



Tuesday, September 23, 2014

ROLL CALL:

Brent A. Tercero, Mayor
Gregory Salcido, Mayor Pro Tempore
Bob J. Archuleta, Councilmember
David W. Armenta, Councilmember
Gustavo V. Camacho, Councilmember

Regular Meeting 6:00 p.m.
Council Chamber
6615 Passons Blvd.
Next Resolution No. 6778
Next Ordinance No. 1088
Next Agreement No. 14-1544

COMMISSIONERS SCHEDULED TO BE PRESENT:

Fred Zermeno, Planning Commission
Pat Saucedo, Parks & Recreation Commission

INVOCATION:

PLEDGE OF ALLEGIANCE:

SPECIAL PRESENTATIONS:

- STAR Scroll presentation to Mr. John Ramirez by Captain Castellanos and Certificate of Recognition by Mayor Tercero
- Proclamation Declaring October 19-25, 2014 as "Freedom from Workplace Bullies Week."
- Central Basin Municipal Water District presentation *In A Drought, Shut Your Tap.*

PLEASE TURN OFF ALL PAGERS AND/OR PHONES WHILE MEETING IS IN SESSION AND PLEASE REFRAIN FROM TEXTING DURING THE MEETING

In compliance with the Americans with Disabilities Act of 1990, the City of Pico Rivera is committed to providing reasonable accommodations for a person with a disability. Please call the City Clerk's office at (562) 801-4389, if special accommodations are necessary and/or if information is needed in an alternative format. Special requests must be made in a reasonable amount of time in order that accommodations can be arranged.

1st PERIOD OF PUBLIC COMMENTS - IF YOU WOULD LIKE TO SPEAK ON ANY LISTED AGENDA ITEMS, PLEASE FILL OUT A GREEN PUBLIC COMMENT REQUEST FORM AND PROVIDE IT TO THE STAFF MEMBER AT THE BACK TABLE BEFORE THE MEETING STARTS.

When you are called to speak, please come forward and state your name and city of residency for the record. You have three (3) minutes to make your remarks. In accordance with Government Code Section 54954.2, members of the City Council may only: **1)** respond briefly to statements made or questions posed by the public; **2)** ask a question for clarification; **3)** provide a reference to staff or other resources for factual information; **4)** request staff to report to the City Council at a subsequent meeting concerning any matter raised by the public; and **5)** direct staff to place a matter of business on a future agenda. City Council members cannot comment on items that are not listed on a posted agenda.

CONSENT CALENDAR ITEMS:

All items listed on the Consent Calendar may be acted on by a single motion without separate discussion. Any motion relating to a Resolution or Ordinance shall also waive the reading of the titles in full and include its adoption as appropriate. If discussion or separate vote on any item is desired by a Councilmember or staff, that item may be pulled from the Consent Calendar for separate consideration.

1. Minutes:

- City Council regular meeting of September 9, 2014

Recommendation: Approve

- Planning Commission meeting of June 16, 2014 and July 21, 2014
- Parks & Recreation meeting of August 14, 2014

2. 4th Warrant Register of the 2014-2015 Fiscal Year. (700)

Check Numbers: 263559-263640; 263645-263758

Special Check Numbers: 263641-263644

Recommendation: Approve

3. Cancellation of November 25 and December 23, 2014 City Council Meetings.

Recommendation: (300)

1. It is recommended that the City Council cancel the November 25 and December 23, 2014, City Council meeting due to the holidays.

4. Side Letters of Agreement with Pico Rivera Mid-Managers Association and Pico Rivera Professionals and Confidential Association for Fiscal Year 2014-2015. (200)

Recommendation:

1. Approve the one year Side Letter of Agreement between the City of Pico Rivera and Pico Rivera Mid-Managers Association for fiscal year 2014-2015 (ending June 30, 2015).; and
2. Approve a one year side Letter of Agreement between the City of Pico Rivera and Pico Rivera Professionals and Confidential Association for fiscal year 2014-2015 ending on June 30, 2015.

Agreement No. _____

Agreement No. _____

5. Amendment to Contract for Integrated Solid Waste Management Services. (500)
Recommendation:

1. First Amendment to the Solid Waste Franchise Agreement between the City of Pico Rivera and NASA Services, Inc., granting a Rolling Agreement term, and clarifying certain provisions of the Agreement.

Agreement No. 12-1290-1

6. Phoenix Group Information Systems – Citation Processing and Collection Services – Approval of Agreement. (500)
Recommendation:

1. Approve Agreement with Phoenix Group Information System to provide citation processing and collection services at an annual cost not-to-exceed \$48,700. The term of the Agreement shall be for three (3) years commencing October 1, 2014 and shall automatically renew for a maximum of two (2) subsequent 1-year periods unless terminated earlier in the manner set forth in the Agreement.

Agreement No. _____

7. Request for an Appeal per Chapter 18.64, Appeals, of the Pico Rivera Municipal Code for a 29 Townhome Apartment Development at 8540, 8554 and 8642 Beverly Boulevard. (1300)
Recommendation:

1. Approve a request to appeal a decision by Planning Commission and bring forth the application to develop a 29 townhome rental development for City Council consideration or Planning Commission re-consideration to a date uncertain.

8. Waiver of Parks and Recreation Facility Usage Fee during Off-Season for Community Sports Organizations. (500)

Recommendation:

1. Waive the \$20 per player facility usage fee during off-season play for the Community Sports Organizations that utilize city recreation facilities as their home field.

9. Three Hot Spot Intersection Projects – Rosemead Boulevard at Beverly Boulevard (CIP No. 21267); Rosemead Boulevard at Slauson Avenue (CIP No. 21277); Rosemead Boulevard at Whittier Boulevard and Rosemead Boulevard at Washington Boulevard, (CIP No. 21278) - Award (500)

Recommendation:

Award Professional Services Agreements to the following consultants to provide engineering design services:

1. URS Corporation Americas for the Rosemead Boulevard at Beverly Boulevard Improvements Project (CIP No. 21276) for an amount not-to-exceed \$569,516.20;
2. Willdan Engineering for the Rosemead Boulevard at Slauson Avenue Improvements Project (CIP No. 21277) for an amount not-to-exceed \$184,522; and Rosemead Boulevard at Whittier Boulevard and Rosemead Boulevard at Washington Boulevard Improvements Project (CIP No. 21278) for an amount not-to-exceed \$78,776; and
3. Authorize the Mayor to execute the recommended contracts in a form approved by the City Attorney.

Agreement No. _____

Agreement No. _____

CONSENT CALENDAR ITEMS PULLED FOR FURTHER DISCUSSION:

LEGISLATION: None.

MAYOR/COUNCILMEMBER REPORTS ON INTERGOVERNMENTAL AGENCY MEETINGS:

NEW BUSINESS:

OLD BUSINESS:

2ND PERIOD OF PUBLIC COMMENTS - THIS TIME IS RESERVED FOR COMMENTS THAT HAVE NOT BEEN ADDRESSED ALREADY OR THAT ARE

NOT LISTED ON THE AGENDA. PLEASE FILL OUT A BLUE PUBLIC COMMENT REQUEST FORM AND PROVIDE IT TO THE STAFF MEMBER AT THE BACK TABLE BEFORE THE MEETING STARTS.

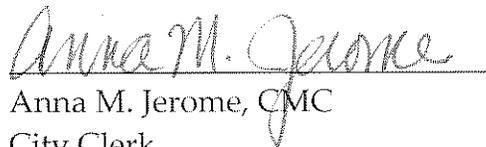
When you are called to speak, please come forward and state your name and city of residency for the record. You have three (3) minutes to make your remarks.

ADJOURNMENT:

AFFIDAVIT OF POSTING

I, Anna M. Jerome, City Clerk, for the City of Pico Rivera, DO HEREBY CERTIFY, under penalty of perjury under the laws of the State of California, that the foregoing notice was posted at the Pico Rivera City Hall bulletin board, Pico Rivera website, Pico Rivera Post Office and Parks: Smith, Pico and Rivera and full agenda packets distributed to the Pico Rivera County Libraries, which are available for the public to view on this 19th day of September 2014.

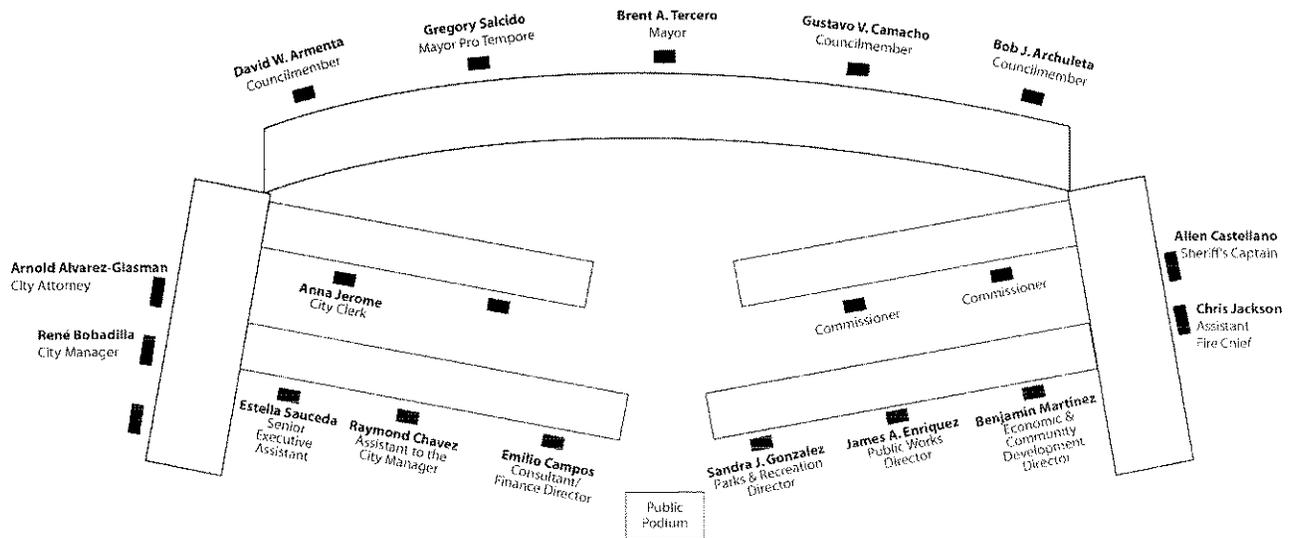
Dated this 19th, day of September 2014


Anna M. Jerome, CMC
City Clerk

SB343 NOTICE

In compliance with and pursuant to the provisions of SB343 any public writing distributed by the City Clerk to at least a majority of the City Council Members regarding any item on this regular meeting agenda will be available on the back table at the entrance of the Council Chamber at the time of the City Council meeting and at the counter of City Hall at 6615 Passons Boulevard, Pico Rivera, California during normal business hours.

Council Meeting Seating Chart



STATEMENT REGARDING DECORUM AT CITY COUNCIL MEETINGS

If you wish to speak at the time set aside for public comments, the City Council has established the following standards and Rules of Decorum as allowed by State law.

- Public comment is limited to those portions of the meeting referred to as Public Comments. These portions are intended for members of the public to address the City Council, Successor Agency, Housing Assistance Agency or Water Authority on matters related to agendas or any other items under the subject matter jurisdiction of the City Council or Agencies.
- A yellow Public Hearing Comment Request card must be completed to speak during a Public Hearing.
- A green Public Comment Request – Agenda Items Only card is for those wishing to address the Council/Agency on agenda items only during the 1st Period of Public Comments.
- A blue Public Comment Request – All other City-Related Business card is for those wishing to address the Council/Agency on any other items under the subject matter jurisdiction of the Council/Agency during the 2nd Period of Public Comments.
- Citizens may address the Council, Successor Agency or Housing Assistance Agency once for a **maximum of three minutes**. After each speaker returns to his/her seat, the Mayor shall determine the time and manner of response, but typically if answers are available, they will be given after all speakers have had an opportunity to address the City Council.
- Members of the audience are asked to refrain from clapping or otherwise speaking from their seats. Those not meeting the standards for decorum may be escorted from the meeting.

RULES OF DECORUM CAN BE FOUND IN THE PICO RIVERA MUNICIPAL CODE SECTION 2.08.050 AS ESTABLISHED BY ORDINANCE 783 ADOPTED ON AUGUST 20, 1990 AND AMENDED BY ORDINANCES 822 (SEPTEMBER 21, 1992) AND 1020 (MARCH 21, 2006).



Tuesday, September 9, 2014

A Regular Meeting of the City Council was held in the Council Chamber, Pico Rivera City Hall, 6615 Passons Boulevard, Pico Rivera, California.

Mayor Tercero called the meeting to order at 6:00 p.m. on behalf of the City Council.

PRESENT: Archuleta, Armenta, Camacho, Salcido, Tercero

ABSENT: None

COMMISSIONERS PRESENT:

Carlos Cruz, Parks & Recreation Commission

Paul Gomez, Planning Commission

INVOCATION: Councilmember Archuleta

PLEDGE OF ALLEGIANCE: Councilmember Camacho

SPECIAL PRESENTATIONS: None.

1ST PERIOD OF PUBLIC COMMENT – AGENDA ITEMS ONLY: None.

CONSENT CALENDAR:

1. **Minutes:**
 - Approved City Council regular meeting of August 26, 2014

2. **Approved 4th Warrant Register of the 2014-2015 Fiscal Year.** (700)
Check Numbers: 263327-263434; 263438-263558
Special Checks Numbers: 263435-263437

3. **Conflict-of-Interest Code Biennial Review.** (300)
 1. Rescinded Resolution No. 6697 and adopted Resolution No. 6777 amending the City of Pico Rivera's Conflict-of-Interest Code for the City Council, pursuant to the requirements of the State Political Act.

Resolution No. 6777 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, RESCINDING RESOLUTION NO. 6697 AND ADOPTING A CONFLICT-OF-INTEREST CODE APPLICABLE TO THE MEMBERS OF THE CITY COUNCIL AND DESIGNATED CITY COMMISSIONERS AND EMPLOYEES BY INCORPORATING REGULATION 2, CALIFORNIA CODE OF REGULATIONS, SECTION 18730 THE STANDARDIZED CONFLICT-OF-INTEREST CODE

4. Pico Rivera Sports Arena and Golf Course Capital Improvement and Consultant Services. (500)

1. Appropriated \$200,000 of EDA Program Income Fund for tenant and capital improvements at the Pico Rivera Golf Course;
2. Amended Agreement No. 13-1407 Exhibit A with LEBA Inc. to include former campground; and
3. Approved agreement with Enviro Communications Inc. for consulting services relating to the Pico Rivera Arena and Pico Rivera Golf Course.

Agreement No. 14-1541

5. 2014-2015 Memorandum of Understanding for Full-Time Bargaining Unit and Directors Bargaining Unit. (200)

1. Approved a one year Memorandum of Understanding (MOU) between the City of Pico Rivera and Service Employees International Union (SEIU) Local 721 – Full-time Bargaining Unit for the period commencing July 1, 2014 and ending midnight on June 30, 2015; and
2. Approved a one year Memorandum of Understanding (MOU) between the City of Pico Rivera and Service Employees International Union (SEIU) Local 721 – Directors Bargaining Unit for the period commencing July 1, 2014 and ending midnight on June 30, 2015.

6. Award Professional Service Agreement for Grant Writing Services. (500)

1. Awarded a Professional Services Agreement to California Consulting, LLC for an amount not-to-exceed \$59,400 (\$4,950 per month for 12 months) for unlimited grant writing services; and
2. Authorized the City Manager to execute a contract with California Consulting Services, LLC in a form approved by the City Attorney.

Agreement No. 14-1542

7. Installation of Traffic Control Devices – Parking Restrictions. (1400)

1. Received and filed.

8. Passons Boulevard Underpass (Phase IV) CIP No. 20053 – Notice of Completion. (500)

1. Accepted as complete, effective August 25, 2014, work performed by Green Giant Landscape, Inc. on the Passons Boulevard Underpass (Phase IV) CIP No. 20053, and instructed the City Clerk to file the Notice of Completion with the Los Angeles County Recorder.

9. Three Hot Spot Intersection Projects – Rosemead Boulevard at Beverly Boulevard (CIP No. 21276); Rosemead Boulevard at Slauson Avenue (CIP No. 21277); Rosemead Boulevard at Whittier Boulevard and Rosemead Boulevard at Washington Boulevard, (CIP No. 21278) – Award Professional Service Agreements for Engineering Services. (500)

This item was continued to the City Council meeting of September 23, 2014.

10. Award Professional Service Agreement for Accounting Operations and Process Review Recommendation Services. (500)

1. Awarded a Professional Services Agreement to Vasquez and Company LLP for 6 months for accounting operations and process review recommendations; and
2. Authorized the City Manager to execute a contract with Vasquez and Company LLP in a form approved by the City Attorney.

Agreement No. 14-1543

Motion by Mayor Pro Tem Salcido, seconded by Councilmember Armenta to approve Consent Calendar Items No. 1, 2, 3, 4, 5, 6, 7, 8, 10 and to continue Item No. 9 to the City Council meeting of September 23, 2014 for further study. Motion carries by the following roll call vote:

AYES: Archuleta, Armenta, Camacho, Salcido, Tercero

NOES: None

CONSENT CALENDAR ITEMS PULLED FOR FURTHER DISCUSSION: None.

LEGISLATION:

11. Request for an Appeal per Chapter 18.64, *Appeals*, of the Pico Rivera Municipal Code. (1300)

Councilmember Camacho suggested that City Council refer the referenced matter back to the Planning Commission to address issues that were expressed but were not resolved at the Planning Commission hearing. A discussion ensued amongst City Council members pertaining to the reasons for appealing the decision by the Planning Commission and unresolved issues pertaining to apartments/homeownership, and parking. City Attorney Alvarez-Glasman explained that tonight's recommendation is only to accept the appeal to refer back to the Planning Commission and is not a hearing. The matter, he stated, could be resolved with the Planning Commission and if not, could come before the City Council for a hearing. City Manager Bobadilla stated that staff would also like to conduct an extensive outreach to mitigate some of the issues addressed in the Planning Commission meeting hearing. Councilmember Salcido requested to see the Planning Commission minutes in order to understand the issues.

Mayor Tercero gave members of the audience who filled out a Public Comment Request card the option to speak on the subject matter explaining that a decision by City Council would not be made this evening. All speakers declined to speak when names were called.

Motion by Councilmember Camacho, seconded by Councilmember Armenta to continue the matter to the City Council meeting of September 23, 2014 in order to review the Planning Commission minutes and for further study. Motion carries by the following roll call vote:

AYES: Archuleta, Armenta, Camacho, Salcido, Tercero

NOES: None

MAYOR/COUNCILMEMBER REPORTS ON INTERGOVERNMENTAL AGENCY MEETINGS:

Mayor Tercero stated that he attended the League of California Cities Conference.

NEW BUSINESS: None.

