECTION 1: The above recitals are true and correct and are incorporated herein.

SECTION 2: Section 1.16.010, subsection (A) of Title 1 of the Palmdale Municipal Code is hereby amended to read as follows:

(A) The Senior Code Enforcement Officer, Code Enforcement Officer, Community Service Officer, Building Official, Supervising Building Inspector, Senior Building Inspector, Building Inspector, City Engineer, Supervising Public Works Inspector, Peace Officer, Parking Enforcement Supervisor, Parking Enforcement Officer, Public Security Officer, Senior Public Security Officer, and Supervising Public Security Officer classifications of employees of the City, as may hereafter be specifically designated by ordinance, shall have the power, authority, and immunity, as set forth in Section 836.5 of the California Penal Code, to make arrests without a warrant whenever such officers or employees have reasonable cause to believe that the person to be arrested has committed a violation in their presence of an ordinance or statute which such officers or employees have the duty to enforce.

SECTION 3: Section 8.40.015 of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

The following definitions shall apply to this Chapter:

“Building Official” means the City Building Official, or his designee, who shall possess all statutorily mandated certifications to enforce State building and construction codes.

“Certificate of compliance” means a certificate issued by the Building Official for residential rental unit properties, certifying compliance with this Chapter and the housing and property maintenance standards of the City.

“Frequency upgrade” means modifying the inspection frequency to extend the length of time between re-registration and renewal of certificate of compliance of a residential rental unit.

“Housing and property maintenance standards” means the health, safety, and technical construction codes as amended, adopted, and incorporated by reference in PMC Chapters 8.04 (Comprehensive residential rental unit inspection program) and 8.08 (General Hazards) and in the property maintenance standards set forth in PMC Chapter 8.36 (Regulation of Property Maintenance).

“Inspection frequency” means the length of time between inspections for renewal of certification of residential rental units.

“Maintenance request log” means the log required to be maintained by the owner or manager of a residential rental unit, which shall record all tenant requests for repairs, the time estimated at the time of the request for repairs to be completed, and the completion date of the repairs.

“Major violation” shall mean any one or more of the following violations:

(A) Heating system not fully operational at any time between October and May of the following year.

(B) Hazardous code violations, including any one or more of the following:

(1) Exposed electrical wiring;

(2) Collapsed ceiling or walls caused by water leakage;

(3) Sewage leakage into walls, floors, or onto the ground;

(4) Structural damage resulting in the building being determined by the Building Official to be unsafe;

(5) Fire alarm system not fully operational;

(6) Firewalls damaged or not maintained.

(C) Failure to post current and accurate emergency contact information.

“New construction” means construction of a property that was completed within the last five years of that property being subject to PMC Section 8.40.020’s registration requirement.

“Noncompliance with notice and order” means that the owner, his authorized agent, or other responsible party does not make required repairs as provided in the notice and order from the Building Official.

“Minor violations” means any violation other than those defined as a major violation.

“Owner” means the person or entity identified and listed as having title to the residential rental unit by the latest property tax assessment roll maintained by the Los Angeles County Assessor.

“Partners Against Crime (PAC) certified property” shall mean a property containing one or more residential rental units certified to meet the requirements of the City’s PAC program.

“Property management posting” means a sign required to be posted and maintained at all times which shall include the address and location to obtain repair requests and a current 24-hour emergency phone number. The sign shall be posted close to the main entrance in an area accessible and visible to the general public, or as may otherwise be approved in writing by the Building Official.

“Repair request form” means a two-part form the owner of a property must provide to all tenants. The form shall indicate the address the form is to be delivered to for repair requests and an area for the manager or owner to sign the receipt of the repair request. The owner shall provide a copy of the request to the tenant.

“Residential rental unit” means a rented or leased dwelling, including but not limited to, Primary Dwelling, Single-Family Dwelling, Multi-Family Dwelling or Multi-Family Residential, an Accessory Dwelling Unit, Junior Accessory Dwelling Unit, or any other rented or leased property, or portion thereof, for habitation, regardless if it is owner occupied as well, including but not limited to, mobile homes situated on private land, rooming houses, boarding houses, and single room occupancies.

SECTION 4: Section 8.40.030 of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

All rental properties shall be inspected for compliance with the City’s housing and property maintenance standards. The owner shall schedule an inspection with the Building and Safety Department within 60 days of Rental Registration completion and shall provide access to the complete property for the inspection at the scheduled time. Additionally, the owner shall provide access to the complete property at any other time within 10 working days of the Building Official’s request. The Building Official at his discretion may require inspections by other City departments and/or Los Angeles County and/or California State enforcing agencies, including, but not limited to, the Los Angeles County Health Department and Los Angeles County Fire Department.

It shall be the owner’s responsibility to reschedule an inspection for work performed to remedy any violations as set forth in PMC Section 8.04.200, Section 103 (Violations and Penalties), in the PMC within 30 days of a correction notice from the Building Officials Agent. Failure to reschedule within 30 days will result in a cancellation of the rental registration.

SECTION 5: Section 8.40.035, subsection (B)(6) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(6) A valid City business license has been issued to the property owner for the residential rental units covered under the certificate of compliance.

SECTION 6: Section 8.40.03, subsection (C) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(C) Issuance of a certificate of compliance shall not constitute a guarantee or warranty of the habitability or complete compliance with the City housing and property maintenance standards, and the occupant of any residential rental unit shall not rely on the certificate of compliance as such a guarantee or warranty. The certificate of compliance shall contain a notice to this effect. The City shall not assume any liability to any person by reason of the inspections required by this Chapter or the issuance of a certificate of compliance. Certificates of compliance shall expire on the expiration date shown on the certificate and shall be renewed prior to such date. The Building Official shall determine the expiration dates of certificates of compliance and inspection frequency based on the nature of violations found during the residential rental unit inspections, the following registration and inspection frequency schedule, in conjunction with his review of past compliance violations within the preceding 12 months.

Residential Rental Units (RRU)
Registration and Inspection Frequency Schedule

Single-family or detached

Classification	Frequency	Notes
No Violations (PAC Certified)	Every 5 Years	
Minor Violations (PAC Certified)	Every 5 Years	PAC certified property, with no major violations found; all violation corrections completed within 30 days after notice by Building Official; maintenance
Minor Violations (Non-PAC Certified)	Every 3 Years	Not more than one major violation found; all violation corrections completed within 30 days after notice by Building Official; maintenance logs
Major Violations	Every Year	Major violations found, or Minor Violations found but all violation corrections not completed within 30 days after notice by

Multi-family (Two units and above)

Classification	Frequency	Notes
No Violations (PAC Certified)	Every 5 Years	
Minor Violations (PAC Certified)	Every 5 Years	PAC certified property, with no major violations found; all violation corrections completed within 30 days after notice by Building Official; maintenance
Minor Violations (Non-PAC Certified)	Every 3 Years	Not more than one major violation found; all violation corrections completed within 30 days after notice by Building Official; maintenance logs
Major Violations	Every Year	Major violations found, or Minor Violations found but all violation corrections not completed within 30 days after notice by

Single-family or Multi-family RRU that are New Construction (Certificate of Occupancy issued within preceding six months) will not be charged the RRU registration fee but still must register. The initial certificate of compliance will be valid for 5 years.

Failure to re-register, meet all requirements, and pay all fees required for a new certificate prior to the scheduled expiration of the certificate of compliance will result in the removal of the option for a five-year certificate.

SECTION 7: Section 8.40.040 of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

The owner of a residential rental unit shall apply and pay all required fees not less than 30 days prior to the scheduled expiration of the certificate of compliance. The owner of a residential rental unit property shall re-register and meet all requirements and pay all fees as for a new certificate. Failure to re-register, meet all requirements, and pay all fees required for a new certificate prior to the scheduled expiration of the certificate of compliance will result in the removal of the option for a five-year certificate. Upon re-registration, inspection and the issuance of a new certificate of compliance, the Building Official in the exercise of his discretion may grant a frequency upgrade to extend the inspection frequency one level; however, if all of the following actions are taken and certified to, upon his approval and in the exercise of his discretion, the Building Official may grant a frequency upgrade to extend the inspection frequency two levels:

(A) The property is a Partners Against Crime (PAC) certified property;

(B) All heating and air conditioning systems have been inspected, repaired, and serviced by a licensed mechanical contractor, who shall submit a signed letter certifying to that effect;

(C) All residential rental units shall have code compliant smoke detectors installed in all bedrooms and hallways to the bedrooms;

(D) Ground fault circuit interrupter (GFCI) receptacles have been inspected, repaired, and/or installed within six feet of all sinks and tubs/showers within all the units.

SECTION 8: Section 8.40.060 of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

When ownership of a residential rental unit property changes:

(A) the new owner shall notify the Building Official within 60 days;

(B) any valid and current certificate of compliance for that residential rental unit under PMC Section 8.40.035 (Certificate of compliance) shall automatically transfer from the old owner to the new owner unless the Building Official is not provided timely and proper notice pursuant to PMC Section 8.40.060(A) (Change of ownership); and

(C) all required property postings under PMC Section 8.40.035(B)(4) (Certificate of compliance) shall be updated.

SECTION 9: Section 8.04.520, subsection (A) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(A) All persons concerned in the commission of any violation of the provisions of this Chapter, whether it be misdemeanor, infraction, or administrative violation subject to administrative penalties, and whether they directly commit the act constituting the offense, or own property that the violation occurs on, or aid and abet in its commission, or, being present, are spectators and encourage its commission, or, not being present, have advised and encouraged its commission, or knowingly allow its commission on property owned by such person, and all persons counseling, advising, or encouraging children under the age of 16 years, or mentally impaired persons, to commit any offense, or who, by fraud, contrivance, or force, occasion the drunkenness of another for the purpose of causing him to commit any offense, or who, by threats, menaces, command, or coercion, compel another to commit any offense, are principals in any offense so committed and are guilty of and responsible for any offense so committed.

SECTION 10: Section 8.24.210, subsection (A)(1) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(1) All sidewalk vendors must comply with the applicable regulations in PMC Section 5.04.460 (Sidewalk vending);

SECTION 11: Section 8.36.050, subsection (D)(1)(b) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(b) Abandoned, inoperative, unregistered, wrecked or dismantled autos, trucks, trailers, motorcycles, camper boats, recreational vehicles, or any other vehicle or any type or nature;

SECTION 12: Section 8.36.050, subsection (F)(8) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(8) Abandoned, inoperative, unregistered, wrecked or dismantled motor vehicles or any other type of vehicle of any type or nature stored for unreasonable periods on the premises and causing depreciation of nearby property values;

SECTION 13: Section 8.36.050, subsection (D)(3) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(3) Property that repeatedly has been the situs of nuisance activity, including but not limited to, all nuisances as defined in Section 8.36.050, disturbing the peace, illegal drug activity, public drunkenness, harassment of passersby, illegal gambling, prostitution, sale of stolen goods, acts of violence, public urination, acts of lewd conduct, unreasonably loud noise, or excessive littering;

SECTION 14: Section 8.36.050, subsection (F)(2) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(2) Parking, storing, or keeping of any recreational vehicle, trailer, boat, or camper within that area of a residential lot customarily considered to be the front yard. The front yard area does not include the driveway. For purposes of this subsection only, the driveway shall be limited to:

(a) One paved area leading directly from the public right-of-way to an attached garage or carport (whether one-car, two-car, or more), which paved area shall be limited in width to the width of the attached garage(s) or carport(s);

(b) Where the only garage or carport is a detached rear yard garage or carport, to the width of a single lane driveway which shall not exceed 12 feet in width, leading directly in a straight line from the public right-of-way to the rear portion of the lot; and

(c) One single-lane paved area not exceeding 12 feet in width leading directly in a straight line from the public right-of-way to a side yard parking area as permitted by subsection (A)(10)(c) of this section on the same side of the lot as the principal attached front yard garage or carport. Parking any recreational vehicle, trailer, boat, or camper on any other portion of the front yard, whether paved or unpaved, including in an area leading to an approved additional paved parking area in a rear or side yard, is prohibited;

SECTION 15: Section 8.36.050, subsection (G)(2) of Title 8 of the Palmdale Municipal Code is hereby amended to read as follows:

(2) Excessive individual ornamentation or architectural elements not in keeping with the overall character of a neighborhood, seasonal or holiday lights, decorations, or displays that are erected, installed, or maintained on exterior portions of real property over ninety (90) consecutive calendar days, or seasonal or holiday lights, decorations, or displays that are unmaintained, unsecured, and/or unsightly, and/or obscene.

SECTION 16: Section 9.04.040 is hereby added to Chapter 9.04 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.04.40 Harassing, Threatening, and Annoying Contacts to City.

(A) Purpose and Intent. It is the intent of the City Council in enacting the ordinance codified in this Section to protect City staff from harassing, threatening, and annoying contacts from the public while respecting the constitutional rights of free speech for all citizens. This ordinance is intended to be consistent with existing and forthcoming law protecting employees from such harassment in the workplace, including recent California

Senate Bills 428 (concerning temporary restraining orders and protective orders for employee harassment) and 553 (concerning occupational safety, preventing workplace violence through restraining orders and workplace violence prevention plans) and Penal Code 653m (concerning preventing improper contacts via electronic communication). This Section is not intended to, and does not, prohibit or inhibit lawful First Amendment speech. The City Council finds that this limited restriction of harassing, threatening, and annoying contacts to the City will provide a balance between the rights of citizens' free speech and will help avoid or diminish hostile situations in the City.

(B) Prohibitions.

(1) No person shall contact the City's employees, representatives, and agents in person to harass, threaten, or annoy them, including making repeated in person contacts with use of obscene language, threats of violence, threatening behavior, or with the intent to annoy.

(2) No person shall contact the City's employees, representatives, and agents via telephone or other electronic communication to harass, threaten, or annoy them, including making repeated telephone calls with the use of obscene language, threats of violence, or with the intent to annoy.

SECTION 17: Section 9.04.050 is hereby added to Chapter 9.04 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.04.050 Enforcement.

The City is authorized to take such actions as may be required for enforcement of this Chapter. The City may enforce any violation of this Chapter by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with or in lieu of each other remedy.

SECTION 18: Section 9.04.060 is hereby added to Chapter 9.04 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.04.060 Public Nuisance.

Any violation of this Chapter shall constitute a public nuisance subject to abatement procedures prescribed in PMC Chapter 8.36 (Regulation of Property Maintenance).

SECTION 19: Section 9.04.070 is hereby added to Chapter 9.04 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.04.070 Penalties.

Violations of any provision of this Chapter shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Violations of any provision of this Chapter shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Chapter occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

SECTION 20: Chapter 9.11 is hereby added to Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

Chapter 9.11

PUBLIC URINATION AND DEFECATION

Sections:
9.11.010 Prohibition.
9.11.020 Enforcement.
9.11.030 Public Nuisance.
9.11.040 Penalties.

9.11.010 Prohibition.

It is unlawful for any person to urinate or defecate in a public place or publicly owned property other than a restroom, or in a place open to public view, or upon the private property of another without the consent of the owner or person in lawful possession.

9.11.020 Enforcement.

The City is authorized to take such actions as may be required for enforcement of this Chapter.

9.11.030 Public Nuisance.

Any violation of this Chapter shall constitute a public nuisance subject to all enforcement methods, abatement procedures, other remedies, and cost recovery as prescribed in PMC Chapter 8.36 (Regulation of Property Maintenance). The City may enforce any violation of this Chapter by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with or in lieu of each other remedy.

9.11.040 Penalties.

Violations of any provision of this Chapter shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Violations of any provision of this Chapter shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Chapter occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

SECTION 21: Section 9.12.020 of Title 9 of the Palmdale Municipal Code is hereby amended to read as follows:

9.12.020 Public Consumption of Liquor.

(A) Drinking in Public.

No person shall drink any alcoholic beverage upon any public street, alleyway, sidewalk or parkway, or in any public building, public lavatory, auto park, or lobby or entranceway to any building within the City.

(B) Possession of Open Container.

(1) No person who has in his or her possession any bottle, can, or other receptacle containing any alcoholic beverage which has been opened, or a seal broken, or the contents of which have been partially removed, shall enter, be, or remain in any public area, including, but not limited to, any roadway, sidewalk, parking lot, or on the posted premises of, including the posted parking lot immediately adjacent to, any retail package off-sale alcoholic beverage licensee licensed pursuant to Division 9 (commencing with Section 23000) of the Business and Professions Code, or on any area immediately adjacent to the licensed and posted premises, or on the premises of, or immediately adjacent to, any business not licensed to sell or consume alcoholic beverages.

(2) As used in this section, "posted premises" means those premises which are subject to licensure under any retail package off-sale alcoholic beverage license, the parking lot immediately adjacent to the licensed premises and any public sidewalk immediately adjacent to the licensed premises on which clearly visible notices indicate to the patrons of the licensee and parking lot and to persons on the public sidewalk, that the provisions of this section are applicable. This section does not apply to possession an alcoholic beverage on-site of a properly licensed facility in compliance with State law.