OLD BUSINESS:

Councilmember Archuleta noted that the Parks & Recreation staff recently recognized students in the volunteer program.

2ND PERIOD OF PUBLIC COMMENTS – ALL OTHER CITY-RELATED BUSINESS:

Melissa Garcia:

- Addressed the City Council regarding excessive force of deputy Sheriff's.

City Attorney Alvarez-Glasman stated that there is a process for filing a claim and that the City is not the entity that would receive such claims. He further provided the requestor with additional information to help file her complaint. Lieutenant Valdez stated that the requestor has filed a claim and that a formal investigation is underway.

Julia Pacheco:

- Addressed the City Council regarding community notification of Medical Marijuana Dispensaries and openness of the ad hoc committee meetings.

Mayor Tercero stated that Ad Hoc Committee meetings are not usually open to the public but that the Ad Hoc Committee provides the City Council with the results of the meetings in the way of minutes and reports, and the committee makes its recommendation to the City Council for any necessary action.

Recessed to Housing Assistance Agency at 6:43 p.m.

ALL MEMBERS WERE PRESENT

Reconvened from Housing Assistance Agency at 6:44 p.m.

ALL MEMBERS WERE PRESENT

Recessed to Closed Session at 6:45 p.m.

ALL MEMBERS WERE PRESENT

Reconvened from Closed Session at 7:30 p.m.

ALL MEMBERS WERE PRESENT

CLOSED SESSION:

a. PUBLIC EMPLOYEE DISCIPLINE/DISMISSAL/RELEASE

Pursuant to Government Code Section 54957

One Matter

City Attorney Alvarez-Glasman stated that direction was provided and that no further action is required.

b. CONFERENCE WITH LEGAL COUNSEL - ANTICIPATED LITIGATION

Pursuant to Government Code Section 54956.9 subdivision (d) paragraph 2

One Matter

City Attorney Alvarez-Glasman stated direction and authority was provided for a resolution of the matter. No final action was taken and that there is nothing further to report.

ADJOURNMENT:

Mayor Tercero adjourned the City Council meeting at 7:31 p.m. There being no objection it was so ordered.

AYES: Archuleta, Armenta, Camacho, Salcido, Tercero

NOES: None

Brent A. Tercero, Mayor

ATTEST:

Anna M. Jerome, City Clerk

I hereby certify that the foregoing is a true and correct report of the proceedings of the City Council regular meeting dated August 26, 2014 and approved by the City Council on September 9, 2014.

Anna M. Jerome, City Clerk



Monday, June 16, 2014

A regular meeting of the Planning Commission was called to order by Chairperson Garcia at 6:00 p.m., in the City Hall Council Chambers, 6615 Passons Boulevard, Pico Rivera, CA.

STAFF PRESENT:

Ben Martinez, Director
Julia Gonzalez, Deputy Director
Christina Gallagher, Assistant Planner

ROLL CALL:

PRESENT: Commissioners Celiz, Elisaldez, Garcia, Gomez, Zermeno

ABSENT: None.

FLAG SALUTE: Led by Commissioner Gomez

APPROVAL OF MINUTES:

June 2, 2014

Motion to approve the minutes was made by Commissioner Elisaldez and seconded by Commissioner Celiz:

AYES: Celiz, Elisaldez, Garcia, Gomez, Zermeno

NOES: None

ABSTAIN: None

ABSENT: None

PUBLIC HEARING:

CONDITIONAL USE PERMIT NO. 715 – AN APPLICATION BY PETER LE, AGENT OF SOUTHERN CALIFORNIA GAS (SCG) COMPANY, TO CONSTRUCT A NATURAL GAS VEHICLE (NGV) FUELING STATION TO BE LOCATED AT 8101 ROSEMEAD BOULEVARD IN THE LIMITED INDUSTRIAL (I-L) ZONED DISTRICT

Project Location: 8101 Rosemead Boulevard
Pico Rivera, CA 90660

Applicant: Peter Le, Agent
Southern California Gas Company

Project Planner: Christina Gallagher
Assistant Planner

Commissioner Elisaldez asked to be excused from the public hearing due to his wife being employed at the Southern California Gas Company site and working with the applicant Mr. Le.

Assistant Planner Christina Gallagher presented the staff report for approval of a natural gas fueling station fronting Rosemead Boulevard, north of the existing main entrance of the Southern California Gas Company facility.

Following an initial study and environmental assessment of possible impacts, Assistant Planner Gallagher reported that no significant detrimental impacts will result from the project and is requesting the adoption of the mitigated monitoring report and program.

The project consists of the relocation of an existing natural gas fueling station which is in the center of the Southern California Gas Company facility. Access is limited during the hours of operation for the facility, from 5:00 a.m. to 5:00 p.m. For security purposes, the facility is closed to the public. The proposal is to allow 24 hour access to residents and businesses to the relocated fueling station.

The project will consist of the removal of an existing landscaped area, approximately 162 feet wide, which includes five existing trees, plus an existing eight foot high block wall. The outdoor paved storage area to the left of the block wall will also be removed. The project will include the relocation of a light pole within the public right of way and a light pole on the property.

The new fueling station will be approximately 10,700 sq. ft. It will consist of two fueling dispensers, each with two fueling pumps. It will have a metal canopy, concrete island, ten foot wide landscape planter with a monument sign for pricing, two driveway approaches installed, one for inbound traffic on the north, and outbound traffic on the south. A new eight foot high block wall with vines to deter graffiti will be installed.

Assistant Planner Gallagher stated that the Sheriff's Department has no significant law

enforcement concerns at this time. For security measures, the development will incorporate the installation of a surveillance camera which will be monitored 24/7 by onsite security and personnel. The equipment is designed to notify the on-call technician when a problem occurs. The project is not proposing any on-site parking due to it being an un-manned facility with no office or retail component. Staff included condition no. 39 that states if any noise complaints are received, the Gas Company will provide mitigation through reduction noise technology or modifications of business operations.

A traffic impact report conducted in June 2014 determined that the impact would not be significant. The station is proposed to generate 116 daily vehicle trips. There is no potential conflict between the fueling station outbound driveway and the Gas Company's main entrance. No vehicle lines are expected to impact Rosemead Boulevard. Based on the fuel purchase data, no more than four vehicles arrive in any five minute period, no more than six vehicles arrive in any fifteen minute period, and no more than nine vehicles arrive in any one hour period.

Due to there being no significant environmental impacts and compliance with the Pico Rivera Municipal Code and the General Plan, staff recommends the Planning Commission approve Conditional Use Permit No. 715 and adopt the mitigation monitoring and reporting program.

Deputy Director Gonzalez stated that Commissioner Elisaldez excused himself from the meeting due to an emergency.

It was motioned to open the public hearing by Commissioner Zermeno, seconded by Commissioner Gomez.

Motion carried by the following roll call vote:

AYES:	Commissioners Celiz, Garcia, Gomez, Zermeno
NOES:	None
ABSTAIN:	Elisaldez
ABSENT:	None

Julia Emerson, with the Southern California Gas Company spoke on behalf of the project. Ms. Emerson stated that the Gas Company is ready to comply with the City's list of conditions. Ms. Emerson then requested that the Public Works Department condition of submitting a \$5,000 deposit fee be waived, due to the Gas Company's annual payment to the City of a franchise fee, of which payment was submitted for this year at an amount of \$113,000.

Seeing as there are no more speakers in the audience, and staff has not received any written communication, it was motioned to close the public hearing by Commissioner Celiz, and seconded by Commissioner Gomez.

Commissioner Zermeno asked if City staff was in agreement to item 6 listed in the conditions by the Public Works department.

Director Martinez stated that staff will work on the condition with Public Works staff.

Commissioner Gomez asked how the gas company would advertise the fueling station.

Ms. Emerson responded that the fueling station is advertised on a number of websites, in booklets published at the Gas Company, and any owner of a natural gas vehicle would have this information available.

Commissioner Gomez asked if the number of vehicles fueling up at the station will increase.

Ms. Emerson responded that the Gas Company is hoping that the number of vehicles will increase.

Chairperson Garcia asked if any commercial and industrial companies were interested in using the fueling station.

Ms. Emerson responded that the trash company, certain school buses, private vehicle owners are using the station.

Chairperson Garcia asked what the PSI for the pump would be.

Mr. Peter Le, responded that they are offering two pressures. For the new station in Pico Rivera, they will all offer 3, 600 pounds per square inch.

Commissioner Gomez asked if the station would offer both CNG and LNG.

Ms. Emerson responded that it would only be CNG.

Chairperson Garcia asked what the recovery rate was.

Mr. Le answered that they designed the new stations to flow about 10 gallons a minute.

Currently, it is at one gallon per minute.

Ms. Emerson stated that the new compressor will also be quieter than the current compressor.

There being no further questions, it was motioned to close the public hearing by Commissioner Gomez, seconded by Commissioner Zermeno.

Motion carried by the following roll call vote:

AYES: Commissioners Celiz, Garcia, Gomez, Zermeno
NOES: None
ABSTAIN: Elisaldez
ABSENT: None

Chairperson Garcia asked if a vehicle could make a u-turn at the light at Rosemead Boulevard.

Ms. Emerson stated that the entrance and exit of the fueling stations will be right turn only.

It was motioned to accept staff recommendation of approval of Conditional Use Permit No. 715 by Commissioner Celiz, seconded by Commissioner Zermeno.

Motion carried by the following roll call vote:

AYES: Commissioners Celiz, Garcia, Gomez, Zermeno
NOES: None
ABSTAIN: Elisaldez
ABSENT: None

PUBLIC COMMENTS – NON-AGENDA ITEMS: None.

NEW BUSINESS:

Commissioner Zermeno stated there were about 15 big pine trees planted along San Gabriel River Parkway. Commissioner Zermeno asked if there is a new program in place.

Director Martinez responded that trees have been planted in the last few months through a grant.

Commissioner Celiz stated on the corner of Aero and Sideview, there is an abandoned home with dry brush.

Commissioner Celiz also stated there was a concern at the corner of Beverly and Durfee, there is no signal at this location to make a left turn.

Commissioner Zermeno asked about the status of the construction at Pico Rivera Sports Arena.

Director Martinez stated that staff will bring an update on the status of the improvements being done.

Chairperson Garcia asked what the policy of the City was on manufacturing at a residence.

Director Martinez responded that this would not be permitted from a residence.

CONTINUED/OLD BUSINESS: None.

PLANNING COMMISSION REPORTS:

PLANNING COMMISSION REPRESENTATIVE TO THE CITY COUNCIL MEETING OF Tuesday, June 10, 2014.

Director Martinez reported.

The City Council approved the 2014-2015 budget. There will be about \$200,000 in reserves. The City Council has a goal of 25 percent reserves, but they are currently at 18 percent.

The CDBG budget was also approved.

There was also a presentation for the Relay for Life which is on June 28, 2014 at El Rancho High School.

PLANNING COMMISSION REPRESENTATIVE TO THE CITY COUNCIL MEETING OF Tuesday, June 24, 2014.

Chairperson Gomez confirmed his attendance.

There being no further business the Planning Commission meeting was adjourned at 6:35 p.m.



Ruben L. Garcia, Chairperson

ATTEST:



Benjamin A. Martinez, Secretary
Planning Commission
Director of Community and Economic Development



Monday, July 21, 2014

A regular meeting of the Planning Commission was called to order by Chairperson Garcia at 6:00 p.m., in the City Hall Council Chambers, 6615 Passons Boulevard, Pico Rivera, CA.

STAFF PRESENT:

Ben Martinez, Director
Julia Gonzalez, Deputy Director

ROLL CALL:

PRESENT: Commissioners Celiz, Elisaldez, Garcia, Gomez, Zermeno

ABSENT: None.

FLAG SALUTE: Led by Commissioner Zermeno

APPROVAL OF MINUTES:

July 7, 2014

Motion to approve the minutes was made by Commissioner Gomez and seconded by Commissioner Celiz:

AYES: Celiz, Garcia, Gomez, Zermeno, Elisadez

NOES: None

ABSTAIN: Elisaldez None

ABSENT: None

PUBLIC HEARING: None.

CONTINUED/OLD BUSINESS: None.

NEW BUSINESS:

General Plan Presentation – by ESA Consulting

Director Ben Martinez greeted the Commissioners and turned the meeting over to Deputy Director Julia Gonzalez.

Deputy Director Gonzalez introduced Kimiko Lizardi and Lloyd Zola who presented the General Plan update.

Mr. Zola stated that the City's General Plan was last updated in 1993. The update is needed in order to ensure compliance with current state law. Some major changes in the last 20 years include greenhouse gas emissions, global climate change, transportation planning, public service, planning for unincorporated areas and housing programs for dependent populations.

Ms. Lizardi stated the proposed land use changes provide new mixed use opportunities through a new mixed use designation. The new designation has been located throughout the city and along major thoroughfares. She stated that examples of major thoroughfares included Telegraph Road, Rosemead Boulevard, Beverly Boulevard and Washington Boulevard, providing opportunities for new developments in addition to the existing development.

There are 16 opportunity areas within the city. The opportunity areas are organized into two categories; corridors and targeted planning areas. There are six corridors, which include vacancies or underutilized areas in need of revitalization. They also need to refresh and enhance indistinct buildings and upgrade areas to be more pedestrian friendly, and also enhance the streetscape with trees, landscaping and other amenities.

The first corridor is the Whittier Boulevard. There is a lack of consistent design. In recent years this corridor has experienced increasing commercial vacancies. An opportunity exists to enhance facades in the area, introduce new mixed use potential, to better manage parking resources, to create some distinct nodes along the corridor, to improve pedestrian and bicycle connections, and to develop a streetscape program.

The second corridor is the Durfee Avenue corridor. This area presents significant opportunities for revitalization. The City recently received a grant to design a railroad grade separation which will significantly alter the corridor. The grade separation will improve the pedestrian and vehicular issues which currently exist in this area. The General Plan discourages industrial development and encourages residential and mixed use development.

The third corridor is the Telegraph Road corridor. In May, the City, along with the city of Downey, completed a project to install new medians, landscaping, sidewalk repairs, and signal modification from Passons to Rosemead Boulevard. The General Plan makes recommendations for the introduction of mixed use, live work.

The fourth corridor is the Rosemead Boulevard corridor. Rosemead Boulevard and Beverly Boulevard should be a priority, as it serves as a major gateway into the City. The General Plan recognizes the desire for a grocery store in the area by residents, and provides guidance to assemble parcels to create a site to support this. There is also opportunity to introduce mixed use development, to create pedestrian and bicycle connections, and to further improve streetscape, landscaping, and building facades.

The fifth corridor is Slauson Avenue. The opportunity exists to enhance older commercial development, to develop design guidelines, to develop performance standards between industrial and residential uses, and to work with the property owner to enhance commercial or office use at the location of Bermudez Street and Passons Boulevard. The General Plan also recommends streetscape improvements and improved pedestrian linkages in the area.

The sixth corridor is the San Gabriel River Parkway corridor. This area is categorized by underutilized industrial properties. There is also a need for parkway and roadway improvements. There are also residential uses adjacent to the industrial uses. The General Plan recommends the creation of performance based standards to address the industrial uses adjacent to residential uses and to encourage better screening and design elements. There is also an opportunity for roadway improvements and a pedestrian crossing at Woodford Street. The General Plan also includes a policy to enhance the San Gabriel River trail.

Ms. Lizardi then proceeded to describe the ten targeted planning areas and a few of the key planning priorities from previous outreach effort feedback.

The update seeks to improve the amount of parks and open space in the City. The plan includes goals and policies to increase that acreage per 1,000 residents from 1.5 acres to 3.0 acres per 1,000 residents.

The General Plan also includes new goals and policies to complete streets consistent with the complete streets act. It also includes a new trails plan which will include bicycle and equestrian trails.

The General Plan introduces new mixed use opportunities for transit oriented development.

The General Plan includes policies supporting education programs including higher education, art programs and job training.

Lastly, the General Plan includes an economic prosperity element. This is optional and encourages policies for workplace training, address vacancies in big box retail, promoting high quality commercial uses, and an updated film friendly ordinance.

Lloyd Zola presented the City's zoning ordinance updates. There will be zoning changes subject to environmental review. These were addressed when adopting the Housing Element. On August 1, 2014, the Environmental Impact Report will be distributed for public review, with a 45 day review period. Once comments are received, responses will be prepared prior to adoption of the General Plan and zoning changes by the City Council.

The public comments period was then opened for public discussion.

Steven M. Bluford, a resident of the Traditions Housing complex for 11 years, said something needs to be done about the entrance of the City near the Telegraph Road and 5 freeway entrance. He stated that this area needs to be improved to make the entrance to the city more inviting. Mr. Bluford also feels the Rosemead and Whittier Boulevard shopping center needs to maintain their landscaping with flowers or plants.

Ms. Carolyn Castillo asked if the City sewer systems would be updated. Ms. Castillo has had to pay thousands of dollars to have her connection to the City sewer system worked on. Ms. Castillo also stated she has issues with the telecommunication services. In the area she resides in, she does not receive high speed internet. Ms. Castillo had a question with gas line maintenance. Ms. Castillo would like infrastructure for the residents looked into.

Mr. Frank Boyce, a resident since 1962 said he appreciated all of the City improvements. Mr. Boyce spoke regarding the Whittier Fertilizer complex. Mr. Boyce spoke on the smell coming from Whittier Fertilizer. Mr. Boyce is hoping that this area can be a part of the General Plan.

Mr. Frank Govea, a resident of Pico Rivera for 28 years, had a question on the Gold Line light rail that is proposed to run through Pico Rivera. Mr. Govea wanted to know if there was any contingencies that the Planning Commission had for this.

Mr. David Angelo commented on the Durfee Avenue corridor and asked that an in depth study completed. Mr. Angelo also would like some errors that were done in the Whittier corridor to be corrected. Mr. Angelo asked for a tree trimming policy for the City. The Rosemead corridor has dying oleanders.

Commissioner Zermeno asked about corridor #6. Commissioner Zermeno asked if the Rose Hills 605 freeway exit was part of the General Plan .

Mr. Zola responded that this is a very confusing entrance/exit and that it was part of the General Plan.

Commissioner Zermeno asked how staff was planning priorities on the improvements.

Lloyd Zola stated that the City Council would decide this.

Commissioner Gomez asked how the mixed use zone would be implemented.

Mr. Zola responded that the ultimate use would be a building with both residential and commercial uses.

Commissioner Zermeno asked the consultants if they could respond to some of the public questions and comments.

Lloyd Zola stated that the Telegraph Road issue at Rosemead Boulevard has been looked at as an improvement area. Mr. Zola also responded that the high speed internet issue is part of the infrastructure improvements goals.

Lloyd Zola also responded that dealing with Whittier Fertilizer is part of the General Plan.

Ms. Lizardi stated that the SCAG grant for the feasibility study that the City received will look at Whittier Fertilizer.