(C) Nothing in this section prohibits drinking in public or having possession of an open container where the location of such acts is subject to a valid City approval for such acts, such as special event permit, where such actions have been expressly allowed by the City.

SECTION 22: Article VIII Public Nuisance inclusive of Section 9.12.190 is hereby added to Chapter 9.12 of Title 9 of the PMC, and is to read in its entirety as follows:

Article VIII. Public Nuisance

9.12.190 Causing Public Nuisances While Under the Influence.

(A) Prohibition. It shall be unlawful for any person to cause a public nuisance while under the influence. A “public nuisance” shall be any public nuisance defined in the PMC, including but not limited to, the public nuisances specified in Section 1.12.040 (Public nuisances), Title 8 (Health and Safety), and Title 9 (Public Peace, Morals and Welfare).

(B) As used in this Article, “under the influence” shall mean impairment, to any degree, of an individual's ability to perform the activity in question as a result of the use of alcohol, drugs, or a combination of both.

(C) Penalty. Violations of any provision of this Article shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Article occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

(D) Public Nuisance. Any violation of this Article shall constitute a public nuisance subject to all enforcement methods, abatement procedures, other remedies, and cost recovery as prescribed in PMC Chapter 8.36 (Regulation of Property Maintenance). The City may enforce any violation of this Article by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with or in lieu of each other remedy.

SECTION 23: Section 9.12.080 of Title 9 of the PMC is hereby amended to read as follows:

9.12.080 Penalties.

Violations of any provision of this Article shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Article occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

SECTION 24: Section 9.16.050 is hereby added to Chapter 9.16 of Title 9 of the PMC, and is to read in its entirety as follows:

9.16.050 Fighting in Public Prohibited.

It is unlawful for any person to engage in any physical fight, disorderly conduct, or

altercation with any other person on any public property or upon the premises of another within the City, while in public view.

SECTION 25: Section 9.16.060 is hereby added to Chapter 9.16 of Title 9 of the PMC, and is to read in its entirety as follows:

9.16.060 Fighting on Public Property Prohibited.

It is unlawful for any person to engage in any physical fight, disorderly conduct, or altercation with any other person on any public property or upon any public premise owned or operated by the City.

SECTION 26: Section 9.16.070 is hereby added to Chapter 9.16 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.16.070 Enforcement.

The City is authorized to take such actions as may be required for enforcement of this Chapter. The City may enforce any violation of this Chapter by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with or in lieu of each other remedy.

SECTION 27: Section 9.16.080 is hereby added to Chapter 9.16 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.16.080 Public Nuisance.

Any violation of this Chapter shall constitute a public nuisance subject to abatement procedures prescribed in PMC Chapter 8.36 (Regulation of Property Maintenance).

SECTION 28: Section 9.16.090 is hereby added to Chapter 9.16 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.16.090 Penalties.

Violations of any provision of this Chapter shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Chapter occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

SECTION 29: Section 9.24.040 is hereby added to Chapter 9.24 of Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

9.24.040 Penalties.

Violations of any provision of this Chapter shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Chapter occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

SECTION 30: Chapter 9.51 is hereby added to Title 9 of the Palmdale Municipal Code, and is to read in its entirety as follows:

Chapter 9.51
AGGRESSIVE PANHANDLING

Sections:
9.51.010 Purpose and Intent.
9.51.020 Definitions.
9.51.030 Prohibition Against Aggressive Panhandling.
9.51.040 Enforcement.
9.51.050 Public Nuisance.
9.51.060 Penalties.

9.51.010 Purpose and Intent.

(A) It is the intent of the council in enacting the ordinance codified in this Chapter to preserve and improve the quality of life for those in the City, and to protect the safety of the general public against certain abusive conduct of persons engaged in aggressive panhandling by imposing reasonable restrictions on aggressive, intrusive, or unsafe panhandling while respecting the constitutional rights of free speech for all citizens.

(B) This Chapter is not intended to, and does not, prohibit non-aggressive panhandling, and is limited to aggressive panhandling on public property.

(C) Aggressive and intrusive panhandling includes unwanted physical contact of pedestrians and others or the intentional blocking of pedestrian and vehicular traffic. The City Council finds that an increase in aggressive panhandling in the City has become extremely disturbing and disruptive to residents and businesses, and contributes to the loss of access to and enjoyment of public places, and to an enhanced sense of fear, and disorder. Aggressive panhandling unquestionably threatens the public's safety and welfare. Aggressive panhandling also undermines the public's inherent right to use and enjoy public places without being accosted by or be in reasonable apprehension of persons demanding money or goods in a forceful manner. The actions of individuals engaged in aggressive panhandling likewise can create a climate of intimidation and anxiety among members of the public, who when confronted, reasonably and legitimately fear harm if they refuse to give in to the solicitations of individuals engaged in this type of conduct. Aggressive panhandling also reflects behaviors that are otherwise illegal, such

as assaulting persons, and is unrelated to the content of speech, and these regulations are in no way intended to regulate in any manner the content of speech.

(D) Aggressive panhandling usually includes approaching or following pedestrians, the use of abusive language, unwanted physical contact, or the intentional blocking of pedestrians. Such activity often carries with it an implicit threat to both person and property.

(E) The City Council further finds that restricting aggressive panhandling on public property will provide a balance between the rights of panhandlers and the rights of persons who wish to decline or avoid such aggressive panhandlings and will help avoid or diminish the threat of violence in such unwarranted and unavoidable confrontations while allowing all members of the public to peacefully utilize and enjoy public property.

(F) The restrictions contained herein are neither overbroad nor vague and are narrowly tailored to very specific conduct occurring on public property and focused to serve a substantial governmental interest. Furthermore, in enacting this legislation, the City Council recognizes the inherent availability of warnings and alternative administrative and civil remedies which may be appropriate remedies for violations of this law.

9.51.020 Definitions.

As used in this Chapter, the terms listed below shall have the meaning assigned them:

(A) "Aggressive panhandling" means any of the following:

(1) Approaching or speaking to a person, or following a person before, during, or after soliciting, if that conduct is likely to cause a reasonable person to:

(a) Fear bodily harm to oneself or to another, damage to or loss of property, or

(b) Otherwise be intimidated into giving money, goods, or other things of value;

(2) Intentionally touching or causing physical contact with another person or an occupied vehicle without that person's consent in the course of soliciting, asking, or begging;

(3) Intentionally blocking or interfering with the safe or free passage of a pedestrian or vehicle by any means, including unreasonably causing a pedestrian or vehicle operator to take evasive action to avoid physical contact in the course of soliciting, asking, or begging; or

(4) Persisting in closely following or approaching a person, after the person solicited has been solicited and informed the solicitor by words or conduct that

such person does not want to be solicited or does not want to give money or any other thing of value to the panhandler.

(B) "Bona fide charity" or "charity" means any social, religious, educational, sports, arts, or other similar bona fide non-profit organization not engaged in any criminal activity or enterprise for which financial donations are collected.

(C) "Panhandling" means to ask for or solicit money, property, or other favor, regardless of value.

(D) The definitions set forth in PMC Chapter 1.20 (Administrative Citations) are also applicable to this Chapter.

9.51.030 Prohibition Against Aggressive Panhandling.

(A) It shall be unlawful for any person to engage in any aggressive panhandling on any public property, including any City park, City building, and public street, highway, sidewalk, or public right-of-way.

(B) This Chapter does not apply to any bona fide charity or person that engages in panhandling that is not aggressive, as defined in this Chapter.

(C) This Chapter does not apply to protected speech activities or other activity protected by law.

9.51.040 Enforcement.

The City is authorized to take such actions as may be required for enforcement of this Chapter. The City may enforce any violation of this Chapter by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with, or in lieu of, each other remedy.

9.51.050 Public Nuisance.

Any violation of this shall constitute a public nuisance subject to all enforcement methods, abatement procedures, other remedies, and cost recovery as prescribed in PMC Chapter 8.36 (Regulation of Property Maintenance). The City may enforce any violation of this Chapter by any and all means available by law, including, but not limited to, civil enforcement through such means as a restraining order and nuisance abatement action for relief such as preliminary or permanent injunction, criminal enforcement, and administrative enforcement. These remedies are intended to be cumulative and may be used in conjunction with, or in lieu of, each other remedy.

9.51.060 Penalties.

Violations of any provision of this Chapter shall be punishable as set forth in PMC Title 1, Chapter 1.12 (Penalty Provisions). Each day that a violation of this Chapter occurs shall constitute a new and separate offense as provided in PMC Section 1.12.030 (Continuing violations).

SECTION 31: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase thereof irrespective of the fact that any one or more subsections, subdivisions, paragraphs, sentences, clauses, or phrases be declared unconstitutional, or invalid, or ineffective, provided the basic purposes of this Ordinance and the benefits to the City and the public are not substantially impaired.

SECTION 32: This Ordinance shall take effect thirty (30) days after its adoption.

SECTION 33: The City Clerk shall certify to the adoption of this ordinance and shall cause this ordinance to be published or posted as required by law.

SECTION 34: The City Council finds that this ordinance is not subject to the California Environmental Quality Act (CEQA) pursuant to Sections 15060(c)(2) (the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment) and 15060(c)(3) (the activity is not a project as defined in Section 15378) of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly.

PASSED, APPROVED, and **ADOPTED** this _____ day of January, 2024.

_____
Austin Bishop, Mayor

Approved as to form:

_____
William P. Curley, III, City Attorney

Attest:

_____
Rochelle Scott, Acting City Clerk

I, Rochelle Scott, Acting City Clerk of the City of Palmdale, California, do hereby certify that the foregoing Ordinance was duly introduced, passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the _____ day of _____, 2024 effective on the ____ day of _____, 2024 by the following roll call vote:

AYES: _____

NOES: _____

ABSTAIN: _____ ABSENT: _____

Date: _____ _____
Rochelle Scott, Acting City Clerk

PUBLIC SAFETY DEPARTMENT

Ordinance No. 1634

City of Palmdale

City Council

January 24, 2024

Amendments to the Palmdale Municipal Code (PMC) include:

Title 1: General Provisions

- Authorizes peace officers to make arrests for violations of the PMC per state law

Title 8: Health and Safety

- Expands the definition of inoperable vehicles
- Updates the City's rental unit inspection program by requiring rental property owners to coordinate more effectively with the Building and Safety division
- Adds regulations for seasonal lights, decorations, or displays

Title 9: Public Peace, Morals and Welfare

- Includes prohibitions on:
  - Urination and defecation in public places
  - Fighting on public property
  - Causing nuisances while under the influence
  - Public consumption of alcohol or possession of open containers in areas not otherwise approved for such purposes
  - Harassment of City staff
- Adds regulations on aggressive panhandling

Recommendation

Adopt Ordinance No. 1634, an Ordinance approving various amendments to Titles 1, 8, and 9 of the PMC to enhance public safety.

City Council Staff Report

DATE: **JANUARY 24, 2024**

TO: **HONORABLE MAYOR AND CITY COUNCIL**

FROM: **ECONOMIC AND COMMUNITY DEVELOPMENT**
BUILDING AND SAFETY DIVISION

DISTRICT: **ALL**

SUBJECT: **INTRODUCTION AND ADOPTION OF URGENCY ORDINANCE NO. U-1635, AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE ADOPTING BY REFERENCE APPENDIX P OF THE 2022 CALIFORNIA BUILDING CODE, AND APPENDIX AZ OF THE 2022 CALIFORNIA RESIDENTIAL CODE**

RECOMMENDATION

Staff recommends that the City Council:

1. Receive public testimony regarding Urgency Ordinance No. U-1635; and

2. Adopt Urgency Ordinance No. U-1635 recommending the City Council approval of amendments to the Palmdale Building Code.

BACKGROUND

The State of California's Health and Safety Code (section 17958) mandates the State of California's Building Standards Commission update the California Building Standards codes (Title 24 California Code of Regulations) governing construction practices in the State of California every three years. This triennial update is a result of state agencies reviewing the most current international codes and documents, making amendments, and then adopting through the Building Standards Commission into California Administrative Code, Title 24. Each jurisdiction, including city, county, or fire protection districts are afforded the opportunity under California Health and Safety Code section 17958 to make amendments establishing more restrictive standards if the jurisdiction feels that the amendments are reasonably necessary due to topographical, geological, or climatic conditions. In addition to establishing amendments, each jurisdiction can adopt the referenced appendices, as needed.

DISCUSSION

Staff reviewed the 2022 California Building Code Appendix P (Emergency Housing) and 2022 California Residential Code Appendix AZ (Emergency Housing) and found that the appendices can provide additional flexibility in providing emergency housing assistance to the local unhoused population. This includes the use of existing buildings, emergency sleeping cabins, and emergency transportable housing, amongst others, only during a declaration of a state of emergency, local emergency, or shelter crisis. Appendix P and Appendix AZ would be incorporated into the Palmdale Building Code that was previously adopted under Ordinance 1595 and Resolution No. CC 2022-115.

FISCAL IMPACT

$0; there is no fiscal impact associated with this action.

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 programing that promotes fun for everyone.

Prepared by:	Brian George, Building Official
Certified as to availability of Funds:	Janelle Samson, Director of Operations
Approved by:	Ronda Perez, City Manager
Approved as to form:	William P. Curley, III, City Attorney

ATTACHMENTS

1. Urgency Ordinance No. U-1635

CITY OF PALMDALE
COUNTY OF LOS ANGELES, CALIFORNIA
ORDINANCE NO. 1635

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PALMDALE ADOPTING BY REFERENCE APPENDIX P OF THE 2022 CALIFORNIA BUILDING CODE, AND APPENDIX AZ OF THE 2022 CALIFORNIA RESIDENTIAL CODE.

WHEREAS, The City of Palmdale adopted Ordinance No. 1595 and Resolution No. CC 2022-115, adopting the 2022 edition of the California Building Code and the 2022 editions of the California Residential Code, Green Building Standards, Mechanical Code, Plumbing Code, and Electrical Codes with local amendments thereto;

WHEREAS*,* Section 17958.5 of the Health and Safety Code of the State of California provides that a City may make such changes or modifications to the Codes as are reasonably necessary because of local climatic, geological or topographical conditions;

WHEREAS, the inclusion of Appendix P and Appendix AZ (Exhibit A) will provide more efficient application and enforcement of the Palmdale Municipal Code to promote public health, safety, and welfare; and,

WHEREAS, the City of Palmdale hereby adopts the appendices as set out more fully herein.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PALMDALE DOES ORDAIN AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein.

SECTION 2. Section 8.04.201 of the Palmdale Municipal Code is hereby amended to read as follows:

Excepted as amended herein, Chapters 2 through 35, of Volumes I and II, Appendix I, Patio Covers, Appendix J, Grading, and Appendix P, Emergency Housing of that certain building code known and designated as the California Building Code, 2022 Edition, published by the International Code Council and the Building Standards Commission of the State of California, are hereby adopted and incorporated herein by reference as if fully set forth below, and shall be known as the Palmdale Building Code and may be referenced as the PBC. (Ord. 1595 § 1 (Exh. A), 2022, Ord. U-1635, 2024)

SECTION 3. Section 8.04.750 of the Palmdale Municipal Code is hereby amended to read as follows:

Chapters 2 to 10 inclusive, Chapter 44, Appendix Chapter AH, Patio Covers, Appendix AX, Swimming Pools, and Appendix AZ, Emergency Housing of the California Residential Code, 2022 Edition, published by the International Code Council and the Building Standards Commission of the State of California, are adopted and incorporated herein by reference as if fully set forth below and shall be known as the Palmdale Residential Code of the City of Palmdale and can be referenced as the PRC. (Ord. 1595 § 1 (Exh. A), 2022, Ord. U-1635, 2024)

SECTION 4. The City Council has reviewed the matter and, based upon the facts and information contained in the staff reports, administrative record, and written and oral testimony, hereby finds that this ordinance is not subject to CEQA pursuant to Sections 15060(c)(2), 15060(c)(3) and/or 15061(b)(3) of the State CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, in that it will not result in a direct or reasonably foreseeable indirect physical change in the environment nor have a significant impact on the environment.

SECTION 5. Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance or any part thereof. The City Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase thereof irrespective of the fact that any one (1) or more subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional, or invalid, or ineffective, provided the basic purposes of this Ordinance and the benefits to the City and the public are not substantially impaired.

SECTION 6. Urgency. This Ordinance shall take effect immediately because of the need for the preservation of the public peace, health and safety for the reasons set forth in the Whereas clauses in the beginning of this Ordinance.

SECTION 7. The City Clerk shall certify to the adoption of this Ordinance and shall cause this Ordinance to be publication or posted as required by law.

PASSED, APPROVED and **ADOPTED** this _____ day of _____, _____.