Deputy Director Gonzalez responded that the grant process will be started late summer and look at the incompatible industrial uses.

Ms. Lizardi stated that the idea is to create a connection from the Streamland Park area all the way to the Sports Arena/Whittier Narrows through open space trails.

Commissioner Gomez asked how the proposed Gold Line light rail would impact local businesses.

Mr. Zola responded that the proposed Gold Line light rail would run through Washington Boulevard. A station is proposed on Washington Boulevard and Rosemead Boulevard near the shopping center and businesses.

Director Martinez clarified that Iguana's Night Club on Rosemead Boulevard is not a strip bar. Director Martinez also stated that staff is working with the owners on a façade improvement and to revamp their image.

Director Martinez stated that the General Plan is a general document. Director Martinez also stated that staff is pursuing an economic development strategy with the new City Manager as well as the new Director of the Chamber of Commerce.

Chairperson Garcia thanked the audience for attending the General Plan presentation.

Commissioner Zermeno stated there have been recent complaints regarding the trucks from the companies driving through residential areas. Commissioner Zermeno stated the business is adjacent to the golf course, and the area seems like a truck stop.

Deputy Director Gonzalez stated staff will look into this. Deputy Director Gonzalez stated code enforcement will go out and look into the business.

PUBLIC COMMENTS – NON-AGENDA ITEMS: None.

PLANNING COMMISSION REPORTS:

CITY COUNCIL MEETING OF Tuesday, June 24, 2014.

Commissioner Gomez reported.

The recent labor agreements were discussed. City staff spoke on their unhappiness with the cuts being done in the past few years.

Mayor Tercero received a request to sign a letter in support of the 710 corridor. Council all agreed to sign a letter of support for 710 freeway completion.

CITY COUNCIL MEETING OF Tuesday, July 8, 2014 -

Chairperson Zermeno stated there was no major information to report.

PLANNING COMMISSION REPRESENTATIVE TO THE CITY COUNCIL MEETING OF Tuesday, July 22, 2014 – Commissioner Celiz to confirm.

Commissioner Celiz is unable to attend and asked for someone to take her place. Commissioner Zermeno will attend in place of Commissioner Celiz.

Commissioner Elisaldez asked staff if there are any ordinances for residents dumping

large items in front of their homes. Commissioner Elisaldez asked if staff can have enforcement go out and take a look at it, especially on Myron Street.

Director Martinez stated code enforcement would go out to look at the issue.

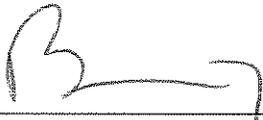
Commissioner Celiz had concerns that code enforcement or other City staff does not see this or report it.

There being no further business the Planning Commission meeting was adjourned at 7:12 p.m.



Ruben L. Garcia, Chairperson

ATTEST:



Benjamin A. Martinez, Secretary
Planning Commission
Director of Community and Economic Development



PARKS & RECREATION COMMISSION

MINUTES

Thursday, August 14, 2014

A Regular Meeting was held in the Parks & Recreation Community Room, 6767 Passons Blvd., Pico Rivera, California. Chair Saucedo called the meeting to order at 6:02 p.m.

PRESENT: Carlos Cruz, John Garcia, Joseph Palombi, Pat Saucedo

ABSENT: Rod Torres

APPROVAL OF MINUTES: A motion was made by Commissioner Palombi and seconded by Commissioner Garcia and carried on roll call vote to approve the Minutes of July 10, 2014.

PUBLIC COMMENTS: No public comments.

AGENDA ITEMS:

1. NEW BUSINESS:

- a) City Manager Introduction – Director González introduced Mr. Bobadilla as the new hired City Manager. Mr. Bobadilla stated that he is making his rounds to meet everyone. He continued to state that he is impressed with the community and that it is very important to him to support the Parks and Recreation Department. Mr. Bobadilla stated that he is looking forward to working with the department and the City of Pico Rivera. He expressed his excitement and looks forward to the many upcoming projects in the City.

The commission congratulated and welcomed Mr. Bobadilla aboard.

Commissioner Palombi commented that additional park supervision is needed. Director González stated that the hiring of additional staff is in the works.

- b) Pico Rivera Golf Course Recognition – Director González recognized the Pico Rivera Golf Course management team, GolfLinks, Inc., for a job well done with the golf course. Since they have taken over management, 2 years ago, the golf course has increased the revenue, the amount of quality programs being offered to youth and adults.

Chair Saucedo presented the GolfLinks Management team with a certificate of appreciation on behalf of the Parks and Recreation Department and the Parks and Recreation Commission.

Commissioner Garcia congratulated the GolfLinks team for a well overdue recognition. He commented that the Golf Course provides excellence and friendliness to the community.

Golf Course President, Larry Taylor, thanked the Parks and Recreation Department for the opportunity to manage the Golf Course. He continued to state that they are trying to change the mindset one kid at a time. He asked that the commission spread the word about the "Golf the Easy Way" program, in which lessons are provided to the youth at a very low to no cost. The goal of the GolfLinks team is to be a community asset. Lastly, he announced that with the help of newly appointed City Manager, René Bobadilla, the restaurant and concession area will be upgraded in the near future.

- c) Department Presentations: REACH/Crossing Guards – REACH Coordinator, Candice West, provided the commission with an overview of the program. REACH stands for Recreation & Education Accelerating Children's Hopes. Coordinator West stated that the program is funded by an Aces grant and it facilitates approximately 800 students and 60 staff members. The program's mission statement is to strive for children to reach the goal. The REACH program's common core is aligned with the common core of the El Rancho Unified School District.

Commissioner Palombi commented on the presentation and gave kudos to the program and asked what age the program accommodates. Coordinator West answered Transitional Kindergarten to 5th Grade.

Commissioner Garcia commented on how great the program is and how it helps the working families.

Supervisor, Adriana Moran, presented on the Crossing Guard program and provided an overview of the areas she is responsible for. She stated that the program is concurrent with the El Rancho Unified School District. There is a total of 10 crossing guard posts servicing each of the school sites and they also service the Montebello Gardens Elementary school area as well.

Commissioner Palombi asked if there was a radius and if the department provides the points of where the crossing guard's posts are. Supervisor Moran stated that each post depends on the crossing and safety needs and stated that she does not have that information but the posts can be provided by the Parks and Recreation Department.

Commissioner Garcia asked what prohibits the department from hiring more crossing guards. Supervisor Moran answered the lack of resources and funding.

- d) Customer Experience Survey Lottery Pick – Chair Saucedo pulled out three names out of a bag from those who turned in surveys in the last three months and those winners were:

- Rebeca Palma, Pico Rivera, CA
- G. Danza, La Mirada, CA
- Josie Romero, Pico Rivera CA

2. OLD BUSINESS:

- a) Recognized Organization Study Session Deferral – Director González stated that due to the new City Manager recently appointed; the recognition organization study session has been postponed to a future date. To be discussed in the study session is the limit to how many types of each organization is the City going to allow to be recognized, the policies of usage and the tournament fees.

3. ORGANIZATION RECOGNITION REVIEW:

- CEA-HOW, SCI. – Richard Ledesma, organization president, provided the commission with an overview of the organization. He stated that he oversees the Southern California intergroup and the purpose of the organization is to help people learning about their disorder and finding a solution. Weekly meetings are held at Smith Park on Monday nights. Organization is requesting the additional use of the Pico Park Auditorium for their annual event.

Commissioner Palombi asked how the organization's members are diagnosed. Mr. Ledesma stated that they are self diagnosed through a question guide provided by the organization. A motion was made by Commissioner Palombi and seconded by Commissioner Cruz and carried on roll call vote to recognize CEA-HOW, SCI as a Recognized Community Organization of the City of Pico Rivera for 2014.

- Girl Scouts of Greater Los Angeles – Troop Coordinators, Rebecca Briones and Jessica Medrano, provided the commission with an overview of their organization. They oversee troop 0654 for Pico Rivera, which just branched off from Montebello. They are looking to utilize Pico Park every Monday as an ongoing meeting and have been advertising to the local schools in the district and the Parks & Recreation Department.

Commissioner Garcia commended the troop and asked if the members were Pico Rivera residents. Ms. Medrano answered that currently three are from surrounding cities and two are residents of Pico Rivera.

Deputy Director Rico stated that due to them not meeting the residency requirement as of yet they would be asking for probationary recognition and asked to come back to provide an update on their residency status.

A motion was made by Commissioner Garcia to approve on a two-month probationary period and seconded by Commissioner Palombi

and carried on roll call vote to recognize the Girl Scouts of Greater Los Angeles on a two-month period.

- Happy Feet – League president, Frank Lopez, provided the commission an overview of the organization. He stated that the organization was created two years ago. They currently have 225 youth ranging from 3 and half years of age to 18 years and is currently at a 85 percent residency rate. The league is year around and has an open door policy to all students. The league is trying to enrich the youth lives with soccer.

Commissioner Garcia asked if there are any conflicts with AYSO and how would their usage requests affect AYSO's requests. Deputy Director Rico stated that AYSO currently has 500 youth registrations and are utilizing Smith Park and Meller School, so it will not affect AYSO's facility requests. Deputy Director Rico continued to state that this league is an elite program and offers the travel league experience. He stated that field space is available at Rio Hondo Park due to the Spartan's F.C. no longer utilizing the fields. Deputy Director Rico advised that the department is looking to partner up with the El Rancho Unified School District to streamline the reservation process of the park fields and the school fields as well. Happy Feet is also looking at utilizing a school facility. Commissioner Garcia commended the organization on the presentation.

Commissioner Palombi asked how the numbers compare with the Spartan's F.C. Deputy Director Rico answered that a comparison cannot be made yet due to the numbers not being finalized yet for Happy Feet. Commissioner Palombi asked if the permit for the Spartan's needs to be revoked. Deputy Director Rico stated that it won't be necessary due to their permit having expired. Commissioner Palombi stated that he supports the organization.

A motion was made by Chair Saucedo and seconded by Commissioner Garcia and carried on roll call vote to recognize Happy Feet as a Recognized Community Organization of the City of Pico Rivera for 2014.

4. DEPARTMENTAL REPORT:

1. Recreation Upcoming Events – Recreation Manager introduced the following upcoming events:

1. REACH/ERUSD Begin

August 20, 2014

2. Community Walk with the Mayor August 20 & 27, 2014 @ Rio Hondo Park & Senior Center
 3. Twin Cities Wolverines Opening Day August 23, 2014 @ Pico Park
 4. Chivas Health Fair August 30, 2014 @ Smith Park
 5. A.Y.S.O 603 Opening Day September 6, 2013 @ Pico Park
 6. Summer Dance Recital September 13, 2014 @ Senior Center
 7. Pico Rivera Dons Opening Day September 13, 2014 @ Rivera Park
 8. Congresswoman Cristina Garcia Walk September 13, 2014 @ Senior Center
2. Department Information – Recreation management explained the following:
1. Smith Park Fields Update – Deputy Director Rico commented that department staff and the Public Works Department are working together to address some of the field issues. He continued to say that fields one and four are in bad condition due to a complication with the fertilizer used. The fields have been neutralized, aerated, seeded, and are being water on a daily basis to get them in good condition. The leagues will be allowed to utilize the fields in approximately 30 to 60 days.
 2. Rivera Park Fields Update – Deputy Director Rico stated that department staff is working on the fields on a daily basis. Fields have been aerated, seeded and are being water constantly to restore the condition of the fields. Discussion took place on how much time would it take for the fields to be opened up. Deputy Director Rico stated that the fields should be closed for a minimum of 30 days to allow the conditions of the fields to get better. He continued to state that he would follow up with the park league organizations to advise them of the field conditions.
 3. Community Sports Organization Update – Deputy Director Rico provided the commission with an update on the leagues. The Pico Rivera Dons have about 360 participants registered and they will be hosting their first scrimmage game on August 23 on the stadium. They will be hosting games on Sundays. The Twin Cities Wolverines will be playing on Saturdays. Numbers for the wolverines have not yet been provided. AYSO currently has 500 participants registered and registrations are still being accepted. Smith Park Pony has 180 participants registered. Rivera Baseball Association's (RBA) have not yet been submitted. Deputy Director Rico announced that Pico Boys Baseball League has a new league president, Sal Coco. The first round of invoices (spring) have been sent out. An update will be provided to the commission on the status of those invoices.

Chair Saucedo asked what the consequences are if the leagues do not pay their invoice. Deputy Director Rico stated that their reservation permit could be revoked and the status would be taken up to City Council for review. He

announced that several league presidents will be going to City Council to request their fees to be waived.

5. COMMISSIONER'S REPORTS:

Torres: - Absent

Garcia: - Thanked the department staff for the Golf Course recognition.
- Asked about the schedule for the Dons practices. Deputy Director Rico stated that they have not received anything as of yet. He continued to state that the Dons are waiting to hear from their conference. Once the department receives it they will update the commission.
- Asked that status on the Rivera Park punch list be provided by the next commission meeting. Deputy Director Rico briefly provided an update on the big items that are pending. The shade shelter is listed as a capital improvement, horseshoe pit gates are waiting funding, the protective netting is also waiting funding.

Palombi: - No issues at the parks.
- Suggested that the park issues and needs be brought up to the City Manager through the Parks and Recreation Commission Chair person. Director Gonzalez stated that a draft list of the department's needs and provide them to the commission for review in the future.
- Asked if quarterly meetings are still held for the Community Sports Organization presidents. Deputy Director Rico confirmed that they are and stated that the next meeting is scheduled for Wednesday, October 1, 2014 at 6:00 p.m. and take place in the Parks and Recreation Community Room.

Cruz: - Nothing to report

Saucedo: - Thanked Deputy Director Rico for trying to assist with getting fields for their 12 and under team. At this point, no fields have been available. Deputy Director Rico stated that field requests should be communicated to their league president and the president will contact the Parks and Recreation Department for field availability.

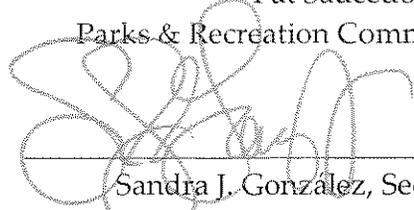
ANNOUNCEMENTS – No announcements.

ADJOURNMENT:

The Parks & Recreation Commission meeting was adjourned at 7:27 p.m. There being no objection it was so ordered.



Pat Saucedo, Chair
Parks & Recreation Commission



Sandra J. Gonzalez, Secretary
Director of Parks & Recreation

5th WARRANT REGISTER OF THE 2014-2015 FISCAL YEAR

MEETING DATE: 09/23/14

TOTAL REGISTER AMOUNT: \$1,084,883.52

**CHECK NUMBERS: 263559-263640
263645-263758**

SPECIAL CHECK NUMBERS: 263641-263644

REGULAR CHECK TOTAL: \$1,058,132.87

SPECIAL CHECK TOTAL: \$26,750.65

TOTAL REGISTER AMOUNT: \$1,084,883.52

PAYROLL REGISTER P/P 08/22/14 - 09/05/14

Pay Date: 09/11/14

VOID ACH CKS
A391493 23,915.51
(23,915.51)

VOID CKS
-

Scrap:
391492
391494
391497
391561

SPECIAL CKS
A391493 23,915.51
391495 - 391496 30,510.13
54,425.64

CKS
391498 - 391560 40,733.25
40,733.25

ACH
391562 - 391759 239,888.06
239,888.06

TOTAL 311,131.44



To: Mayor and City Council

From: City Manager

Meeting Date: September 23, 2014

Subject: CANCELLATION OF NOVEMBER 25 AND DECEMBER 23, 2014 CITY COUNCIL MEETINGS

Recommendation:

It is recommended that the City Council cancel the November 25 and December 23, 2014, City Council meetings due to the holidays.

Fiscal Impact: None

Discussion:

City staff is presenting this item for the City Council's consideration and to provide advance notice to the general public. Per Government Code Section 54955, "The legislative body of a local agency may adjourn any regular, special or adjourned special meeting to a time and place specified in the adjournment."

Historically, the City Council has canceled meetings due to special events, proximity to holidays, summer vacations, and light agendas.

City staff is requesting to cancel the November 25 and December 23, 2014, City Council meetings due to the proximity of the holidays.

René Bobadilla

RB:AJ



To: Mayor and City Council
From: City Manager
Meeting Date: September 23, 2014
Subject: SIDE LETTERS OF AGREEMENT WITH PICO RIVERA MID-MANAGERS ASSOCIATION AND PICO RIVERA PROFESSIONALS AND CONFIDENTIAL ASSOCIATION FOR FISCAL YEAR 2014-2015

Recommendation:

- 1) Approve the one year Side Letter of Agreement between the City of Pico Rivera and Pico Rivera Mid-Managers Association for fiscal year 2014-2015 (ending June 30, 2015).
- 2) Approve a one year Side Letter of Agreement between the City of Pico Rivera and Pico Rivera Professionals and Confidential Association for fiscal year 2014-2015 ending on June 30, 2015.

Fiscal Impact: There is minimum impact on the general fund for salary and benefits for Fiscal Year 2014-2015.

Discussion:

The City of Pico Rivera has concluded negotiations with CEA represented Pico Rivera Mid-Managers Association and Pico Rivera Professionals and Confidential Association. Highlights of the Side Letters of Agreement are as follows:

- The City and Associations agree there will be four unpaid City holidays for fiscal year 2014-2015:
Christmas week - December 24, 26 & 31, 2014
President's Day – February 16, 2015
- City agrees to decrease the cash-out eligibility from 150 hours to 120 hours
- City agrees to amend the current policy of using flextime within one pay period to allowing employees up to two months to use their flextime.

René Bobadilla

SIDE LETTER OF AGREEMENT

BETWEEN

CITY OF PICO RIVERA

AND

PICO RIVERA PROFESSIONALS AND CONFIDENTIAL ASSOCIATION

This Side Letter of Agreement (“Agreement”) between the City of Pico Rivera (“City”) and the Pico Rivera Professionals and Confidential Association (“ASSOCIATION”) (collectively “Parties”) is entered into with respect to the following:

WHEREAS, the parties have met and conferred in good faith and have reached an agreement on monetary issues related to fiscal year 2014 -2015 (ending June 30, 2015) for employees in this bargaining unit.

NOW THEREFORE, the parties agree as follows:

1. The City and Association agree to amend the Memorandum of Understanding as follows:

HOLIDAYS

Authorized City holidays shall be as follows:

- New Year’s Day
- Martin Luther King Day
- President’s Day (unpaid - see note below)
- César Chávez Day
- Memorial Day
- Independence Day
- Labor Day
- Veteran’s Day
- Thanksgiving Day
- Day after Thanksgiving
- Christmas Day

The City shall fund eight (8) hours of compensation for each such holiday falling on a Friday, and nine (9) hours for each such holiday falling on a Monday through Thursday.

UNPAID DAYS

For fiscal year 2014-2015, there will be four unpaid days:

- Three days during the Christmas Holiday: December 24th, 26th and 31st. The City will make every effort to accommodate employees that wish to take additional vacation days off during the Christmas Holiday.
- The fourth unpaid day will be President’s Day – Monday, February 16, 2015

Employees not scheduled to work specified unpaid days may use vacation, compensatory time off, sick leave or administrative leave on the specified unpaid days above.

VACATION CASH OUT

The City agrees to decrease the cash-out eligibility from 150 hours to 120 hours.

FLEXTIME

During the term of this agreement, the City agrees to amend the current policy of using flextime within one pay period to allowing employees up to two months to use their flextime.

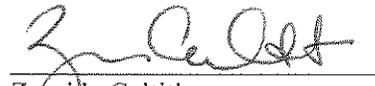
FOR THE CITY OF PICO RIVERA



René Bobadilla
City Manager

9/16/14
Date

FOR THE PICO RIVERA PROFESSIONALS AND CONFIDENTIAL ASSOCIATION



Zoraida Caltitla
Executive Assistant

9/17/14
Date

SIDE LETTER OF AGREEMENT

BETWEEN

CITY OF PICO RIVERA

AND

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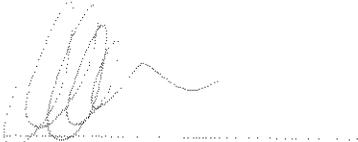
FOR THE CITY OF PICO RIVERA



René Bobadilla
City Manager

9/16/14
Date

FOR THE PICO RIVERA MID-MANAGERS ASSOCIATION



Lupe Aguilar
Supervisor

9/18/14
Date



To: Mayor and City Council

From: City Manager

Meeting Date: September 23, 2014

Subject: AMENDMENT TO CONTRACT FOR INTEGRATED SOLID WASTE MANAGEMENT SERVICES

Recommendation:

First Amendment to the Solid Waste Franchise Agreement between the City of Pico Rivera and NASA Services, Inc., granting a Rolling Agreement term, and clarifying certain provisions of the Agreement.

Fiscal Impact:

The City will receive a 2% increase to its annual \$850,000 solid waste management franchise fee under the terms of the amended agreement and residential rates will not be raised for years 2015 and 2017.

Discussion:

On March 14, 2012, the City Council approved Franchise Agreement 12-1290 with NASA Services, Inc. (NASA) for the collection of refuse, recyclables, and green waste. Since then NASA has provided excellent service to the City and local businesses and has taken an active role in the community by supporting community projects and organizations.

Staff recently met with the City Council Solid Waste Ad Hoc Committee (Tercero and Salcido) to consider a proposal from NASA to extend their existing 10-year agreement to a 15-year rolling contract with service enhancements and other amendments.

As a result of the closure of the Puente Hills Landfill, cities and haulers have been challenged to address new recycling program mandates implemented by CalRecycle. This has prompted cities and haulers to re-evaluate their waste management programs

Council Agenda Report – Meeting of 09/23/14
AMENDMENT TO CONTRACT FOR INTEGRATED SOLID WASTE
MANAGEMENT SERVICES
Page 2 of 2

to not only meet current 50% diversion rate required under (AB939) but potentially meet the 75% overall goal of current state mandates.

The amended proposal from NASA provides additional improvements over the current agreement, in addition to savings in rates to residents.

With the direction received from the Ad Hoc Committee, staff has developed the first amendment to the City's franchise agreement with NASA. The following matrix describes some of the more significant improvements:

Contract Feature	Description
Length of Term	15 year rolling agreement
Residential Rates	No rate increase for years 2015 & 2017. Rates for all other years to be adjusted by CPI.
Franchise Fee	Commencing in 2019 Franchise fee of \$850,000 to be increased at 2% each year up to a cap of \$150,000.
Waste Diversion	Minimum diversion rate adjusted to 50%

With the amendment of this agreement, the City Council would secure the rates for residential customers, while seeing an increase of franchise fee revenues.



Rene Bobadilla

RB:RC:sp

Attachment: Agreement

AGREEMENT No. 12-1290-1

BETWEEN

CITY OF PICO RIVERA

AND

NASA SERVICES INC.

FOR

INTEGRATED SOLID WASTE

MANAGEMENT SERVICES

* * *

September 19, 2014

AGREEMENT
 BETWEEN
 CITY OF PICO RIVERA
 AND
 NASA SERVICES, INC.
 FOR
 INTEGRATED SOLID WASTE
 MANAGEMENT SERVICES

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Exhibits

1. Contractor's Proposal
2. Initial Maximum Rates
3. Contractor's Faithful Performance Bond
4. Street Sweeping Routing - October 2011
5. Notary Certification

AGREEMENT

This Agreement for Integrated Solid Waste Management Services (hereinafter the "Agreement") is entered into this ___ day of _____, 2014, by and between the City of Pico Rivera, California, ("City") and NASA Services, Inc. ("Contractor"), for the collection, transportation, recycling, processing, and disposal of solid waste and other services related to meeting the goals and requirements of the California Integrated Waste Management Act.

RECITALS

WHEREAS, the Legislature of the State of California, by enactment of the California Integrated Waste Management Act of 1989 ("AB 939") (California Public Resources Code Section 49100 et seq.), has declared that it is in the public interest to authorize and require local agencies to make adequate provisions for solid waste handling within their jurisdictions; and,

WHEREAS, pursuant to California Public Resources Code Section 49300 and 49500-49524, the City has determined that the public health, safety, and well-being require that an exclusive franchise be awarded to a qualified company for the collection, transfer and transportation, recycling, processing, and disposal of solid waste and other services related to meeting the diversion goals required by AB 939, and other requirements of the California Integrated Waste Management Act; and,

WHEREAS, City declares its intention of maintaining reasonable rates and quality service related to the collection, transfer and transportation, recycling, processing, and disposal of solid waste and other services; and,

WHEREAS, in response to a Request for Proposals, Contractor has submitted a proposal to City and City selected the Contractor on the competitive advantages of that proposal over other proposals received by City; and

WHEREAS, City and Contractor ("Parties") hereto desire to enter said Agreement; and,

WHEREAS, City and Contractor are mindful of the provisions of the laws governing the safe collection, transport, recycling, processing and disposal of solid waste, including AB 939, the Resource Conservation and Recovery Act ("RCRA"), and

the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"). City and Contractor desire to leave no doubts as to their respective roles and to memorialize that by entering into this Agreement, City is not thereby becoming an "arranger" or a "generator" as those terms are used in CERCLA, and that it is Contractor, not City, who is "arranging for" the collection from premises in the City, transport for disposal, composting or other processing, and recycling of municipal solid waste which may contain hazardous substances; and further to confirm that as a material inducement to City entering into this Agreement, Contractor has agreed to fully indemnify City in connection with any claims, losses, liabilities, lawsuits or actions relating to the inadvertent or intentional collection, transportation and/or disposal of hazardous materials that may occur in connection with Contractor's performance under this Agreement, and

WHEREAS, Contractor has agreed, as part of this Agreement, acting as an independent contractor to provide such personnel, equipment and supplies as are necessary to ensure City complies with the requirements of Public Resources Code Section 49100, et seq.,

NOW, THEREFORE, in consideration of the premises above stated and the terms, conditions, covenants and agreements contained herein, the Parties do hereby agree as follows:

ARTICLE 1

DEFINITIONS

The terms used in this Agreement shall have the meaning set forth in this Article 1. In the event a term is not defined in this Article 1, then it shall have the meaning set forth in the Pico Rivera Municipal Code or in Division 30, Part 1, Chapter 2 of the California Public Resources Code (with precedence given to definitions in the Pico Rivera Municipal Code over conflicting definitions contained in the Public Resources Code). Except as provided in Article 1, words beginning with lower case letters are being used with their common ordinary meanings, not as defined terms. Otherwise, the following capitalized words and terms shall have the following meanings:

1.1 AB 939

"AB 939" means the California Integrated Waste Management Act of 1989 (California Public Resources Code Section 40000 et seq.), as it may be amended from time to time, including the 2008 revisions to California Public Resources Code Sections 42920 - 42927 (commonly referred to as SB 1016).

1.2 Affiliate

"Affiliate" means all businesses (including corporations, limited and general partnerships and sole proprietorships) which are directly or indirectly related to Contractor by virtue of direct or indirect ownership interest or common management shall be deemed to be "Affiliated with" Contractor and included within the term "Affiliates" as used herein. An Affiliate shall include a business in which Contractor owns a direct or indirect ownership interest, a business which has a direct or indirect ownership interest in Contractor and/or a business which is also owned, controlled or managed by any business or individual which has a direct or indirect ownership interest in Contractor. For purposes of determining whether an indirect ownership interest exists, the constructive ownership provisions of Section 318(a) of the Internal Revenue Code of 1986, as in effect on the date of this Agreement, shall apply; provided, however, that (i) "ten percent (10%)" shall be substituted for "fifty percent (50%)" in Section 318(a)(2)(C) and in Section 318(a)(3)(C) thereof; and (ii) Section 318(a)(5)(C) shall be disregarded. For purposes of determining ownership under this paragraph and constructive or indirect ownership under Section 318(a), ownership interest of less than

ten percent (10%) shall be disregarded and percentage interests shall be determined on the basis of the percentage of voting interest or value which the ownership interest represents, whichever is greater.

1.3 Billings

"Billings" or "Billing" or "Bill" means the statements of charges provided to Customers for services rendered by Contractor.

1.4 Bin

"Bin" means a metal Container with hinged lids and wheels with a capacity of less than or equal to six (6) cubic yards.

1.5 Bin Service

"Bin Service" means Solid Waste Handling Services in which a Bin is used for the Collection of Solid Waste.

1.6 Bulky Items

"Bulky Items" means Solid Waste that cannot and/or would not typically be accommodated within a Cart including specifically: furniture (including chairs, sofas, mattresses, and rugs); appliances (including refrigerators, ranges, washers, dryers, water heaters, dishwashers, plumbing, small household appliances and other similar items, commonly known as "white goods"); yard debris, Green Waste and small pieces of wood limited to one cubic yard of contained material; Electronic Waste; fluorescent bulbs; household batteries; and clothing. Bulky Items do not include car bodies, tires, Construction and Demolition Debris or items requiring more than two (2) persons to remove. Other items not specifically included or excluded above will be Collected provided that they are not more than eight (8) feet in length, four (4) feet in width, or more than one hundred fifty (150) pounds. In the event a question ever arises as to whether a specific item or category of items meets the definition of Bulky Items, City shall be responsible to determine whether said definition shall apply, which determination shall be final and binding on the Parties.

1.7 CalRecycle

"CalRecycle" means the State of California's Department of Resources Recycling and Recovery, and, as this department was structured prior to January 1, 2010, the California Integrated Waste Management Board, or CIWMB.

1.8 Cart

"Cart" means a plastic Container with a hinged lid and wheels serviced by an automated or semi-automated truck with a capacity of no less than 32- and no greater than 101-gallons.

1.9 City

"City" means City of Pico Rivera, California, a municipal corporation, and all the territory lying within the municipal boundaries of City as presently existing or as such boundaries may be modified during the term of this Agreement.

1.10 City Manager

"City Manager" means the City Manager of the City of Pico Rivera and his or her designee.

1.11 Collect/Collection

"Collect" or "Collection" means to take physical possession, transport, and remove Solid Waste within and from City.

1.12 Commercial

"Commercial" refers to services performed at or for Commercial Premises.

1.13 Commercial Premises

"Commercial Premises" means Premises located within the boundaries of the City, occupied or used for any purpose other than residential uses. It includes premises upon which business activity is conducted, including but not limited to retail sales, services, wholesale operations, manufacturing and industrial operations, but excluding Residential Premises upon which business activities are conducted when such activities are permitted under applicable zoning regulations and are not the primary use of the

property. Notwithstanding any provision to the contrary herein in the Pico Rivera Municipal Code or otherwise, for purposes of this Agreement, Premises upon which the following uses (as defined in the Pico Rivera Municipal Code) are occurring shall be deemed to be Commercial Premises: Assisted Living Facilities, Convalescent Homes, Dormitories, Extended Stay Motels, Group Residential Facilities, Group Care Facilities, Hotels, and Motels.

1.14 Contractor

"Contractor" means NASA Services, Inc., a corporation organized and operating under the laws of the State of California and its officers, directors, employees, agents, companies and subcontractors, as permitted under Section 12.6.

1.15 Contractor's Proposal

"Contractor's Proposal" means the proposal, included as Exhibit 1, submitted by Contractor to City on November 14, 2011 in response to a Request for Proposals dated September 13, 2011. While there are provisions contained in Contractor's Proposal, this Agreement supersedes Contractor's Proposal and is the final written expression of the Parties' Agreement. Contractor represents and warrants that all representations set forth in such proposal are true and correct.

1.16 Contractor Compensation

"Contractor Compensation" means the revenue received by the Contractor from Customers and the City in return for providing services in accordance with this Agreement.

1.17 Construction and Demolition Debris

"Construction and Demolition Debris" means Solid Waste generated at a Premises that is directly related to construction or demolition activities occurring thereon.

1.18 Container

"Container" means any and all types of Solid Waste receptacles, including Carts, Bins and Roll-off Boxes.

1.19 CPI

"CPI" means the Consumer Price Index (CUUR0000SA0) for All Urban Consumers (CPI-U), all items index - U.S. city average.

1.20 Customer

"Customer" means a Person receiving Solid Waste Handling Services from Contractor pursuant to the terms of this Agreement.

1.21 Dispose/Disposal

"Dispose" or "Disposal" means the ultimate disposition of Solid Waste Collected by Contractor at a landfill or otherwise in full regulatory compliance.

1.22 Disposal Site(s)

"Disposal Site(s)" means the Solid Waste handling Facility or Facilities utilized for the ultimate Disposal of Solid Waste Collected by Contractor.

1.23 Diversion

"Diversion" means any combination of waste prevention (source reduction), recycling, reuse and composting activities that reduces waste disposed at landfills, provided such activities are recognized by CalRecycle as Diversion in its determination of the City's Diversion rate and compliance with AB 939. CalRecycle may limit Diversion considered to be achieved through Transformation/waste-to-energy, use of Green Waste as alternative daily cover ("ADC") and other activities.

1.24 Electronic Waste

"Electronic Waste" means electronic equipment, including stereos, televisions, computers and monitors, VCRs, microwaves and other similar items commonly known as "brown goods" and "e-waste".

1.25 Environmental Laws

"Environmental Laws" means all federal and state statutes, county, local and City ordinances concerning public health, safety and the environment including, by way of example and not limitation, the Comprehensive Environmental Response,

Compensation and Liability Act of 1980, 42 USC §9601 et seq.; the Resource Conservation and Recovery Act, 42 USC §6902 et seq.; the Federal Clean Water Act, 33 USC §1251 et seq.; the Toxic Substances Control Act, 15 USC §1601 et seq.; the Occupational Safety and Health Act, 29 USC §651 et seq.; the California Hazardous Waste Control Act, California Health and Safety Code §25100 et seq.; the California Hazardous Substance Account Act, California Health and Safety Code §25300 et seq.; the Porter-Cologne Water Quality Control Act, California Water Code §13000 et seq.; the Safe Drinking Water and Toxic Enforcement Act, California Health and Safety Code §25249.5 et seq.; as currently in force or as hereafter amended, and all rules and regulations promulgated there under.

1.26 Facility

"Facility" means any plant or site, owned or leased and maintained, operated or used by Contractor for purposes of performing under this Agreement.

1.27 Green Waste

"Green Waste" means tree trimmings, wood stumps, small pieces of wood, grass cuttings, dead plants, leaves, branches, flowers, plant stocks, and dead trees (not more than six (6) inches in diameter or forty-eight (48) inches in length) and similar materials.

1.28 Green Waste Processing Facility

"Green Waste Processing Facility" means a permitted Facility where Green Waste is sorted, mulched or separated for the purposes of Recycling, reuse or composting.

1.29 Gross Receipts

"Gross Receipts" means any and all revenue received from Billings by City or Contractor, and compensation in any form, of Contractor or subsidiaries, parent companies or other Affiliates of Contractor, for the Collection and transportation of Solid Waste pursuant to this Agreement, in accordance with Generally Accepted Accounting Principles, including, but not limited to, Customer fees for Collection of Solid Waste, without subtracting Disposal fees, City fees or other fees or any other cost of doing business. Sales revenue from the sale of Recyclable Materials is excluded from Gross Receipts for the purpose of calculating Franchise Fees.

1.30 Hazardous Substance

"Hazardous Substance" shall mean any of the following: (a) any substances defined, regulated or listed (directly or by reference) as "Hazardous Substances", "hazardous materials", "Hazardous Waste", "toxic waste", "pollutants" or "toxic substances" or similarly identified as hazardous to human health or the environment, in or pursuant to (i) the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 USC §9601 et seq. (CERCLA); (ii) the Hazardous Materials Transportation Act, 49 USC §1802, et seq.; (iii) the Resource Conservation and Recovery Act, 42 USC §6901 et seq.; (iv) the Clean Water Act, 33 USC §1251 et seq.; (v) California Health and Safety Code §§25115-25117, 25249.8, 25281, 25316, 25501 and 25501.1; (vi) the Clean Air Act, 42 USC §7901 et seq.; and (vii) California Water Code §13050; (b) any amendments, rules or regulations promulgated there under to such enumerated statutes or acts currently existing or hereafter enacted; and (c) any other hazardous or toxic substance, material, chemical, waste or pollutant identified as hazardous or toxic or regulated under any other applicable federal, state or local Environmental Laws currently existing or hereinafter enacted, including, without limitation, friable asbestos, polychlorinated biphenyl's ("PCBs"), petroleum, natural gas and synthetic fuel products and by-products.

1.31 Hazardous Waste

"Hazardous Waste" means all substances defined as Hazardous Waste, acutely Hazardous Waste, or extremely Hazardous Waste by the State of California in Health and Safety Code §25110.02, §25115, and §25117 or in the future amendments to or recodifications of such statutes or identified and listed as Hazardous Waste by the US Environmental Protection Agency (EPA), pursuant to the Federal Resource Conservation and Recovery Act (42 USC §6901 et seq.), all future amendments thereto, and all rules and regulations promulgated there under.

1.32 Household Hazardous Waste ("HHW")

"Household Hazardous Waste" means Hazardous Waste generated at Residential Premises.

1.33 Materials Recovery Facility ("MRF")

"Materials Recovery Facility" means a permitted Solid Waste Facility where Solid Wastes or Recyclable Materials are sorted or separated for the purposes of Recycling, processing or composting.

1.34 Multi-Family Dwelling

"Multi-Family Dwelling" means any building or lot containing three (3) or more dwelling units. Multi-Family Dwelling units generally receive Refuse Collection service through the use of shared Bins, but may use Carts. Service is not dependent upon unit count unless specifically stated.