_____
Austin Bishop, Mayor

Approved as to form:

ATTEST:

_____
William P. Curley, III
City Attorney

_____
Rochelle Scott, Acting City Clerk

I, Rochelle Scott, Acting City Clerk of Palmdale, California, do hereby certify that the foregoing Urgency Ordinance was duly introduced, passed, approved, and adopted by the City Council of the City of Palmdale at a regular meeting of said Council held on the _____ day of _____, 20___ effective on the ____ day of _____, 20___ by the following roll call vote:

AYES: _____

NOES:_____

ABSTAIN:_____ABSENT:_____

Date: _____ _____
Rochelle Scott, Acting City Clerk

EXHIBIT A

CALIFORNIA BUILDING CODE – MATRIX ADOPTION TABLE
APPENDIX P – EMERGENCY HOUSING

(Matrix Adoption Tables are nonregulatory, intended only as an aid to the code user. See Chapter 1 for state agency authority and building applications.)

Adopting agency	BSC	BSC-CG	SFM	HCD			DSA			OSHPD						BSCC	DPH	AGR	DWR	CEC	CA	SL	SLC
				1	2	1/AC	AC	SS	SS/CC	1	1R	2	3	4	5								
Adopt entire chapter				X	X																		
Adopt entire chapter as amended (amended sections listed below)																							
Adopt only those sections that are listed below																							
Chapter / Section																							

APPENDIX P
EMERGENCY HOUSING

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

SECTION P101
GENERAL

P101.1 Scope. *This appendix shall be applicable to emergency housing and emergency housing facilities, as defined in Section P102.*

SECTION P102
DEFINITIONS

P102.1 General. *The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.*

DECLARATION OF SHELTER CRISIS. *The duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (See Government Code Section 8698.)*

DEPENDENT UNIT. *Emergency housing not equipped with a kitchen area, toilet and sewage disposal system. Recreational vehicles that are not self-contained and without utility service connections shall be considered dependent units.*

EMERGENCY HOUSING. *Housing in a permanent or temporary structure(s), occupied during a declaration of state of emergency, local emergency or shelter crisis. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; and emergency sleeping cabins, emergency transportable housing units and tents constructed in accordance with this appendix.*

EMERGENCY HOUSING FACILITIES. *On-site common use facilities supporting emergency housing. Emergency housing facilities include, but are not limited to, kitchen areas, toilets, showers and bathrooms with running water. The use of emergency housing facilities is limited exclusively to the occupants of the emergency housing, personnel involved in operating the housing and other emergency personnel.*

EMERGENCY HOUSING SITE. *A site containing emergency housing and emergency housing facilities supporting the emergency housing.*

EMERGENCY SLEEPING CABIN. *Relocatable hard-sided structure constructed in accordance with this appendix, which may be occupied only for emergency housing if allowed by the enforcing agency.*

EMERGENCY TRANSPORTABLE HOUSING UNIT. *A single- or multiple-section prefabricated structure that is transportable by a vehicle and that can be installed on a permanent or temporary site in response to a need for emergency housing. Emergency transportable housing units include, but are not limited to, manufactured homes, mobilehomes, multifamily manufactured homes, recreational vehicles and park trailers. For the purposes of this appendix, emergency transportable housing units may also include commercial modulars as defined in the Health and Safety Code Section 18001.8, if approved by the enforcing agency.*

Emergency transportable housing units do not include factory-built housing as defined in the Health and Safety Code Section 19971.

LANDING PLATFORM. *A landing provided as the top step of a stairway accessing a loft.*

LOCAL EMERGENCY. *Local Emergency as defined in the Government Code, Section 8558.*

LOFT. *A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.*

MANUFACTURED HOME. *A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18007.*

MEMBRANE STRUCTURE. *An air-inflated, air-supported, cable or frame-covered structure, not otherwise defined as a tent. (See Chapter 31 of this code.)*

MOBILEHOME. *A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18008.*

MULTIFAMILY MANUFACTURED HOME. *A structure designed to contain not less than two dwelling units, as defined in the Health and Safety Code, Section 18008.7.*

PARK TRAILER. *A trailer designed for human habitation that meets all requirements in the Health and Safety Code, Section 18009.3.*

RECREATIONAL VEHICLE. *A motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation, that meets all requirements in the Health and Safety Code, Section 18010.*

STATE OF EMERGENCY. *State of Emergency as defined in the Government Code, Section 8558.*

TENT. *A structure, enclosure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.*

SECTION P103
EMERGENCY HOUSING

P103.1 General. *Emergency sleeping cabins, emergency transportable housing units, membrane structures and tents constructed and/or assembled in accordance with this appendix, shall be occupied only during declaration of state of emergency, local emergency or shelter crisis.*

Buildings and structures constructed in accordance with the California Building Standards Code, used as emergency housing, shall be permitted to be permanently occupied.

P103.2 Existing buildings. *Existing residential and nonresidential buildings or structures shall be permitted to be used as emergency housing and emergency housing facilities provided such buildings or structures comply with the building code provisions and/or other regulations in effect at the time of original construction and/or alteration. Existing buildings or structures used as emergency housing shall not become or continue to be substandard buildings, as determined by the enforcing agency.*

P103.2.1 New additions, alterations and change of occupancy. *New additions, alterations and change of occupancy to existing buildings shall comply with the requirements of the California Building Standards Code effective at the time of addition, alteration or change of occupancy. The requirements shall apply only to and/or within the specific area of the addition, alteration or change of occupancy.*

Exception: *Existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code, as determined by the enforcing agency.*

P103.3 Occupant load. *Except as otherwise stated in this appendix, the maximum occupant load allowed in buildings and structures used as emergency housing shall be determined by the enforcing agency, but the interior floor area shall not be less than 70 square feet (6.5 m^2) for one occupant. Where more than one person occupies the building/structure, the required floor area shall be increased at the rate of 50 square feet (4.65 m^2) for each occupant in excess of one.*

Exceptions:

1. *Tents.*
2. *Recreational vehicles and park trailers designed for human habitation that meet the requirements in the Health and Safety Code, Sections 18009.3 and 18010, as applicable.*
3. *For emergency housing, including emergency sleeping cabins, the minimum interior floor area may be reduced to 53 square feet (4.9 m^2) if the enforcing agency determines that 53 square feet (4.9 m^2) is adequate space for a single-occupancy sleeping unit.*

P103.4 Fire and life safety requirements not addressed in this appendix. *If not otherwise addressed in this appendix, fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms and carbon monoxide alarms, shall be determined and enforced by the enforcing agency.*

P103.5 Privacy. *Emergency housing shall be provided with a privacy lock on each entrance door and all windows for use by the occupants.*

P103.6 Heating. *All sleeping areas shall be provided with adequate heating as determined by the enforcing agency.*

SECTION P104
EMERGENCY SLEEPING CABINS

P104.1 General. *Emergency sleeping cabins shall have an interior floor area of not less than 70 square feet (6.5 m^2) for one occupant. Where more than one person occupies the cabin, the required floor area shall be increased at the rate of 50 square feet (4.65 m^2) for each occupant in excess of one. The interior floor area shall not exceed 400 square feet (37 m^2), excluding lofts.*

P104.2 Live loads. *Emergency sleeping cabins shall be designed to resist intrusion of wind, rain, and to support the following live loads:*

1. *Floor live loads not less than 40 pounds per square foot (1.92 kPa) of floor area.*
2. *Horizontal live loads not less than 15 pounds per square foot (718 Pa) of vertical wall and roof area.*
3. *Roof live loads not less than 20 pounds per square foot (958 Pa) of horizontal roof area.*
4. *In areas where snow loads are greater than 20 pounds per square foot (958 Pa), the roof shall be designed and constructed to resist these additional loads.*

P104.3 Minimum ceiling height. *Habitable space and hallways in emergency sleeping cabins shall have a ceiling height of not less than 80 inches (2032 mm). Bathrooms, toilet rooms and kitchens, if provided, shall have a ceiling height of not less than 76 inches (1930 mm). Obstructions*

shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

Exception: *Ceiling heights in lofts constructed in accordance with Section P108 are permitted to be less than 80 inches (2032 mm).*

P104.4 Means of egress. *Emergency sleeping cabins shall be provided with at least two forms of egress placed remotely from each other. One form of egress may be an egress window complying with Section P104.4.1. When a loft is provided, one form of egress shall be an egress window complying with Section P104.4.1, provided in the loft space.*