1.35 Person

"Person" means any individual, firm, association, organization, partnership, corporation, business trust, joint venture, the United States, the State of California, Los Angeles County, cities, and special purpose districts.

1.36 Premises

"Premises" means any land or building in City where Solid Waste is generated or accumulated.

1.37 Rate Year

"Rate Year" means the period July 1 to June 30, for each year during the Term of this Agreement.

1.38 Recycle/Recycling

"Recycle" or "Recycling" means the processing of Recyclable Materials for the purpose of returning them to the economy in the form of raw materials for new, reused, or reconstituted products. The Collection, transportation or Disposal of Solid Waste not intended for, or capable of, reuse is not Recycling. Recycling does not include use of Solid Waste for conversion to energy.

1.39 Recyclable Materials

"Recyclable Materials" means Solid Waste that is Source Separated, has some potential economic value, and is set aside, handled, packaged, or offered for Collection in a manner different from Refuse in order to allow it to be processed for Recycling.

1.40 Refuse

"Refuse" means putrescible and non-putrescible Solid Waste.

1.41 Residential

"Residential" refers to services performed at and for Residential Premises, which include both Single-Family Dwellings and Multi-Family Dwellings.

1.42 Residential Premises

"Residential Premises" means Premises upon which dwelling units exist, including, without limitation, Single Family Dwellings, apartments, boarding or rooming houses, condominiums, mobile homes, efficiency apartments, and other multiple dwellings. Notwithstanding any provision to the contrary herein, in the Pico Rivera Municipal Code, or otherwise, for purposes of this Agreement, Premises upon which the following uses are occurring shall not be deemed to be Residential Premises, and rather shall be deemed to be Commercial Premises: Assisted Living Facilities, Convalescent Homes, Dormitories, Extended Stay Motels, Group Residential Facilities, Group Care Facilities, Hotels, Motels, and any other businesses not specifically listed at which residency is transient in nature and hence should be classified as Commercial Premises as determined by City on a case by case bases.

1.43 Roll-off Box

"Roll-off Box" means Solid Waste Collection Containers of 10 (ten) cubic yards or larger.

1.44 Single Family Dwelling

"Single Family Dwelling" means a dwelling unit in a building containing fewer than three (3) Residential dwelling units. Single Family Dwelling units generally receive

individual Cart Refuse Collection service, but service type is not dependent upon unit count unless specifically stated.

1.45 Solid Waste

"Solid Waste" means all discarded putrescible and non-putrescible solid, semisolid, and liquid wastes, including Refuse, Construction and Demolition Debris, Bulky Items, Recyclable Materials, and Green Waste, or any combination thereof which are permitted to be disposed of in a Class II or Class III landfill, and which are included in the definition of "Non-hazardous Solid Waste" set forth in the California Code of Regulations.

1.46 Solid Waste Handling Services

"Solid Waste Handling Services" means the Collection, transfer, transport, Recycling, processing, and Disposal of Solid Waste.

1.47 Source Separated

"Source Separated" means the segregation by the Waste Generator of individual components of Solid Waste, which otherwise would become Refuse or garbage (such as glass bottles, metal cans, newspapers, plastic containers, etc.) into separate Container(s) for the purpose of allowing the Recycling of such materials.

1.48 State

"State" means the State of California.

1.49 Transformation

"Transformation" means incineration, pyrolysis, distillation, gasification, or biological conversion other than composting.

1.50 Transfer Station

"Transfer Station" means a Facility that receives Solid Waste from Collection vehicles and transfers the material to larger vehicles for transport to landfills and other destinations. Transfer Stations may or may not include MRFs, transferring residual Refuse (Refuse left after the sorting of Recyclable Materials) to landfills and Recyclable

Materials, including Green Waste and/or Construction and Demolition debris, to processors, brokers or end-users.

1.51 Waste Generator

"Waste Generator" means any Person as defined by the Public Resources Code, whose act or process produces Solid Waste as defined in the Public Resources Code, or whose act first causes Solid Waste to become subject to regulation.

ARTICLE 2

GRANT AND ACCEPTANCE OF FRANCHISE

2.1 Grant and Acceptance of Franchise, Indemnity of Award

Subject to the terms and conditions of this Agreement (including but not limited to the exclusions set forth in Section 2.9 hereof) and applicable State laws, and to the rights of State, county and school district facilities to use a Solid Waste enterprise other than Contractor, City hereby grants to Contractor and Contractor hereby accepts from City, for the Term hereof, the exclusive franchise, right and privilege to provide Solid Waste Handling Services at all Residential and Commercial Premises within City (the "Franchise").

Contractor agrees to and shall timely take all actions that are reasonably necessary to defend the validity and enforceability of this Agreement and shall pay all costs related to such defense. Contractor shall defend, indemnify, protect and hold harmless, the City, its officers, agents and employees from any and all claims, actions or proceedings to attack, set aside, void, annul or seek monetary damages resulting from an approval by the City of this Agreement. The City shall promptly notify Contractor of any such claim, action, or proceeding. The City and Contractor shall meet in good faith in an effort to come to a mutual agreement for a joint defense; provided that the City shall be entitled to select legal counsel of its choice to conduct the defense if an agreement cannot be reached. Contractor's obligations to pay all costs, defend, indemnify, protect and hold harmless under this section shall not be altered in the event City retains separate counsel and shall also include reimbursement to City for time spent by its in-house City attorneys responding to the litigation.

2.2 Enforcement of Exclusivity

Contractor shall be responsible for enforcing the exclusivity of this Agreement. City shall have the right to enforce the exclusivity provisions hereof if, in its absolute and sole discretion, it chooses to do so, but shall have no obligation to do so for the benefit of Contractor or otherwise. City additionally shall have the right, but not the obligation, to request that Contractor enforce the exclusivity provisions hereof. Contractor shall have an affirmative obligation to enforce such exclusivity provisions when requested to do so by City. For example, Contractor may be asked to notify City

of inappropriately placed Containers and to place warning tags on such Containers. City may direct Contractor to impound such Containers in accordance with the City's Municipal Code and may be entitled to charge Container owners City-approved fees for such impounding. If Contractor requests that City take administrative, law enforcement, or other legal action to protect Contractor's exclusive rights, or otherwise enforce the exclusivity of this Agreement (including the adoption of any resolution or ordinance intended to facilitate the enforcement of the exclusive rights granted herein), Contractor shall reimburse City for all administrative, law enforcement, or other legal costs and fees related to any such action. Contractor's obligation to reimburse City shall not apply to any criminal enforcement by City.

2.3 Effective Date

The "Effective Date" of this Agreement shall be the date which the City Council approves this Agreement.

2.4 Term of Agreement

2.4.1 Initial Term

The term of this Amended Agreement shall be for fifteen (15) years, commencing on July 1, 2014 and expiring on June 30, 2029; provided, however, that commencing on the first anniversary date of July 1, 2015 ("Anniversary Date") and on each Anniversary Date thereafter, a one-year extension shall be applied to said Agreement so that the term of the Agreement shall remain fifteen (15) years.

2.4.2 Automatic Term Renewal

Notwithstanding the foregoing, should either party desire that said one-year renewal and extension provision be terminated, such party shall give the other written notice of intent to terminate at least ninety (90) days prior to any Anniversary Date of any year during which this Agreement is in full force and effect and written notice of termination at least sixty (60) days prior to any such Anniversary Date. During the thirty (30) day period following the delivery of a notice of intent to terminate, the parties shall meet and confer at the request of either party.

If a notice of termination is given by the City that the on-year renewal and extension provision is terminated on the applicable Anniversary Date, the remaining term of this Agreement shall be fifteen (15) years from the date of termination, and the term of this

Agreement shall accordingly wind down from such date. All other aspects of this Agreement shall remain in full force and effect during the wind down period.

2.6 Representations and Warranties of Contractor

Contractor hereby covenants, represents, and warrants the following to City for the purpose of inducing City to enter into this Agreement and to consummate the transaction contemplated hereby, all of which shall be true as of the date of this Agreement and as of the Effective Date:

- a) Contractor is duly organized and validly existing as a corporation under the laws of the State of California.
- b) Neither the execution of this Agreement nor the delivery by Contractor of services nor the performance by Contractor of its obligations hereunder: (1) conflicts with, violates or results in a breach of any applicable law; (2) conflicts with, violates or results in a breach of any term or condition of any judgment, decree, agreement (including, without limitation, the certificate of incorporation of Contractor) or instrument to which Contractor is a party or by which Contractor or any of its properties or assets are bound, or constitutes a default under any such judgment, decree, agreement or instrument; or (3) will result in the creation or imposition of any encumbrance of any nature whatsoever upon any of the properties or assets of Contractor.
- c) There is no action, suit or other proceeding as of the date of this Agreement, at law or in equity, or to the best of Contractor's knowledge, any investigation, before or by any court or governmental authority, pending or threatened against Contractor which is likely to result in an unfavorable decision, ruling or finding which would materially and adversely affect the validity or enforceability of this Agreement or any such agreement or instrument entered into by Contractor in connection with the transactions contemplated hereby, or which could materially and adversely affect the ability of Contractor to perform its obligations hereunder or which would have a material adverse effect on the financial condition of Contractor. This provision may be waived by the City acting through its City Manager.

- d) Contractor has no knowledge of any applicable law in effect as of the date of this Agreement that would prohibit the performance by Contractor of this Agreement and the transactions contemplated hereby.
- e) Contractor has made an independent investigation, satisfactory to it, of the conditions and circumstances surrounding this Agreement and the work to be performed by it, and is satisfied that those conditions and circumstances will not impair its ability to perform the work and provide the Collection services required by this Agreement.
- f) The information supplied by Contractor in all submittals made in connection with negotiation and execution of this Agreement, including all materials in Exhibits of this Agreement, and all representations and warranties made by Contractor throughout this Agreement are true, accurate, correct and complete in all material respects on and as of the Effective Date of this Agreement. Note that inaccuracies in Contractor's Proposal, such as material omissions of past and pending litigation as requested under the Request for Proposals through which this Agreement was procured, is grounds for termination of this Agreement.
- g) Contractor's representative, designated in Section 5.2.4, shall have authority in all daily operational matters related to this Agreement. City may rely upon action taken by such designated representative as action of Contractor unless the actions taken are not within the scope of this Agreement.

2.7 Conditions to Effectiveness of Agreement

The satisfaction of each and all of the conditions set out below, each of which may be waived in whole or in part by City in writing, is a condition precedent to the effectiveness of this Agreement, and a condition of Contractor's continued right to the benefits conveyed herein:

- a) Accuracy of Representations. All representations and warranties made by Contractor and set forth in this Agreement shall be accurate, true and correct on and as of the Effective Date.
- b) Absence of Litigation. There shall be no litigation pending in any court challenging the award of this Franchise to Contractor or the execution of this

Agreement or seeking to restrain or enjoin its performance. This provision may be waived by the City, acting through its City Manager.

- c) Furnishing of Insurance, Bond, and Letter of Credit. Contractor shall have furnished evidence of the insurance, bonds and letter of credit required by Article 9, and shall comply with all ongoing requirements relating thereto.
- d) Contractor shall have paid the contracting fee to City, as provided in Section 3.1.

2.8 Delegation of Authority

The administration of this Agreement by City shall be under the supervision and direction of City Manager's office and the actions specified in this Agreement, unless otherwise stated, shall be taken by the City Manager. This section shall in no way be interpreted to obviate required City Council action if so provided in the Pico Rivera Municipal Code.

2.9 Limitations to Scope

Notwithstanding any provision to the contrary contained herein, the exclusive franchise, right and privilege to provide Solid Waste Handling Services at Premises within City granted to Contractor by this Agreement specifically excludes the following services, which services may be provided by Persons other than Contractor and which may be the subject of other permits, licenses, franchises or agreements issued or entered by City:

- a) The sale or donation of Source-Separated Recyclable Material by the Waste Generator to any Person or entity other than Contractor; provided, however, if the Generator is required to pay monetary or non-monetary consideration for the Collection, transportation, transfer, or processing of Recyclable Material, even if the Generator receives a reduction or discount in price (or in other terms of the consideration the Generator is required to pay), the transaction shall not be considered a sale or donation;
- b) Solid Waste, including Recyclable Materials and Green Waste, which is removed from any Premises by the Waste Generator, and which is transported personally by such Generator (or by his or her full-time employees) to a processing or Disposal Facility in a manner consistent with all applicable laws and regulations;

- c) Green Waste removed from a Premises by a gardening, landscaping, or tree trimming contractor, utilizing its own equipment, as an incidental part of a total service offered by that contractor, rather than as a hauling service;
- d) Bagster® Service, whereby Solid Waste is Collected using a vehicle with an overhead crane in a soft-sided polypropylene Container purchased by the Customer at a local hardware or home supply store;
- e) The Collection, transfer, transport, Recycling, processing, and disposal of animal remains from slaughterhouse or butcher shops for use as tallow;
- f) The Collection, transfer, transport, Recycling, processing, and disposal of by-products of sewage treatment, including sludge, sludge ash, grit and screenings;
- g) The Collection, transfer, transport, Recycling, processing, and disposal of Hazardous Substances, Hazardous Waste, Household Hazardous Waste and radioactive waste regardless of its source;
- h) Construction and Demolition Debris which is removed by a duly-licensed construction or demolition company or as part of a total service offered by said licensed company or by the City, where the licensed company utilizes its own equipment and has performed the associated construction/demolition services in the City;
- i) The Collection, transfer, transport, Recycling, processing, and Disposal of Solid Waste generated from City-owned and/or operated premises, public works projects, City-sponsored events or other City-related activities, by City through City officers or employees in the normal course of their City employment; and,
- j) Solid Waste Handling Services for governmental agencies other than City, which may have facilities in City, but over which City has no jurisdiction in connection with the regulation of Solid Waste.

The exclusive franchise, right and privilege to provide Solid Waste Handling Services within City granted to Contractor by this Agreement shall be interpreted to be consistent with all applicable state and federal laws, now in effect and adopted during the term of this Agreement, and the scope of this Agreement shall be limited by all applicable current and developing laws and regulations. In the event that future

interpretations of current law, future enactments or developing legal trends limit the ability of City to lawfully grant Contractor the scope of services as specifically set forth herein, Contractor agrees that the scope of this Agreement will be limited to those services and materials which may be lawfully provided, and that City shall not be responsible for any lost profits claimed by Contractor as a result thereof.

2.10 City's Right to Direct Changes

2.10.1 General

City may direct Contractor to perform additional services (including new Diversion programs, additional Solid Waste processing, etc.) or modify the manner in which it performs existing services or Bills for services. Pilot programs and innovative services which may entail new Collection methods, and different kinds of services and/or new requirements for Waste Generators are included among the kinds of changes which City may direct. Contractor acknowledges that State law may increase the Diversion requirement during the term of this agreement and Contractor agrees to propose services to meet such Diversion requirements. Contractor shall be entitled to an adjustment in its Contractor Compensation for providing such additional or modified services, including a profit factor equal to ten percent (10%) of the incremental cost of such additional or modified services. City may utilize cost components included in the Contractor's Proposal in calculating equitable rate adjustments. If City and Contractor cannot agree on compensation for new or additional services within ninety (90) days from the date City first requests a proposal from Contractor, then City may contract with other parties for such services, which shall be considered exempt from the exclusivity provisions of Section 2.1.

2.10.2 New Diversion Programs

Contractor shall present, within thirty (30) days of a request to do so by City, a proposal to provide additional or expanded Diversion services. The proposal shall contain a complete description of the following:

- Collection methodology to be employed (equipment, manpower, etc.).
- Equipment to be utilized (vehicle number, types, capacity, age, etc.).
- Labor requirements (number of employees by classification).

- Type(s) of Containers to be utilized.
- Type(s) of material to be Collected.
- Provision for program publicity/education/marketing.
- One-year projection of the financial results of the program's operations in an operating statement format, including documentation of the key assumptions underlying the projections, and the support for those assumptions.

2.11 Ownership of Solid Waste

City and Contractor understand and agree that it is Contractor, and not City, who will arrange to Collect Solid Waste, that City has not, and, by this Agreement does not, instruct Contractor on its Collection methods, nor supervise the Collection process; nor do the Parties intend to place title to Solid Waste Collected by Contractor in City. Rather, the Parties intend that whatever, if any, title in and to the Solid Waste that is Collected by Contractor which otherwise might exist in or with City in the absence of this Agreement is hereby transferred to Contractor; and further that if Contractor gains title to such Solid Waste it is by operation of law and agreement with its Customers and is not the result of this Agreement. Subject to the provisions of this Agreement, and unless City exercises its rights to direct the location for Disposal and processing of Solid Waste, Contractor shall have the right to retain, Recycle, process, dispose of, and otherwise use Solid Waste Collected pursuant to the terms hereof in any lawful fashion or for any lawful purpose; and, further, shall have the right to retain any benefit resulting from its right to retain, Recycle, process, dispose of, or reuse the Solid Waste which it Collects. City's right to redirect Solid Waste is not intended to impact Contractor's right to retain Recyclables revenue pursuant to Section 4.2.6 of this Agreement. Ownership of Solid Waste shall transfer to Contractor when Customer places it at point of Collection.

Pursuant to Section 4.8, City reserves the right to designate the Solid Waste Facilities, including the Disposal Sites, to be used by Contractor. If City directs Company to a Facility other than a Solid Waste Facility chosen by Contractor (or directs Contractor to change the amount of Solid Waste being delivered to a Facility), and in doing so it adversely affects the ability of Contractor to meet either or both of the requirements of Section 4.2.7 and/or Section 9.3, then in this event the City and Contractor shall meet and confer and mutually agree on revised obligations for Sections 4.2.7 and 9.3. In

addition, if any such exercise by City serves to change Contractor's cost of disposal, processing and transportation of Solid Waste, rates may be equitably adjusted.

2.12 Contractor Status

Contractor represents and warrants that it is duly organized, validly existing and in good standing under applicable laws. It is qualified to transact business in the State of California and has the power to own its properties and to carry on its business as now owned and operated and as required by this Agreement.

2.13 Contractor Authorization

Contractor represents and warrants that it has the authority to enter into and perform its obligations under this Agreement. The Board of Directors or partners of Contractor (or the shareholders, if necessary) have taken all actions required by law, its articles of incorporation, its bylaws or otherwise to authorize the execution of this Agreement. The Persons signing this Agreement on behalf of Contractor have authority to do so. Contractor shall authorize one employee for the City as a single point of contact for issues arising under this Agreement, and Contractor acknowledges and agrees that City may expect and assume that this employee's actions are taken on behalf of and with the full approval of the Contractor.

2.14 Permits and Licenses

Contractor shall acquire and maintain all necessary permits and licenses for the Collecting, transporting, processing, and storing of Solid Waste including Recyclables, disposing of Solid Waste, and the Recycling of Recyclables as required under this Agreement. Failure to maintain all required permits shall be deemed a material breach of contract for which City may terminate this Agreement as provided in Section 11.2. Contractor must follow requirements of the Pico Rivera Municipal Code, including, but not limited to, obtaining a City of Pico Rivera business license.