P104.4.1 Egress window. *The bottom of the clear opening of the egress window shall not be more than 44 inches (1118 mm) above the floor. The egress window shall have a minimum net clear opening height of 24 inches (610 mm), and a minimum net clear opening width of 20 inches (508 mm). The egress window shall have a minimum net clear opening area of 5 square feet (0.465 m^2).*

P104.5 Plumbing and gas service. *If an emergency sleeping cabin contains plumbing or gas service, it shall comply with all applicable requirements of the California Plumbing Code and the California Mechanical Code.*

P104.6 Electrical. *Emergency sleeping cabins shall be provided with all of the following installed in compliance with the California Electrical Code:*

1. *Continuous source of electricity.*

   Exception: *The source of electricity may be an emergency generator or renewable source of power such as solar or wind power.*

2. *At least one interior lighting fixture.*
3. *Electrical heating equipment listed for residential use and a dedicated receptacle outlet for the electrical heating equipment.*

   Exception: *Electrical heating equipment and a dedicated receptacle outlet for the electrical heating equipment are not required if a nonelectrical source of heating is provided.*

4. *At least one GFCI-protected receptacle outlet for use by the occupant(s).*

P104.7 Ventilation. *Emergency sleeping cabins shall be provided with means of ventilation (natural and/or mechanical) allowing for adequate air replacement, as determined by the enforcing agency.*

P104.8 Smoke alarms. *Emergency sleeping cabins shall be provided with at least one smoke alarm installed in accordance with the California Residential Code, Section R314.*

P104.9 Carbon monoxide alarms. *If an emergency sleeping cabin contains a fuel-burning appliance(s) or a fireplace(s), a carbon monoxide alarm shall be installed in accordance with the California Residential Code, Section R315.*

SECTION P105
EMERGENCY TRANSPORTABLE HOUSING UNITS

P105.1 General. *In addition to the requirements in this appendix, manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, recreational vehicles and park trailers used as emergency transportable housing shall comply with all applicable requirements in the Health and Safety Code, Division 13, Part 2; and Title 25, Division 1, Chapter 3, Subchapter 2.*

SECTION P106
TENTS AND MEMBRANE STRUCTURES

P106.1 General. *Tents shall not be used to house occupants for more than 7 days unless such tents are maintained with tight wooden floors raised at least 4 inches (101.6 mm) above the ground level and are equipped with baseboards on all sides to a height of at least 6 inches (152.4 mm). Tents may be maintained with concrete slabs with the finished surface at least 4 inches (101.6 mm) above grade and equipped with curbs on all sides at least 6 inches (152.4 mm) high.*

A tent shall not be considered a suitable sleeping place when it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50 degrees Fahrenheit (10 degrees Celsius) within such tent during the period of occupancy.

Membrane structures installed and/or assembled in accordance with Chapter 31 of this code, may be permitted to be used as emergency housing and emergency housing facilities, as determined by the enforcing agency.

SECTION P107
ACCESSIBILITY

P107.1 General. *Emergency housing shall comply with the applicable requirements in Chapter 11B and/or the US Access Board Final Guidelines for Emergency Transportable Housing.*

Note: *The Architectural and Transportation Barriers Compliance Board (US Access Board) issued the Final Guidelines for Emergency Transportable Housing on May 7, 2014. The final guidelines amended the 2004 ADA Accessibility Guidelines (2004 ADAAG) and the 2004 Architectural Barriers Act (ABA) Accessibility Guidelines (2004 ABAAG) to specifically address emergency transportable housing units provided to disaster survivors by entities subject to the ADA or ABA. The final rule ensures that the emergency transportable housing units are readily accessible to and usable by disaster survivors with disabilities.*

SECTION P108
LOFTS IN EMERGENCY HOUSING

P108.1 Minimum loft area and dimensions. *Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections P108.1.1 through P108.1.3.*

P108.1.1 Minimum area. *Lofts shall have a floor area of not less than 35 square feet (3.25 m^2).*

P108.1.2 Minimum dimensions. *Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.*

P108.1.3 Height effect on loft area. *Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.*

Exception*: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.*

P108.2 Loft access. *The access to and primary egress from lofts shall be any type described in Sections P108.2.1 through P108.2.4.*

P108.2.1 Stairways. *Stairways accessing lofts shall comply with the California Residential Code or with Sections P108.2.1.1 through P108.2.1.6.*

P108.2.1.1 Width. *Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).*

P108.2.1.2 Headroom. *The headroom in stairways accessing a loft shall be not less than 74 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.*

P108.2.1.3 Treads and risers. *Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:*

1. *The tread depth shall be 20 inches (508 mm) minus 4/3 of the riser height, or*
2. *The riser height shall be 15 inches (381 mm) minus 3/4 of the tread depth.*

P108.2.1.4 Landing platforms. *The top step of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 74 inches (1880 mm). The landing platform shall be 18 inches (457 mm) to 22 inches (559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 inches (406 mm) to 18 inches (457 mm) in height measured from the landing platform to the loft floor.*

P108.2.1.5 Handrails. *Handrails shall comply with the California Residential Code, Section R311.7.8.*

P108.2.1.6 Stairway guards. *Guards at open sides of stairways shall comply with the California Residential Code, Section R312.1.*

P108.2.2 Ladders. *Ladders accessing lofts shall comply with Sections P108.2.2.1 and P108.2.2.2.*

P108.2.2.1 Size and capacity. *Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), and 10 inches (254 mm) to 14 inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (90.7 kg) load on any rung. Rung spacing shall be uniform within $^3/_8$ inch (9.5 mm).*

P108.2.2.2 Incline. *Ladders shall be installed at 70 to 80 degrees from horizontal.*

P108.2.3 Alternating tread devices. *Alternating tread devices are acceptable as allowed by the enforcing agency.*

P108.2.4 Loft guards. *Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.*

SECTION P109
LOCATION, MAINTENANCE AND IDENTIFICATION

P109.1 Maintenance. *Emergency housing and emergency housing facilities shall be maintained in a safe and sanitary condition, and free from vermin, vectors and other matter of an infectious or contagious nature. The grounds within emergency housing sites shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter. Emergency housing and emergency housing facilities shall not be occupied if a substandard condition exists, as determined by the enforcing agency.*

P109.1.1 Fire hazards. *Dangerous materials or materials that create a fire hazard, as determined by the enforcing agency, shall not be allowed on the grounds within emergency housing sites.*

P109.2 Identification. *Emergency housing shall be designated by address numbers, letters or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway fronting the building or structure. Each identification character shall be not less than 4 inches (102 mm) in height and not less than 0.5 inch (12.7 mm) in width, installed/painted on a contrasting background.*

SECTION P110
EMERGENCY HOUSING FACILITIES

P110.1 Drinking water. *Potable drinking water shall be provided for all occupants of emergency housing.*

P110.2 Kitchens. *Where occupants of dependent units are permitted or required to cook for themselves, a separate area shall be equipped and maintained as a common use kitchen. Refrigerated storage shall be provided for safe storage of food.*

P110.3 Toilet and bathing facilities. *When dependent units are used as emergency housing, the emergency housing site shall be provided with one toilet and one bathing facility for every 15 occupants of each gender. The enforcing agency may permit different types and ratios of toilet and bathing facilities. The approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water,*

while maintaining sanitary conditions for the occupants of the emergency housing.

Bathing facilities shall be provided with heating equipment which shall be capable of maintaining a temperature of 70 degrees F (21.0 degrees Celsius) within such facilities.

Lavatories with running water shall be installed and maintained in the toilet facilities or adjacent to the toilet facilities.

P110.4 Garbage, waste and rubbish disposal. *All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles, which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcing agency.*

CALIFORNIA RESIDENTIAL CODE – MATRIX ADOPTION TABLE
APPENDIX AZ – EMERGENCY HOUSING

(Matrix Adoption Tables are nonregulatory, intended only as an aid to the code user. See Chapter 1 for state agency authority and building applications.)

Adopting agency	BSC	BSC-CG	SFM	HCD			DSA			OSHPD						BSCC	DPH	AGR	DWR	CEC	CA	SL	SLC
				1	2	1/AC	AC	SS	SS/CC	1	1R	2	3	4	5								
Adopt entire chapter				X																			
Adopt entire chapter as amended (amended sections listed below)																							
Adopt only those sections that are listed below																							
Chapter / Section																							

APPENDIX AZ

EMERGENCY HOUSING

The provisions contained in this appendix are not mandatory unless specifically referenced in the adopting ordinance.