ARTICLE 3

FEES PAID TO THE CITY

In addition to any other consideration set forth herein, as part of its consideration for entering into this Agreement, and for the exclusive franchise, right and privilege to provide Solid Waste Handling Services as specified herein, Contractor shall provide the following:

3.1 Contracting Fee

Contractor shall pay to City a "Contracting Fee" in a one-time lump sum payment of one hundred fifty thousand dollars (\$150,000) within seven (7) days of execution of this Agreement to reimburse the City for costs it incurred in connection with entering this Agreement.

3.2 Franchise Fee

3.2.1 Franchise Fee Amount

In consideration of the exclusive Franchise granted pursuant to this Agreement, the Contractor shall pay to the City an annual "Franchise Fee," equal to \$850,000 per year through June 30, 2018. This Franchise Fee shall be adjusted for each subsequent Rate Year by the change in the average monthly CPI index for the twelve-month period ended the December prior to the start of the Rate Year versus the average monthly index for the preceding twelve-month period. For example, the Franchise Fee for the Rate Year July 1, 2014 to June 30, 2015 shall be equal to \$850,000 adjusted by the change in the average monthly CPI from January 2013 to December 2013 versus the average monthly CPI from January 2012 to December 2012. Franchise Fees shall be paid per Section 3.2.2.

3.2.2 Timing of Fee Payments

On or before the fifteenth (15th) day of each month during the Term of this Agreement, Contractor shall remit one twelfth of the annual the Franchise Fee due to City for that Rate Year. For example, the monthly Franchise Fee payments to be made by the 15th of each month from July 2012 through June 2013 shall be one-twelfth of \$850,000, or \$70,833 per month. If the Franchise Fee is not paid on or before the fifteenth (15th) day of

the month, Contractor shall pay to City a penalty in an amount equal to ten percent (10%) of the amount owed for the month, plus twelve percent (12%) per annum prorated for each day of delinquency.

3.3 Future Fees

Commencing on July 1, 2019, the City shall implement a new fee of 2% of franchise fee to be placed into a separate funds to be sued as reimbursement for road impacts from Contractor's vehicles. The 2% increase to franchise fee shall continue each year until a cap of \$150,000. City may elect to have Contractor pay monthly, or on another schedule as City identifies. City may set deadlines and late fees, and additional fees would be subject to audit.

3.4 Sales Tax Revenue

Contractor agrees to use commercially reasonable efforts to establish a point of sale for substantial equipment purchases by Contractor or its Affiliates through establishing a local office within the City and adjusting its purchasing policies for this purpose, so as to facilitate the City's receipt of sales tax revenue. Contractor's efforts will be undertaken in accordance with applicable law, and the parties agree that Contractor is not required to undertake any actions that could result in the imposition of fines, penalties or damages related to payment or non-payment of sales taxes, or the distribution of sales tax revenue. At a minimum, Contractor shall initially purchase twelve Collection vehicles from an in-City business prior to the start of service, and purchase compressed natural gas, office supplies and vehicle parts in the City on an on-going basis.

ARTICLE 4

DIRECT SERVICES

4.1 Refuse

4.1.1 General

The work to be done by Contractor pursuant to this Agreement shall include, but not be limited to, the furnishing of all labor, supervision, equipment, materials, supplies, and all other items necessary to perform the services required. The enumeration of, and specification of requirements for, particular items of labor or equipment shall not relieve Contractor of the duty to furnish all others, as may be required, whether enumerated elsewhere in the Agreement or not.

The work to be done by Contractor pursuant to this Agreement shall be accomplished in a thorough and professional manner so that all Customers are provided reliable, courteous and high-quality Solid Waste Handling Services at all times. The enumeration of, and specification of requirements for, particular aspects of service quality shall not relieve Contractor of the duty of accomplishing all other aspects in the manner provided in this section, whether such other aspects are enumerated elsewhere in the Agreement or not.

4.1.2 Residential Cart Refuse Collection

Contractor shall provide all Customers at Single Family and Multi-Family Dwellings without Bin Service, with one new 96-gallon Cart ("Refuse Cart(s)"), and shall Collect all Refuse placed therein for Collection not less than once per week. If requested by Customer, Contractor shall provide 64-gallon Carts. If there is a dispute between a Customer and Contractor as to whether Cart or Bin service shall be provided, City will make the final determination. If Residential units share Refuse Carts due to space constraints or otherwise, each unit shall still be assessed the full Residential Cart service rate.

Customers that regularly require more than one Refuse Cart may request additional Carts for an additional charge per Cart per month in accordance with the approved rate schedule.

4.1.3 Refuse Cart Overage

Residential Cart Customers may periodically generate more Refuse than will fit in the Refuse Cart(s). Residential Customers are therefore entitled to two (2) annual pickups per calendar year of material that does not fit in the Refuse Cart(s) at no additional cost. One pickup shall consist of up to the equivalent of three (3) large bags, boxes or barrels of Refuse. Residential Customers may be charged per pickup in accordance with the approved rate schedule for overage pickups above two (2) per year. In addition to the two (2) free pickups, Contractor shall Collect all additional Refuse placed out for Collection in the Residential Customer's own Containers (bags, barrels, etc.) at no additional charge for two (2) weeks beginning each December 26. This service is limited to Refuse that could otherwise be placed in the Refuse Cart, and not Bulky Items which are Collected in accordance with Sections 1.6 and 4.1.15. Commercial Customers may request Cart overage Collections in accordance with the approved rate, but are not entitled to free overage collections.

4.1.4 Backyard Service for the Disabled and Customers 70 Years of Age or Older

Contractor shall provide disabled Customers, and Customers that are seventy (70) years of age or older, with backyard service at no additional charge. Contractor will remove Refuse, Recyclable and Green Waste Containers and Green Waste bundles from Customer's storage area, place them out for Collection, and return Containers to Customer's storage area after Collection, ensuring that all doors or gates are closed securely. In order to qualify as disabled under this section, Customers must have been issued a handicap placard from the Department of Motor Vehicles, or otherwise obtained approval to receive such service from the City. Additionally, walk-out service need not be provided if an able-bodied person under seventy (70) years of age resides with the disabled Customer.

4.1.5 Bin Refuse Collection

Contractor shall provide Bin Service to Single Family Customers that request this service, Multi-Family Customers not receiving Cart service, and Commercial Customers. Contractor shall Collect and remove all Refuse that is placed in Bins at least once per week, and more frequently if required to handle the waste generated at the Premises where the Bins are located. City shall make final determination as to the number and size of Containers, and frequency of Collection to be provided to

Customers. Special consideration shall be given when determining the pickup areas to ensure that the flow of traffic is not impeded.

Contractor shall provide 1, 1.5, 2, 3, 4 and 6 cubic yard Bins upon request. Contractor will service Bins equipped with compaction devices or “compactors” that attach to the Bins. The provision of the compaction device itself is outside of this Agreement.

4.1.6 Commercial Premises Cart Service

As an alternative to the requirements of Section 4.1.5, Contractor shall offer Collection in 96-gallon Refuse Carts to Customers at Commercial Premises that do not have space for a Bin. Commercial Cart Customers shall receive one Refuse Cart to be Collected once per week. If Contractor and Customer have a disagreement as to whether a Refuse Cart is appropriate, or if City determines the Collection in a Refuse Cart causes health and safety or other concerns, City shall make the final determination as to whether Collection in a Refuse Cart may occur.

4.1.7 Overflowing Bin

Customers that regularly produce more Refuse than their current level of service can accommodate may have their service level increased in accordance with the following procedure:

First Incident in Three Month Period – If more material is placed for Collection than fits in a Bin, Contractor shall photograph the overflowing Bin, Collect the Solid Waste, and send to the Customer (at both the service and billing addresses) the picture and a letter instructing that additional instances may result in an increase in the level of service.

Second Incident in Three Month Period – Upon the second event of an overfilled Bin in a three-month period, Contractor shall photograph the overflowing Bin, Collect the Solid Waste, and send to the Customer the picture and a letter instructing that a third incident in that same three month period may result in an increase in the level of service.

Third Incident in Three Month Period – Upon the third event of an overfilled Bin in a three-month period, Contractor shall photograph the overflowing Bin, Collect the Solid Waste, and send to the Customer the picture and a letter requesting that Customer increase its service level. If the Customer declines, Contractor may petition City to

permit Contractor to increase the service level to accommodate the higher demand for service. City will make best efforts to respond to a service increase request within thirty (30) days; however, City approval is required prior to increasing a Customer's service level without prior Customer consent, regardless of the time City takes to approve or not approve such a change.

4.1.8 Roll-off Box Service

Contractor shall provide exclusive permanent and temporary Roll-off Box Collection service upon request. Contractor must deliver a temporary Roll-off Box to a Customer within twenty-four (24) hours of request (Saturdays, Sundays and holidays identified in Section 4.6.1.1 excluded).

Contractor will provide standard 10, 30 and 40-cubic-yard standard Roll-off Boxes. The provision of compactor Roll-off Boxes, which are enclosed Containers attached to a compaction devise, is not included in this Agreement. Providing service to such compactor Roll-off Boxes is included.

Permanent Roll-off Box service shall be Billed at a pull plus dump rate, meaning a flat rate for service plus a per ton rate for the Solid Waste Collected. Temporary Roll-off Box service shall be Billed at a rate inclusive of service and disposal or processing of up to six (6) tons. Tonnage above six (6) tons shall be billed at the permanent Roll-off Box per ton rate. If Contractor can determine that a load is greater than ten (10) tons prior to Collection, Contractor may instruct Customer to reduce the load to no more than ten (10) tons.

4.1.9 Temporary Bin Service

Contractor shall provide exclusive temporary Bin Service to Customers upon request. Contractor must deliver a temporary Bin to a Customer within twenty-four (24) hours of request (Saturdays, Sundays and holidays identified in Section 4.6.1.1 excluded). Rates for temporary Bin Service are listed separately in the approved rate schedule.

4.1.10 Scout Vehicles

Scout vehicles are defined as vehicles that transport a Solid Waste Container to and from the point of Collection by a Collection vehicle. Scout vehicle service was provided for seventeen (17) Bins at the start of service under this Agreement, and this number is

not anticipated to increase significantly during the Agreement Term. Contractor may continue to charge existing scout service Customers for this service, if it is operationally required to service the Bin. Other Customers may not be charged for scout service without advance written permission from the City, and such charge will only be approved if the Bin cannot otherwise be positioned for Collection.

4.1.11 Bin Push-out Service

Contractor may not charge a fee for pushing or rolling Bins to point of Collection.

4.1.12 Locking Bins

Contractor shall provide locking Bin Service (providing the hasp and lock and servicing the lock) to Customers that request such service in accordance with the approved rate schedule.

4.1.13 Redelivery/Return Trip Fee

Contractor may charge a fee, per the approved rate schedule, in the event that Contractor arrives on time for a scheduled Collection of Bins or Roll-off Boxes, is impeded from Collection due to Container being blocked or otherwise unable to be Collected due to issues within the Customer's control, and Contractor must return a second time for Collection. Charge may be assessed for the trip, not per Bin or Roll-off Box, in the event of a Customer with multiple Bins or Roll-off Boxes.

4.1.14 On-Call Bulky Item Pickup

Contractor shall provide Bulky Item pickup service to all Single Family and Multi-Family Customers.

Each Residential Cart Customer, and Single Family Customers with Bin service, shall be entitled to ten (10) Bulky Item pickups per calendar year at no additional charge.

Each Multi-Family Building will be entitled to the equivalent of one (1) Bulky Item pickup per calendar year per dwelling unit at no additional charge.

Customers may put out up to four (4) Bulky Items at each pickup. If more than four (4) items are placed out for pickup, each additional four (4) items may be considered an additional pickup. Contractor may instruct Customers to provide Contractor with a

minimum of one (1) business day's notice for the items which shall be Collected on the Customer's regular Collection day. Contractor shall Collect all Bulky Items as defined in Section 1.6 including items referred to as Electronic Waste. The following provisions shall apply to this program:

- No single item that cannot be handled by two (2) workers will be accepted.
- The following items will not be picked up: Hazardous Substances, Hazardous Waste, including waste oil or anti-freeze. (For the purposes of this section, universal wastes such as fluorescent bulbs, household batteries, and televisions, monitors and other items referred to as Electronic Waste are not considered hazardous and will be Collected by and disposed of in accordance with this section as well as Sections 4.1.16 and 4.1.17 by Contractor.)
- Contractor shall record by class and weight (in tons) the Solid Waste Collected from Bulky Item pickups. Contractor shall record the kinds and weights (in tons) of this Solid Waste that is diverted from the landfill through Recycling, reuse, Transformation or other means of Diversion.

Residential and Multi-Family Customers that exceed the number of free pickups, and all Commercial Customers, may receive Bulky Item Collection under the same terms for a fee, in accordance with the approved rate schedule in Exhibit 2.

4.1.15 Citywide Curbside Clean-Up Event

Contractor shall provide one Residential curbside clean-up event each calendar year at no additional charge to City or Customers. All Residential Cart Customers may participate and place for Collection an unlimited quantity of Bulky Items. Events may be held over multiple weekends, one section of the City at a time. Dates are to be approved by the City in advance. Contractor is responsible for advertising this event. Items Collected during this event will be handled in accordance with Sections 4.1.16, and 4.1.17.

4.1.16 Bulky Item Diversion

Bulky Items Collected by Contractor in accordance with Section 4.1.14 and 4.1.15, or otherwise Collected under this Agreement, may not be landfilled or disposed of until the following hierarchy of Diversion efforts has been followed by Contractor:

- 1) Reuse as is;
- 2) Disassemble for reuse or Recycling;
- 3) Recycle;
- 4) Dispose.

This hierarchy is intended to preclude the use of front or rear loading packer vehicles for Bulky Items, unless the compaction mechanism is not used to compact the Bulky Items, unless such items have been designated for Disposal.

4.1.17 Disposal of Electronic and Other Special Wastes

Contractor shall divert waste requiring special handling, such as Electronic Waste Collected in accordance with Sections 4.1.14, 4.1.15 or 4.5.5, or by other means under this Agreement, by taking these goods to a properly permitted Facility, and not by landfilling.

Contractor may encourage Customers through public education materials to bring small items requiring special handling, such as fluorescent bulbs or batteries, to a local HHW drop-off center, but will properly process such material received through the provision of services under this Agreement at no additional charge.

4.1.18 Removal of Former Contractor Containers

If any Solid Waste enterprise providing Solid Waste Handling Services to Customers prior to the Effective Date does not remove the Containers it had in use prior to the Effective Date, City may direct Contractor to Collect and recycle any or all of such Containers at no additional charge to City or Customers.

4.2 Recycling

4.2.1 Residential Cart Recycling Collection

Contractor shall provide all Customers receiving Cart Refuse Collection with a new 96-gallon Cart for Collection of Recyclable Materials ("Recycling Cart(s)"), and shall Collect all Recyclable Materials placed therein for Collection not less than once per week. Contractor shall Collect Recyclable Materials from each Customer on the same day as Customers' Refuse Cart is Collected.

Contractor shall have a Recycling program whereby it, at a minimum, Collects all materials that can be recovered at the local processing Facility used by Contractor. Contractor will update public education materials accordingly as new items are added to those recovered by the Facility.

Customers that regularly fill their Recycling Cart(s) may request additional Recycling Cart(s) at no additional charge.

4.2.2 Commercial Recyclables Collection

Contractor shall provide Recycling services to Multi-Family Bin and Commercial Customers in accordance with the approved rate schedule. Contractor shall distribute 96-gallon Recycling Carts to all Multi-Family Customers, and provide Recyclables Collection and processing services, at no additional charge.

Contractor shall assist the City in meeting mandatory Commercial Recycling program requirements at no additional charge, including providing reporting that may be required. Contractor shall contact all Bin and permanent Roll-off Box Customers within the first twelve (12) months of the Agreement in an effort to establish Recycling programs. Contractor shall provide a reporting of these contacts, including whether a Recycling program was implemented as a result, and/or if the Customer indicated it already has a Recycling program in place, either through Contractor or a third party, and any other information that may assist the City in meeting the State's mandatory Commercial Recycling program requirements.

4.2.3 Mixed Waste Processing

At no additional cost, Contractor shall process 25% of Refuse Collected from Residential Refuse Carts at a mixed waste processing facility to recover Recyclables not placed in the Recycling Cart.

4.2.4 Waste To Energy

Contractor shall deliver sufficient quantities of Refuse Collected to Waste-to-Energy Facilities for diversion credit as necessary to ensure that Contractor meets the minimum diversion requirements under Section 4.2.7.

4.2.5 Warning Notice

Contractor shall place a red tag or other warning notice approved by the City on all Refuse, Recyclable Material or Green Waste loads that are contaminated, indicating to the Customer why the load was not Collected and, if applicable, diverted, or if the Recycling or Green Waste Container was sufficiently contaminated that it had to be Collected as Refuse, and providing Contractor's phone number. For Customers with off-site management such as small apartment buildings, Contractor shall also mail a copy of the warning to the Customer's Billing address. Contractor shall notify City on a monthly basis of any warning notices issued pursuant to this section, and shall provide copies of such warnings to City upon request. With prior written City authorization, Contractor may remove Recycling and Green Waste Containers from habitual contaminators that have received a total of three (3) warnings on a Container in any six-month period. Recycling and Green Waste Containers will be returned only after six (6) months, or upon direction of the City, or if there is a change of occupancy.

Contractor will visually inspect the contents of Residential Refuse Carts and, if significant Recyclable Materials are found, leave a notice educating Customer to better separate Recyclable Materials from Refuse.

4.2.6 Marketing and Sale of Recyclable Materials

Contractor shall be responsible for marketing and sale of all Recyclable Materials Collected pursuant to this Agreement. Contractor may retain revenue from the sale of Recyclable Materials, and shall report the amount of such revenues to City upon request.

4.2.7 Minimum Recycling Requirements

A. Contractor shall divert from landfilling a minimum percentage of all Solid Waste it Collects under this Agreement as listed below:

<u>Calendar Year</u>	<u>Minimum Diversion of Hauler-Collected Solid Waste</u>
2013	35%
2014 through end of term	50%

Recycling of materials not Collected by the Contractor is not to be counted towards meeting this requirement. For the purposes of this Section 4.2.7.A, diversion includes

Recycling, Transformation and other forms of converting Solid Waste into energy to the extent that such diversion is accepted by the State toward meeting the City's diversion goal under AB 939.

If Recycling programs do not to produce anticipated results necessary to reach these diversion levels, Contractor shall implement additional programs and/or direct additional Solid Waste to Waste-to-Energy facilities as necessary to meet these requirements at no additional cost to the City.