SECTION AZ101
GENERAL

AZ101.1 Scope. *This appendix shall be applicable to emergency housing and emergency housing facilities, as defined in Section AZ102.*

SECTION AZ102
DEFINITIONS

AZ102.1 General. *The following words and terms shall, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions.*

DECLARATION OF SHELTER CRISIS. *The duly proclaimed existence of a situation in which a significant number of persons are without the ability to obtain shelter, resulting in a threat to their health and safety. (See Government Code Section 8698.)*

DEPENDENT UNIT. *Emergency housing not equipped with a kitchen area, toilet and sewage disposal system. Recreational vehicles that are not self-contained and without utility service connections shall be considered dependent units.*

EMERGENCY HOUSING. *Housing in a permanent or temporary structure(s), occupied during a declaration of state of emergency, local emergency or shelter crisis. Emergency housing may include, but is not limited to, buildings and structures constructed in accordance with the California Building Standards Code; and emergency sleeping cabins, emergency transportable housing units and tents constructed in accordance with this appendix.*

EMERGENCY HOUSING FACILITIES. *On-site common use facilities supporting emergency housing. Emergency housing facilities include, but are not limited to, kitchen areas, toilets, showers and bathrooms with running water. The use of emergency housing facilities is limited exclusively to the occupants of the emergency housing, personnel involved in operating the housing and other emergency personnel.*

EMERGENCY HOUSING SITE. *A site containing emergency housing and emergency housing facilities supporting the emergency housing.*

EMERGENCY SLEEPING CABIN. *Relocatable hard-sided structure constructed in accordance with this appendix, which may be occupied only for emergency housing if allowed by the enforcing agency.*

EMERGENCY TRANSPORTABLE HOUSING UNIT. *A single- or multiple-section prefabricated structure that is transportable by a vehicle and that can be installed on a permanent or temporary site in response to a need for emergency housing. Emergency transportable housing units include, but are not limited to, manufactured homes, mobilehomes, multifamily manufactured homes, recreational vehicles and park trailers. For the purposes of this appendix, emergency transportable housing units may also include commercial modulars as defined in the Health and Safety Code Section 18001.8, if approved by the enforcing agency.*

Emergency transportable housing units do not include factory-built housing as defined in the Health and Safety Code Section 19971.

LANDING PLATFORM. *A landing provided as the top step of a stairway accessing a loft.*

LOCAL EMERGENCY. *Local Emergency as defined in the Government Code, Section 8558.*

LOFT. *A floor level located more than 30 inches (762 mm) above the main floor and open to it on at least one side with a ceiling height of less than 6 feet 8 inches (2032 mm), used as a living or sleeping space.*

MANUFACTURED HOME. *A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18007.*

MEMBRANE STRUCTURE. *An air-inflated, air-supported, cable or frame-covered structure, not otherwise defined as a tent. (See Chapter 31 of the California Building Code.)*

MOBILEHOME. *A structure designed to be used as a single-family dwelling, as defined in the Health and Safety Code, Section 18008.*

MULTIFAMILY MANUFACTURED HOME. *A structure designed to contain not less than two dwelling units, as defined in the Health and Safety Code, Section 18008.7.*

PARK TRAILER. *A trailer designed for human habitation that meets all requirements in the Health and Safety Code, Section 18009.3.*

RECREATIONAL VEHICLE. *A motor home, travel trailer, truck camper or camping trailer, with or without motive power, designed for human habitation, that meets all requirements in the Health and Safety Code, Section 18010.*

STATE OF EMERGENCY. *State of Emergency as defined in the Government Code, Section 8558.*

TENT. *A structure, enclosure or shelter, with or without sidewalls or drops, constructed of fabric or pliable material supported by any manner except by air or the contents that it protects.*

SECTION AZ103
EMERGENCY HOUSING

AZ103.1 General. *Emergency sleeping cabins, emergency transportable housing units, membrane structures and tents constructed and/or assembled in accordance with this appendix, shall be occupied only during declaration of state of emergency, local emergency or shelter crisis.*

Buildings and structures constructed in accordance with the California Building Standards Code, used as emergency housing, shall be permitted to be permanently occupied.

AZ103.2 Existing buildings. *Existing residential and nonresidential buildings or structures shall be permitted to be used as emergency housing and emergency housing facilities provided such buildings or structures comply with the building code provisions and/or other regulations in effect at the time of original construction and/or alteration. Existing buildings or structures used as emergency housing shall not become or continue to be substandard buildings, as determined by the enforcing agency.*

AZ103.2.1 New additions, alterations and change of occupancy. *New additions, alterations and change of occupancy to existing buildings shall comply with the requirements of the California Building Standards Code effective at the time of addition, alteration or change of occupancy. The requirements shall apply only to and/or within the specific area of the addition, alteration or change of occupancy.*

Exception: *Existing buildings and structures used for emergency housing and emergency housing facilities may not be required to comply with the California Energy Code, as determined by the enforcing agency.*

AZ103.3 Occupant load. *Except as otherwise stated in this appendix, the maximum occupant load allowed in buildings and structures used as emergency housing shall be determined by the enforcing agency, but the interior floor area shall not be less than 70 square feet (6.5 m^2) for one occupant. Where more than one person occupies the building/structure, the required floor area shall be increased at the rate of 50 square feet (4.65 m^2) for each occupant in excess of one.*

Exceptions:

1. *Tents.*
2. *Recreational vehicles and park trailers designed for human habitation that meet the requirements in the Health and Safety Code, Sections 18009.3 and 18010, as applicable.*
3. *For emergency housing, including emergency sleeping cabins, the minimum interior floor area may be reduced to 53 square feet (4.9 m^2) if the enforcing agency determines that 53 square feet (4.9 m^2) is adequate space for a single-occupancy sleeping unit.*

AZ103.4 Fire and life safety requirements not addressed in this appendix. *If not otherwise addressed in this appendix, fire and life safety measures, including, but not limited to, means of egress, fire separation, fire sprinklers, smoke alarms and carbon monoxide alarms, shall be determined and enforced by the enforcing agency.*

AZ103.5 Privacy. *Emergency housing shall be provided with a privacy lock on each entrance door and all windows for use by the occupants.*

AZ103.6 Heating. *All sleeping areas shall be provided with adequate heating as determined by the enforcing agency.*

SECTION AZ104
EMERGENCY SLEEPING CABINS

AZ104.1 General. *Emergency sleeping cabins shall have an interior floor area of not less than 70 square feet (6.5 m^2) for one occupant. Where more than one person occupies the cabin, the required floor area shall be increased at the rate of 50 square feet (4.65 m^2) for each occupant in excess of one. The interior floor area shall not exceed 400 square feet (37 m^2), excluding lofts.*

AZ104.2 Live loads. *Emergency sleeping cabins shall be designed to resist intrusion of wind, rain, and to support the following live loads:*

1. *Floor live loads not less than 40 pounds per square foot (1.92 kPa) of floor area.*
2. *Horizontal live loads not less than 15 pounds per square foot (718 Pa) of vertical wall and roof area.*
3. *Roof live loads not less than 20 pounds per square foot (958 Pa) of horizontal roof area.*
4. *In areas where snow loads are greater than 20 pounds per square foot (958 Pa), the roof shall be designed and constructed to resist these additional loads.*

AZ104.3 Minimum ceiling height. *Habitable space and hallways in emergency sleeping cabins shall have a ceiling height of not less than 80 inches (2032 mm). Bathrooms, toilet rooms, and kitchens, if provided, shall have a ceiling height of not less than 76 inches (1930 mm). Obstructions*

shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions.

***Exception:** Ceiling heights in lofts constructed in accordance with Section AZ108 are permitted to be less than 80 inches (2032 mm).*

***AZ104.4 Means of egress.** Emergency sleeping cabins shall be provided with at least two forms of egress placed remotely from each other. One form of egress may be an egress window complying with Section AZ104.4.1. When a loft is provided, one form of egress shall be an egress window complying with Section AZ104.4.1, provided in the loft space.*

***AZ104.4.1 Egress window.** The bottom of the clear opening of the egress window shall not be more than 44 inches (1118 mm) above the floor. The egress window shall have a minimum net clear opening height of 24 inches (610 mm), and a minimum net clear opening width of 20 inches (508 mm). The egress window shall have a minimum net clear opening area of 5 square feet (0.465 m^2).*

***AZ104.5 Plumbing and gas service.** If an emergency sleeping cabin contains plumbing or gas service, it shall comply with all applicable requirements of the California Plumbing Code and the California Mechanical Code.*

***AZ104.6 Electrical.** Emergency sleeping cabins shall be provided with all of the following installed in compliance with the California Electrical Code:*

1. *Continuous source of electricity.*

   ***Exception:** The source of electricity may be an emergency generator or renewable source of power such as solar or wind power.*

2. *At least one interior lighting fixture.*
3. *Electrical heating equipment listed for residential use and a dedicated receptacle outlet for the electrical heating equipment.*

   ***Exception:** Electrical heating equipment and a dedicated receptacle outlet for the electrical heating equipment are not required if non-electrical source of heating is provided.*

4. *At least one GFCI-protected receptacle outlet for use by the occupant(s).*

***AZ104.7 Ventilation.** Emergency sleeping cabins shall be provided with means of ventilation (natural and/or mechanical) allowing for adequate air replacement, as determined by the enforcing agency.*

***AZ104.8 Smoke alarms.** Emergency sleeping cabins shall be provided with at least one smoke alarm installed in accordance with Section R314.*

***AZ104.9 Carbon monoxide alarms.** If an emergency sleeping cabin contains a fuel-burning appliance(s) or a fireplace(s), a carbon monoxide alarm shall be installed in accordance with Section R315.*

SECTION AZ105
EMERGENCY TRANSPORTABLE HOUSING UNITS

***AZ105.1 General.** In addition to the requirements in this appendix, manufactured homes, mobilehomes, multifamily manufactured homes, commercial modulars, recreational vehicles and park trailers used as emergency transportable housing shall comply with all applicable requirements in the Health and Safety Code, Division 13, Part 2; and Title 25, Division 1, Chapter 3, Subchapter 2.*

SECTION AZ106
TENTS AND MEMBRANE STRUCTURES

***AZ106.1 General.** Tents shall not be used to house occupants for more than 7 days unless such tents are maintained with tight wooden floors raised at least 4 inches (101.6 mm) above the ground level and are equipped with baseboards on all sides to a height of at least 6 inches (152.4 mm). Tents may be maintained with concrete slabs with the finished surface at least 4 inches (101.6 mm) above grade and equipped with curbs on all sides at least 6 inches (152.4 mm) high.*

A tent shall not be considered a suitable sleeping place when it is found necessary to provide heating facilities in order to maintain a minimum temperature of 50 degrees Fahrenheit (10 degrees Celsius) within such tent during the period of occupancy.

Membrane structures installed and/or assembled in accordance with Chapter 31 of the California Building Code, may be permitted to be used as emergency housing and emergency housing facilities, as determined by the enforcing agency.

SECTION AZ107
ACCESSIBILITY

***AZ107.1 General.** Emergency housing shall comply with the applicable requirements in the California Building Code, Chapter 11B, and/or the US Access Board Final Guidelines for Emergency Transportable Housing.*

***Note:** The Architectural and Transportation Barriers Compliance Board (US Access Board) issued the Final Guidelines for Emergency Transportable Housing on May 7, 2014. The final guidelines amended the 2004 ADA Accessibility Guidelines (2004 ADAAG) and the 2004 Architectural Barriers Act (ABA) Accessibility Guidelines (2004 ABAAG) to specifically address emergency transportable housing units provided to disaster survivors by entities subject to the ADA or ABA. The final rule ensures that the emergency transportable housing units are readily accessible to and usable by disaster survivors with disabilities.*

SECTION AZ108
LOFTS IN EMERGENCY HOUSING

***AZ108.1 Minimum loft area and dimensions.** Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AZ108.1.1 through AZ108.1.3.*

***AZ108.1.1 Minimum area.** Lofts shall have a floor area of not less than 35 square feet (3.25 m^2).*

***AZ108.1.2 Minimum dimensions.** Lofts shall be not less than 5 feet (1524 mm) in any horizontal dimension.*

***AZ108.1.3 Height effect on loft area.** Portions of a loft with a sloping ceiling measuring less than 3 feet (914 mm)*

from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.

***Exception**: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft.*

***AZ108.2 Loft access.** The access to and primary egress from lofts shall be any type described in Sections AZ108.2.1 through AZ108.2.4.*

***AZ108.2.1 Stairways.** Stairways accessing lofts shall comply with this code or with Sections AZ108.2.1.1 through AZ108.2.1.6.*

***AZ108.2.1.1 Width.** Stairways accessing a loft shall not be less than 17 inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than 20 inches (508 mm).*

***AZ108.2.1.2 Headroom.** The headroom in stairways accessing a loft shall be not less than 74 inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width.*

***AZ108.2.1.3 Treads and risers.** Risers for stairs accessing a loft shall be not less than 7 inches (178 mm) and not more than 12 inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas:*

1. *The tread depth shall be 20 inches (508 mm) minus 4/3 of the riser height, or*
2. *The riser height shall be 15 inches (381 mm) minus 3/4 of the tread depth.*

***AZ108.2.1.4 Landing platforms.** The top step of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than 74 inches (1880 mm). The landing platform shall be 18 inches (457 mm) to 22 inches (559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and 16 inches (406 mm) to 18 inches (457 mm) in height measured from the landing platform to the loft floor.*

***AZ108.2.1.5 Handrails.** Handrails shall comply with Section R311.7.8.*

***AZ108.2.1.6 Stairway guards.** Guards at open sides of stairways shall comply with Section R312.1.*

***AZ108.2.2 Ladders.** Ladders accessing lofts shall comply with Sections AZ108.2.1 and AZ108.2.2.*

***AZ108.2.2.1 Size and capacity.** Ladders accessing lofts shall have a rung width of not less than 12 inches (305 mm), and 10-inch (254 mm) to 14-inch (356 mm) spacing between rungs. Ladders shall be capable of supporting a 200 pound (90.7 kg) load on any rung. Rung spacing shall be uniform within $^3/_8$ inch (9.5 mm).*

***AZ108.2.2.2 Incline.** Ladders shall be installed at 70 to 80 degrees from horizontal.*

***AZ108.2.3 Alternating tread devices.** Alternating tread devices are acceptable as allowed by the enforcing agency.*

***AZ108.2.4 Loft guards.** Loft guards shall be located along the open side of lofts. Loft guards shall not be less than 36 inches (914 mm) in height or one-half of the clear height to the ceiling, whichever is less. Loft guards shall not have openings from the walking surface to the required guard height that allow passage of a sphere 4 inches (102 mm) in diameter.*

SECTION AZ109
LOCATION, MAINTENANCE AND IDENTIFICATION

***AZ109.1 Maintenance.** Emergency housing and emergency housing facilities shall be maintained in a safe and sanitary condition, and free from vermin, vectors and other matter of an infectious or contagious nature. The grounds within emergency housing sites shall be kept clean and free from accumulation of debris, filth, garbage and deleterious matter. Emergency housing and emergency housing facilities shall not be occupied if a substandard condition exists, as determined by the enforcing agency.*

***AZ109.1.1 Fire hazards.** Dangerous materials or materials that create a fire hazard, as determined by the enforcing agency, shall not be allowed on the grounds within emergency housing sites.*

***AZ109.2 Identification.** Emergency housing shall be designated by address numbers, letters or other suitable means of identification. The identification shall be in a conspicuous location facing the street or driveway fronting the building or structure. Each identification character shall be not less than 4 inches (102 mm) in height and not less than 0.5 inch (12.7 mm) in width, installed/painted on a contrasting background.*

SECTION AZ110
EMERGENCY HOUSING FACILITIES

***AZ110.1 Drinking water.** Potable drinking water shall be provided for all occupants of emergency housing.*

***AZ110.2 Kitchens.** Where occupants of dependent units are permitted or required to cook for themselves, a separate area shall be equipped and maintained as a common use kitchen. Refrigerated storage shall be provided for safe storage of food.*

***AZ110.3 Toilet and bathing facilities.** When dependent units are used as emergency housing, the emergency housing site shall be provided with one toilet and one bathing facility for every 15 occupants of each gender. The enforcing agency may permit different types and ratios of toilet and bathing facilities. The approval shall be based upon a finding that the type and ratio of toilet and bathing facilities are sufficient to process the anticipated volume of sewage and waste water, while maintaining sanitary conditions for the occupants of the emergency housing.*

Bathing facilities shall be provided with heating equipment which shall be capable of maintaining a temperature of 70 degrees F (21.0 degrees Celsius) within such facilities.

Lavatories with running water shall be installed and maintained in the toilet facilities or adjacent to the toilet facilities.

AZ110.4 Garbage, waste and rubbish disposal. *All garbage, kitchen waste and rubbish shall be deposited in approved covered receptacles, which shall be emptied when filled and the contents shall be disposed of in a sanitary manner acceptable to the enforcing agency.*