B. Contractor shall also recycle or divert from landfill sufficient waste to ensure that the City meets current AB 939 requirements, as amended by SB 1016, for 50% Diversion City-wide. Contractor shall only be considered to have met this requirement under this Agreement if the City's annual report to CalRecycle shows a greater than 50% Diversion rate and if CalRecycle approves the City's reports as having a greater than 50% Diversion rate in connection with efforts to meet City's AB 939 Diversion goals. Currently, meeting the 50% diversion rate is determined by whether the City remains below its target disposal pounds per capita per day, which was calculated to represent a 50% diversion rate.

C. Contractor must meet both Diversion obligations in subsections A and B above; meeting one requirement does not relieve Contractor of the other. Liquidated damages shall be assessed under Section 11.3 for failure to meet these goals. (Contractor's stated intent is to reach 75% diversion of hauler-Collected Solid Waste, but failure to reach this higher level will not subject Contractor to the assessment of liquidated damages.)

4.2.8 Construction and Demolition Debris Diversion

Contractor will bring all loads of mixed Construction and Demolition Debris to a construction and demolition debris processing facility designated under this contract for separation and recovery of this material. Designated facilities include facilities approved by the City for use by self-haulers, facilities identified in Section 4.8 of this Agreement that process Construction and Demolition Debris, and any facility for which Contractor requests City's approval. City's approval will be based upon the facility's ability to divert material from landfilling and the effect of the facility's tipping fee on Customer rates. Contractor shall divert a minimum of 75% of all Construction and Demolition Debris Collected.

Contractor may deliver separated loads of Construction and Demolition Debris, such as clean dirt, concrete or rebar, to facilities specializing in the reuse of such materials, provided this material is diverted from landfilling.

4.2.9 Sharps Collection

Contractor shall provide pre-paid mail-back Sharps Containers to all City residents at no additional charge for the Agreement Term. Containers may be picked up at Contractor's office in Montebello. Contractor may require residents to show proof of residency in the City before receiving Containers.

4.3 Green Waste and Other Organics Programs

4.3.1 Single Family Green Waste Collection

Contractor shall provide all Customers receiving Cart Refuse Collection with a 96-gallon Cart for Collection of Green Waste ("Green Waste Cart(s)"). The Green Waste Carts shall be new, or Contractor may utilize the 96-gallon Green Waste Carts distributed to Customers under the previous City Solid Waste Collection agreement, if such Carts are purchased from the previous hauler by the Contractor. Contractor shall Collect all Green Waste placed in Green Waste Carts, as well as all Green Waste bundled as set forth below, and put out for Collection by Customers not less than once per week on the same day as Refuse Collection. Contractor shall, at a minimum, Collect and divert the types of Green Waste defined in Section 1.27.

Contractor shall only be obligated to Collect Green Waste set out for Collection in bundles if it is a maximum of four (4) feet long and eighteen (18) inches in diameter.

Customers may request one (1) additional Green Waste Cart at no additional charge. Contractor may charge for a third cart in accordance with the approved rate schedule.

4.3.2 Holiday Tree Collection Program

Contractor shall operate an annual holiday tree Collection program from December 26 until at least January 12. During this period, all holiday trees placed out for Collection by Residential Cart or Bin Customers shall be Collected by Contractor. After this period, trees will be Collected as Bulky Items under Section 1.6. Trees up to seven (7)

feet in length will be Collected and diverted without Customers needing to cut them. Contractor may request that Customers with larger trees cut the trees to pieces no longer than seven (7) feet. Contractor will divert all holiday trees from landfilling, with the exception of trees that cannot be diverted due to flocking, tinsel or ornaments.

4.3.3 End Uses for Green Waste

Contractor shall divert Green Waste materials Collected through weekly Cart and bundle Collection, holiday tree Collection and mixed waste processing from Disposal. Contractor must provide end uses for Green Waste that maximize Diversion credits for City according to regulations established by CalRecycle. Green Waste may be used as alternative daily cover at landfills, or "ADC," only to the extent that the City will get full Diversion credit for its use. Contractor is responsible for monitoring how the Green Waste will be diverted at selected facilities and for selecting alternative facilities if necessary to ensure full Diversion credit. Failure to do so places the Contractor in default. City has the option, but not obligation, to direct Contractor where to deliver the material.

4.3.4 Manure Collection

Contractor will provide two-cubic-yard Bins for manure Collection. Contractor shall Collect manure at least once per week.

4.3.5 Commercial Food Waste Diversion Program

Contractor shall Collect and divert food waste from Commercial Customers upon Customer request through a source separated program, providing at a minimum 1.5 yard and 3 yard Bins, in accordance with the approved rate schedule.

4.3.6 Residential Curbside Food Waste Pilot Program

Contractor shall conduct a curbside Food Waste pilot program that includes a minimum of 200 Single Family Customers for a period of at least six months. Program shall begin within the first 12 months of service under the Agreement. Contractor and City shall mutually agree on the timing and format of the pilot program. Contractor shall collect baseline data prior to the start of the program and shall collect data during program, as agreed upon with City, to facilitate an evaluation of the program's

effectiveness. Contractor is responsible for all outreach materials, additional equipment and other costs associated with this pilot program.

4.3.7 Composting Workshops

Contractor shall provide the following at no additional charge:

Contractor will conduct quarterly composting training workshops for Residents, which will include training and demonstrations of both backyard composting and vermin-composting, and their benefits.

Contractor shall rotate the location of the workshops around the City to make attendance convenient for Residents City-wide. Locations and dates shall be subject to City approval.

Contractor will mail composting information and workshop schedules to Residents twice per year, and will post the information on its website.

Contractor will provide home composting bins for purchase at the workshops, and will research and apply for grants to fund free or discounted compost bins for City residents.

4.3.8 Free Compost Distribution

Contractor will conduct four Residential compost give-a-way events per calendar year.

4.4 Cart Selection, Distribution and Exchanges

4.4.1 Carts

4.4.1.1 Cart Design Requirements

The Carts shall be manufactured by injection or rotational molding and meet the Cart design and performance requirements as specified below. All Carts selected shall be subject to City approval. Refuse and Recycling Carts will be new. Green Waste Carts will either be new, or will be the Green Waste Carts in use immediately prior to the start of service under this Agreement if Contractor purchases such Green Waste Carts from the prior contractor.

4.4.1.2 Capacity

Contractor shall provide Carts in 96-gallon and 64-gallon Refuse, 96-gallon Recycling and 96-gallon Green Waste Carts. Section references to Cart sizes of 64 and 96-gallons are approximate. Acknowledging the different sizes provided by the various Cart manufacturers, the Carts shall be uniform in appearance and must conform to the following ranges in size:

- 60 to 70-gallons, and
- 90 to 101-gallons.

4.4.1.3 Cart Handles

The Cart handles and handle mounts may be an integrally molded part of the Cart body or molded as part of the lid. The Cart handles will provide comfortable gripping area for pulling or pushing the Cart or lifting the lid. Pinch points are unacceptable.

4.4.1.4 Cart Lid

Each Container shall be provided with a lid that continuously overlaps and comes in contact with the Container body or otherwise causes an interface with the Container body that simultaneously:

- Prevents the intrusion of rainwater, rodents, birds, and flies;
- Prevents the emission of odors;
- Enables the free and complete flow of material from the Container during the dump cycle without interference with the material already deposited in the truck body or the truck body itself and its lifting mechanism;
- Permits users of the Container to conveniently and easily open and shut the lid throughout the serviceable life of the Container;
- The lid (and body) must be of such design and weight that would prevent an empty Container from tilting backward when flipping the lid open; and,

- The lid shall be hinged to the Cart body in such a manner so as to enable the lid to be fully opened, free of tension, to a position whereby it may rest against the backside of the Container body.

4.4.1.5 Cart Colors

The Refuse, Recycling and Green Waste Carts will be differentiated by color. The colors shall be colorfast and resistant to fading as a result of weathering or ultraviolet degradation. Color must be uniform within each Container, including replacement Carts distributed throughout the Term. Refuse Carts will be brown. Recycling Carts will be blue. Green Waste Carts will be green.

4.4.1.6 Cart Markings

New Carts shall be hot stamped. Hot stamping must be approved by City prior to ordering Carts. Graphics indicating which materials may and may not be placed in each cart and instructions on how to properly dispose of HHW, shall be included on the Cart lid. Cart information shall be bilingual in English and Spanish.

4.4.2 Cart Performance Requirements

All Carts shall be designed and manufactured to meet the minimum performance requirements described below.

4.4.2.1 Cart Load Capacity

Depending on the capacity, the Carts shall have a minimum load capacity as noted below without Container distortion, damage, or reduction in maneuverability or any other functions as required herein.

Cart Size (Gallons)	Minimum Load Capacity (LBS)
90-101	200
60-70	130

4.4.2.2 Cart Durability

Carts shall remain durable, and at a minimum, shall meet the following durability requirements to satisfy their intended use and performance, for the term of this Agreement:

- Maintain their original shape and appearance;
- Be resistant to kicks and blows;
- Require no routine maintenance and essentially be maintenance free;
- Not warp, crack, rust, discolor, or otherwise deteriorate over time in a manner that will interfere with the intended use;
- Resist degradation from ultraviolet radiation;
- Be incapable of penetration by biting or clawing of household pets (i.e., dogs and cats);
- The bottoms of Cart bodies must remain impervious to any damage that would interfere with the Cart's intended use after repeated contact with gravel, concrete, asphalt or any other rough and abrasive surface;
- All wheel and axle assemblies are to provide continuous maneuverability and mobility as originally designed and intended; and,
- Resist degradation by other airborne gases or particulate matter currently present in the ambient air of the City.

4.4.2.3 Chemical Resistant

Carts shall resist damage from common household or Residential products and chemicals. Carts, also, shall resist damage from human and animal urine and feces.

4.4.2.4 Stability and Maneuverability

Carts shall be stable and self-balancing in the upright position, when either empty or loaded to the maximum design capacity with an evenly distributed load, and with the lid in either a closed or open position.

Carts shall be capable of maintaining the upright position in sustained or gusting winds of up to twenty-five (25) miles per hour as applied from any direction.

Carts shall be capable of being easily moved and maneuvered, with an evenly distributed load equal in weight to its maximum design capacity on a level, sloped or stepped surface.

4.4.2.5 Lid Performance

Cart lid assemblies shall meet the following minimum requirements:

- Prevent damage to the Cart body, the lid itself or any component parts through repeated opening and closing of the lid by residents or in the dumping process as intended;
- Remain closed in winds up to twenty-five (25) miles per hour from any direction. All lid hinges must remain fully functional and continually hold the lid in the original designed and intended positions when either opened or closed or any position between the two extremes; and,
- Lid shall be designed and constructed such that it prevents physical injury to the user while opening and closing the Cart.

4.4.2.6 Reparability

Minor cracks, holes, and other damages to hinges, wheels, axle, hardware, and other component parts shall be readily repairable by Contractor personnel. All repairs must restore the Container to its full functionality to meet the design and performance requirements as set for herein.

4.4.3 Cart Ownership and Maintenance Responsibilities

All Carts that are distributed by Contractor under this Agreement, or purchased from the previous contractor, remain the property of the Contractor at the end of the Agreement term. The Contractor shall be responsible for Cart repair and maintenance, and replacing lost, stolen or damaged Carts within three (3) business days at no additional charge to the Customer or to the City. Graffiti shall be removed or the Cart replaced within twenty-four (24) hours of request by City or Customers. However, the Contractor may charge, subject to City approval, the Customer for repairing or replacing a Cart if the damage was due to the Customer's willful negligence or abuse.

In no event shall this charge be greater than the Contractor's actual cost for replacement parts or the new Cart.

4.4.4 Bins

Contractor shall provide Customers with Bins for Collection of Solid Waste. All Bins will be new within 90 days of the start of service. Customers may obtain Bin compactors and Roll-off compactors from either Contractor or a third party; the leasing of such equipment is outside the scope of this Agreement. Contractor shall maintain its Bins in a clean, sound condition free from putrescible residue. Bins shall be constructed of heavy metal, or other suitable, durable material, and shall be watertight and well painted. Wheels, forklift slots, and other appurtenances, which were designed for movement, loading, or unloading of the Bin, shall be maintained in good repair. Contractor shall inspect, and if necessary or requested by the Customer, clean or replace all Containers once per year at no charge. Contractor shall perform cleaning or replacement of Bins more frequently if necessary, in accordance with the approved rate schedule, to prevent a nuisance caused by odors or vector harborage. Customer may request additional cleanings in accordance with the approved rate schedule. Contractor shall remove graffiti at no additional charge from any Bin within twenty-four (24) hours of request by City or Customers. All Bins provided by Contractor shall remain the property of Contractor.

Each Bin placed in the City by the Contractor shall have the name and phone number of the Contractor in letters not less than three (3) inches high on the exterior of the Bin so as to be visible when the Bin is placed for use. Contractor shall repaint Bins upon City request.

4.4.5 Roll-off Boxes

The Contractor shall provide clean Roll-off Boxes, free from graffiti, equipped with reflectors, and shall have the name and phone number of Contractor in letters not less than three (3) inches high on the exterior of the Roll-off Box so as to be visible when the Container is placed for use. Contractor shall properly cover all open Roll-off Boxes during transport as required by the State Vehicle Code.

4.5 City Services

4.5.1 City Facilities Collection

Contractor shall Collect and dispose of all Refuse, Recyclable and Green Waste material put in Containers for Collection at Premises owned and/or operated by the City now and in the future at no charge, including no charge for locking Bins, scout service, push-out service or other special services. Service levels and number of facilities serviced may increase during the Term of this Agreement without any additional compensation paid to the Contractor. Such Premises include, but are not limited to, City Hall, City offices, parks, City yard (including street sweepings delivered to City yard or other location identified by City within City limits such as Whittier Fertilizer) and street maintenance operations. Collections shall be scheduled at a time mutually agreed upon by Contractor and City.

4.5.2 City Sponsored Events

Contractor shall provide Solid Waste, Recycling and Organics/Food Waste Collection and Disposal/processing service for City-sponsored events. This shall include providing Containers (Bins, Roll-off Boxes, clearly labeled Recycling and Organics/Food Waste Containers and cardboard waste boxes with liners) to Collect and dispose of, or process, all Solid Waste and Recyclable Materials. The Contractor shall provide these services at City-sponsored events, at no cost to City or ratepayers. Current City-sponsored events include, but are not limited to:

- Community Pride Day;
- Easter Eggstravaganza;
- 4th of July Celebration;
- Fall Recreation and Health EXPO;
- Halloween Spooktacular;
- Holiday Food Distribution;
- Family Holiday Festival and Tree Lighting Ceremony, and
- Christmas Basket Food Distribution.

City may replace events that are discontinued with events requiring comparable Solid Waste and Recycling Collection service levels. City may also add events at no additional cost to the City.

Contractor shall provide staffing at City-Sponsored events to assist event participants in properly separating, diverting and Disposing of Solid Waste at the event. Contractor shall provide at least one staff member per four sets of Containers (one each of Refuse, Recycling and Organics Containers).

4.5.3 Emergency Collection and Disposal Service

Contractor will assist City at the City's request with emergency Collection and Disposal service (in the event of major disaster, such as an earthquake, storm, riot or civil disturbance), or as otherwise determined necessary by the City, by providing Collection equipment and drivers normally assigned to City. Contractor may charge City for actual Disposal costs plus service rates per the approved rate schedule.

4.5.4 Hazardous Waste Collection at City Facilities

Contractor shall Collect as needed, and properly dispose of, Hazardous Waste that is generated by City staff through activities conducted on behalf of the City or at City facilities at no additional charge. Contractor may limit the quantity of material to be Collected in any Rate Year to a cost of Seventy Thousand (\$70,000) per Rate Year, as adjusted by the average annual change in CPI, calculated on the change in the average monthly CPI for the twelve months ended the December prior to the Rate Year versus the prior twelve-month average. City may require Contractor to supply third-party invoices to support Contractor costs.

4.5.5 Abandoned Item Collection and Alley Sweeps

Contractor shall drive the following alleys at least once per week (day to be determined mutually by parties) and Collect all abandoned items identified in the alley by Contractor, or called in to Contractor by the City, at no additional charge, within one (1) business day of identification or notification:

1. Mines Avenue Alley - Alleys running parallel to, on the north and south sides of, Mines Avenue, between Lindsay Avenue and Rimbank Avenue.

2. Paramount Place Alley - Alleys running parallel to, on the east side of, the 7700 block of Paramount Place from Slauson Avenue to the south to Warvale St. to the North.
3. Lindsey Alley - Alleys running parallel to, on the east and west side of, the 5300 block of Lindsey Ave. from Havenwood St. to the south to Catherine St. to the north.

City crews will Collect items abandoned elsewhere in the City and dispose of those items at City yard. Contractor will properly divert from landfilling or dispose of such items in accordance with Sections 4.1.16 and 4.1.17.

4.5.6 Community Development Review Services

Upon City request and at no additional charge, Contractor will review building permit applicant's plans and advise regarding adequacy of Container storage space and access, particularly to accommodate Recycling programs.

4.5.7 Large Venue Event Assistance, Event Recycling

Contractor will assist planners of large venue events with reporting and planning needs as may be useful in meeting the requirements of AB 2176 at no additional charge. Contractor shall provide Recycling services upon request to special event planners.

4.6 Operations

4.6.1 Schedules

4.6.1.1 Collection Days and Hours

To preserve peace and quiet, Solid Waste shall only be Collected from Residential areas and Commercial areas adjacent to Residential areas between 6:00 a.m. and 6:00 p.m. Solid Waste shall only be Collected from other Commercial areas between 5:00 a.m. and 6:00 p.m. Collection is only permitted Monday through Saturday. Contractor may not make exceptions to these Collection days and times without advanced written approval from the City. If the regularly scheduled Collection day falls on New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, or Christmas Day,

Collection days for the remainder of that week shall all be postponed one Collection day.

4.6.1.2 Review of Schedules and Routing

Contractor shall review its operations plan outlining the Collection routes, intervals of Collection and Collection times for all materials Collected under this Agreement with City upon thirty (30) days written notice requesting said review. Contractor shall submit a copy of its Commercial and Residential Collection schedule and route map within seven (7) days if requested by City. If the plan is determined to be inadequate by City, Contractor shall revise it, incorporating any changes necessary to make it satisfactory to City within thirty (30) days. No change in schedules and routing shall be implemented for fifteen (15) days after Contractor receives approval from City and notifies Customers.

4.6.1.3 Missed Pickups

Contractor shall Collect a missed pickup of Refuse, Recyclable Materials, and/or Green Waste within twenty-four (24) hours of notification by Customer or City.

4.6.2 Vehicles

A. General. The Contractor shall provide Collection vehicles sufficient in number and capacity to efficiently perform the work required by this Agreement in strict accordance with its terms as described in this Agreement. Any additional vehicles/routes that may be required to meet the service standards during the term of this Agreement shall added at the Contractor's sole expense. The Contractor shall have available on Collection days sufficient back-up vehicles for each type of Collection vehicle used to respond to complaints and emergencies.

B. Specifications. All route vehicles shall use compressed natural gas ("CNG") or liquefied natural gas ("LNG") within twelve (12) months of the start of service under this Agreement. Contractor shall be in compliance with all rules and regulations currently in force or passed during the Agreement Term, including SCAQMD and the Air Resource Board's regulations, in regards to all vehicles used in the City. No rate adjustments shall be made for such changes in law. All vehicles used by the Contractor in providing Solid Waste Collection services shall be registered with the California

Department of Motor Vehicles. All such vehicles shall have watertight bodies designed to prevent leakage, spillage or overflow.

Roll-off Box vehicles, Container delivery vehicles, scout vehicles, supervisor pickup trucks, and vehicles used for holiday tree Collection, special events and Bulky Item Collection are only required to use LNG or CNG fuel to the extent required by law, including SCAQMD and Air Resources Board regulations, with no rate adjustments granted for such changes in law.

C. Vehicle Identification. The Contractor's name, local telephone number, and a unique vehicle identification number designed by the Contractor for each vehicle shall be prominently displayed on all vehicles, in letters and numbers no less than (3) three inches high. The Contractor shall not place the City's name and/or any City logos on the Contractor's vehicles without advance written approval from the City Manager. Vehicles shall all be painted in a standard color. City must approve truck labeling.

D. Collection Vehicle Billboards. Contractor agrees to install frames on one side of its Collection vehicles that provide service in the City, for placement of City billboards, at no additional cost to the City. The side of Collection vehicle to carry the billboard shall be determined by City. City is responsible for manufacturing of the billboards, at City cost, at the dimensions provided by the Contractor. Contractor shall be responsible for affixing and removing the billboards at Contractor's cost. City may request up to two (2) fleet-wide billboard change-outs per rate year. Billboards will remain on vehicles for up to sixty days at City's discretion. Periods longer than sixty days require Company approval. City has the exclusive right to promote City events and provide public information through the use of billboards on Collection vehicles.

E. Cleaning and Maintenance

- 1) The Contractor shall maintain all of its properties, vehicles, Facilities, and equipment used in providing service under this Agreement in a good, safe, neat, clean and operable condition at all times.
- 2) Vehicles used in the Collection of Solid Waste shall be painted, thoroughly washed, and thoroughly steam-cleaned on a regular basis so as to present a clean appearance. The City may inspect vehicles at any time to determine compliance with this Agreement. The Contractor shall also make vehicles available to the Los Angeles County Health Department for inspection, at any frequency it

requests. The Contractor agrees to replace or repair to the City's satisfaction, any vehicle that the City determines to be of unsightly appearance, leaking, or in unsatisfactory operating condition.

- 3) The Contractor shall repaint all vehicles used in the Collection of Solid Waste within sixty (60) days' notice from the City, if the City determines that their appearance warrants painting. City shall not request that vehicles be painted more than once every three (3) years.
- 4) The Contractor shall inspect each vehicle daily to ensure that all equipment is operating properly. Vehicles that are not operating properly, or vehicles in such a condition as to be unsafe or excessively noisy, shall be removed from service until repaired and operating properly. The Contractor shall reasonably perform all scheduled maintenance functions in accordance with the manufacturer's specifications and schedule. The Contractor shall keep accurate records of all vehicle maintenance, recorded according to date and mileage (or hours of operation) and shall make such records available to the City upon request.
- 5) The Contractor shall repair, or arrange for the repair of, all of its vehicles and equipment for which repairs are needed because of accident, breakdown or any other cause so as to maintain all equipment in a safe and operable condition. The Contractor shall maintain accurate records of repair, which shall include the date and mileage (or hours of operation), nature of repair and the verification by signature of a maintenance supervisor that the repair has been properly performed.
- 6) Upon request by the City, the Contractor shall furnish the City a written inventory of all equipment, including Collection vehicles, used in providing service, and shall update the inventory annually. The inventory shall list all equipment by manufacturer, ID number, date of acquisition, type, and capacity.

F. Operation.

- 1) Vehicles shall be operated in compliance with the California Vehicle Code, and all applicable safety and local ordinances. The Contractor shall not load vehicles in excess of the manufacturer's recommendations or limitations imposed by State or local weight restrictions on vehicles.

- 2) Equipment shall comply with US EPA noise emission regulations, currently codified at 40 CFR Part 205, and other applicable noise control regulations, and shall incorporate noise control features throughout the entire vehicle. In no event shall the noise level of equipment used for Collection exceed seventy-five (75) dB when measured at a distance of twenty-five (25) feet from the vehicle, five (5) feet from the ground. Contractor shall submit to the City, upon City's request, a certificate of vehicle noise level testing of all vehicles by an independent testing entity. The Contractor shall store all equipment in safe and secure locations in accordance with the City's applicable zoning regulations.
 - 3) Contractor shall be responsible for any damage resulting from or directly attributable to any of its operations, and which it causes to: the City's driving surfaces (excluding normal wear and tear), whether or not paved; associated curbs, gutters and traffic control devices; other public improvements; and private roads and alleys.
- G. City Inspection Per Code.** The City may cause any vehicle used in performance of this Agreement to be inspected and tested at any commercially reasonable time and in such manner as may be appropriate to determine that the vehicle is being maintained in compliance with the applicable provisions of the State Vehicle Code, including all Vehicle Code sections regarding smog equipment requirements. The City may direct the removal of any vehicle from service if that vehicle is found to be in nonconformance with applicable codes. No vehicle directed to be removed from service by the City shall be returned to service until it conforms with applicable codes, and its return to service has been approved by the City.
- H. Brake Inspections.** The brake system of each vehicle used in performance of this Agreement shall be inspected and certified according to State law by the California Highway Patrol or by a brake inspection station licensed by the California Highway Patrol. Notice of certification shall be made available to the City within thirty (30) days of request. Failure to submit the required certification if requested shall be grounds for terminating this Agreement.
- I. Correction of Defects.** Following any inspection, the City Manager shall have the right to cause the Contractor, at its sole cost and expense, to recondition or replace any vehicle or equipment found to be unsafe, unsanitary or unsightly.

The City Manager's determination may be appealed to the City Council, which decision shall be final.

4.6.3 Litter Abatement

A. Minimization of Spills. Contractor shall use due care to prevent Solid Waste or fluids from leaking, being spilled and/or scattered during the Collection or transportation process. If any Solid Waste or fluids leak or spill during Collection, Contractor shall promptly clean up all such materials. Each Collection vehicle shall carry a broom, shovel, absorbent, and containment materials at all times for this purpose.

Contractor shall not transfer loads from one vehicle to another on any public street, unless it is necessary to do so because of mechanical failure, accidental damage to a vehicle, or a pre-approved method of Solid Waste transfer between vehicles, without prior written approval by City.

B. Clean Up. During the Collection or transportation process, Contractor shall clean up all litter spilled during Collection or otherwise caused by Contractor. Contractor shall leave a "red tag" notice for Customer if litter not caused by Contractor is found in Container enclosure or around Containers. For litter due to overflowing Bins, Contractor may address habitual offenders in accordance with Sections 4.1.3 and 4.1.7.

In the event of a spill of materials (vehicle fluids, leachate, etc.), Contractor shall provide a cleanup of the spill to the satisfaction of City and other governing agencies. Cleanup methods may include pressure washing (Contractor must capture and reclaim water) or other similar clean-up methods.

C. Covering of Loads. Contractor shall properly cover all open debris boxes during transport to the Disposal Site.

4.6.4 Personnel

A. Qualified Drivers. Contractor shall furnish such qualified drivers, mechanical, supervisory, clerical, management and other personnel as may be necessary to provide the services required by this Agreement in a satisfactory, safe, economical and efficient manner. All drivers shall be trained and qualified in the operation of vehicles they

operate and must possess a valid license, of the appropriate class, issued by the California Department of Motor Vehicles.

B. Hazardous Waste Employee Training. Contractor shall establish and vigorously enforce an educational program which will train Contractor's employees in the identification of Hazardous Waste. Contractor's employees shall not knowingly place such Hazardous Waste in the Collection vehicles, nor knowingly dispose of such Hazardous Wastes at the processing Facility or Disposal Site.

C. Customer Courtesy. Contractor shall train its employees in Customer courtesy, shall prohibit the use of loud or profane language, and shall instruct Collection crews to perform the work quietly. Contractor shall use its best efforts to assure that all employees present a neat appearance and conduct themselves in a courteous manner. If any employee is found to be discourteous or not to be performing services in the manner required by this Agreement, Contractor shall take all necessary corrective measures including, but not limited to, transfer, discipline or termination. If City has notified Contractor of a complaint related to discourteous or improper behavior, Contractor will consider reassigning the employee to duties not entailing contact with the public while Contractor is pursuing its investigation and corrective action process.

D. Unauthorized Material Removal. Contractor shall dismiss or discipline employees who remove documents or any other material from Containers, other than specifically for the purposes of Disposal and Diversion as described in this Agreement.

E. Training. Contractor shall provide suitable operations, health and safety training for all of its employees who use or operate equipment or who are otherwise directly involved in Collection or other related operations.

F. Compliance with Immigration Laws. Contractor shall be knowledgeable of and comply with all local, state and federal laws which may apply to the performance of this Agreement. Contractor warrants and represents that all of its employees, including any and all prospective employees hired to perform services for the City under this Agreement and the employees of any subcontractor retained by the Contractor to perform a portion of the services under this Agreement, are and will be authorized to perform the services contemplated by this Agreement in full compliance with all applicable state and federal laws, rules and regulations, including, but not limited to, the Immigration Nationality Act of 1952 (commencing with Section 1101 of Title 8 of the

United States Code), and the Immigration Nationality and the Immigration Reform and Control Act of 1986 (commencing with Section 1324a of Title 8 of the United States Code), as amended. Contractor agrees to verify the legal status of all of its employees and provide documentation of such verification whenever requested by the City. If Contractor discovers that any employee it has retained is not in compliance with immigration laws, Contractor agrees to terminate such employee.

4.6.5 Identification Required

Contractor shall provide its employees, companies and subcontractors who may make personal contact with residents or businesses in City with identification. City may require Contractor to notify Customers yearly of the form of said identification. Contractor shall provide a list of current employees, companies, and subcontractors to City upon request.

City reserves the right to perform a security and identification check through the City's Police Department on the Contractor and all their present and future employees employed by Contractor to work in the City, in accordance with accepted procedures established by City, or for probable cause.

4.6.6 Fees and Gratuities

Contractor shall not, nor shall it permit any agent, employee, or subcontractors employed by it to request, solicit, demand, or accept, either directly or indirectly, any compensation or gratuity for services authorized to be performed under this Agreement except as described in this Agreement, in accordance with the rate schedule as updated and approved by City throughout the Term of the Agreement.

4.6.7 Non-Discrimination

Contractor shall not discriminate in the provision of service or the employment of Persons engaged in performance of this Agreement on account of race, color, religion, sex, age, physical handicap or medical condition in violation of any applicable federal or Solid Waste law.

4.6.8 Routing and Coordination With Street Sweeping Services

Contractor shall coordinate route schedules with City's street sweeping schedule so that Collection days precede street sweeping days each week when feasible by no more than two days.

Contractor shall provide all routes and route schedules to the City and work with the City to resolve conflicts with street sweeping schedules.

4.6.9 Report of Accumulation of Solid Waste; Unauthorized Dumping

Contractor shall direct its drivers to note (a) the addresses of any Premises at which they observe that Solid Waste is accumulating and is not being delivered for Collection; and (b) the address, or other location description, at which Solid Waste has been dumped in an apparently unauthorized manner. Contractor shall deliver the address or description to City within one (1) working day of such observation.

4.7 Transportation of Solid Waste

Contractor shall transport all Solid Waste Collected under this Agreement to a City-approved Facility (e.g. Transfer Station, waste-to-energy Facility, Green Waste Processing Facility, MRF, Disposal Site). Contractor agrees to make all reasonable efforts to separate Recyclable Materials from Refuse for Diversion from landfill Disposal.

Contractor shall maintain accurate records of the quantities of Solid Waste transported to all Facilities utilized and will cooperate with City in any audits or investigations of such quantities.

Contractor shall cooperate with the operator of any Facility it uses with regard to operations therein, including, for example, complying with directions from the operator to unload Collection vehicles in designated areas, accommodating maintenance operations and construction of new facilities, cooperating with its Hazardous Waste exclusion program, and so forth.

4.8 Approved Facilities

The Contractor shall dispose of Refuse Collected that is not required to be processed at the approved Disposal Site. Contractor must receive written advance approval from

City to use each Transfer Station, Transformation Facility, processing Facility or other Facility used by Contractor in the fulfillment of this Agreement. Contractor is responsible for ensuring that each Facility it uses is properly permitted prior to requesting City approval to use such Facility. Unless and until the City instructs otherwise, the designated Disposal Site is the Puente Hills Landfill/MRF or Sunshine Canyon Landfill, and the other designated Facilities are Community Recycling and Resource Recovery in Sun Valley, Direct Disposal in Los Angeles, American Reclamation in Los Angeles, Allan Company in Baldwin Park, Sun Valley Paper Stock in Sun Valley, Mission Recycling in Pomona, All Green Electronics Recycling in Tustin, Commerce Refuse to Energy in Commerce, Paramount Resource Recycling in Paramount, Royal MRF in Paramount (when established), Downey Area Recycling and Transfer Facility ("DART") in Downey, and, if otherwise made available to Contractor, Whittier Fertilizer in Pico Rivera.

4.9 Status of Disposal Site

Any Disposal Site utilized by Contractor shall be designed and constructed in accordance with 23 California Code of Regulations Section 2510 et seq. ("Subchapter 15"). Any such landfill has been issued all permits from federal, state, regional, county and City agencies necessary for it to operate as a Class II or Class III Sanitary Landfill and is in full regulatory compliance with all such permits.

4.10 Dedicated Routes

Solid Waste Collected in the City may not be commingled in Collection vehicles with Solid Waste from other jurisdictions, unless the City approves of the tonnage allocation method.

4.11 Route Audit

Once during the first year, and thereafter at City request (but not more than once every three (3) years), Contractor shall conduct an audit of its Residential and/or Commercial Collection routes in the City. City may use information from the audit to develop a request for proposals for a new service provider. City may instruct Contractor when to conduct the audit in order for the results to be available for use in preparation of a request for proposals or for other City uses. City may also instruct Contractor to conduct an audit at a time that would produce the most accurate Customer service information for a new service provider to use in establishing service with Customers.

In setting these audit dates, City will establish due dates for Contractor providing routing and account information, and later, the report, to City.

The route audit, at minimum, shall consist of an independent physical observation by person(s) other than the route driver of each Customer in City. This person(s) is to be approved in advance by City. The route audit information shall include, as a minimum, the following information for each account:

For Residential Cart Customers (Residential Route Audit):

- Route number;
- Truck number;
- Number and size of Carts by waste stream (Refuse, Recycling, Green Waste);
- Service address; and,
- Cart condition.

For Residential Bin, Commercial Bin and Cart, and permanent Roll-off Customers (Commercial Route Audit):

- Route number;
- Truck number;
- Account name;
- Account number;
- Account service address;
- Account type (Residential, Commercial, Roll-off);
- Service level per Contractor Billing system (quantity, size, frequency);
- Observed Containers (quantity and size).
- Container condition;
- Proper signage; and,
- Graffiti.

Within thirty (30) days after the completion of the route audit, Contractor shall submit to City a report summarizing the results of the audit. This summary shall include:

- Identification of the routes;
- Route map;
- Truck numbers;

- Number of accounts, by route and in total (Residential, Commercial and Roll-off Box);
- Confirmation that all routes are dedicated exclusively to City Customers, or that the tonnage allocation methodology has been approved by the City;
- Number and type of exceptions observed;
- Total monthly service charge (Residential, Commercial and Roll-off Box), pre-audit; and,
- Total monthly service charge (Residential, Commercial and Roll-off Box), post-audit (subsequent to corrections of identified exceptions).

The report shall include a description of the procedures followed to complete the route audit. This description shall include the names and titles of those supervising the route audits and the names and titles of those performing the observations.

The report shall also include a description of the changes and Contractor's plans to resolve the exceptions. The results of the audit, and supporting back-up data, shall be available for review by City or its representative and shall be made available in an electronic or printed format.

4.12 Service Exceptions; Hazardous Waste Notifications

A. Failure to Collect. When Solid Waste is not Collected from any Solid Waste service recipient, Contractor shall notify the service recipient in writing, at the time Collection is not made, through the use of a "red tag" or otherwise, of the reasons why the Collection was not made.

B. Hazardous Waste Inspection and Reporting. Contractor reserves the right to inspect Solid Waste put out for Collection and to reject Solid Waste observed to be contaminated with Hazardous Waste, and the right not to Collect Hazardous Waste put out with Solid Waste. Contractor shall notify all agencies with jurisdiction, if appropriate, including the California Department of Toxic Substances Control and Local Emergency Response Providers and the National Response Center of reportable quantities of Hazardous Waste, found or observed in Solid Waste anywhere within City. In addition to other required notifications, if Contractor observes any substances which it or its employees reasonably believe or suspect to contain Hazardous Wastes unlawfully disposed of or released on any City property, including storm drains, streets or other public rights of way, Contractor will immediately notify City Manager.

Contractor shall implement and maintain a training program that will assist its employees in identifying and properly disposing of any Hazardous Waste that may come into their possession.

C. Hazardous Waste Diversion Records. Contractor shall maintain records showing the types and quantities, if any, of Hazardous Waste found in Solid Waste and which was inadvertently Collected from service recipients within City, but diverted from landfilling.

ARTICLE 5

OTHER SERVICES

5.1 Customer Billing and Contractor Compensation

5.1.1 Residential Cart Customers Billed on County Property Tax Roll

- (A) City Billing. City shall Bill Residential Cart Customers for basic monthly Collection services on the Los Angeles County property tax rolls. City shall pay Contractor by the end of each month for services rendered during that calendar month. This monthly payment shall be equal to the 1/12 of annual Solid Waste Collection charges, net of any City fees that may be assessed as a percentage of revenue or on a per unit basis, placed on the County property tax roll. City assumes risk of non-payment by Residential Cart Customers only to the extent the charges are Billed on the County property tax roll.
- (B) Offsets. Prior to making the monthly payment for Residential Cart service Billed on the tax roll, the City may, but is not required to, retain franchise fees, any other City fees that are overdue, liquidated damages owed to City under Section 11.3, or other amounts due City by Contractor.
- (C) Contractor Billing of Approved Ancillary Services. Contractor shall bill Cart Customers for additional Carts (more than one (1) Refuse Cart and more than two (2) Green Waste Carts) on a quarterly basis. Contractor shall be responsible for Billing Customers directly for Bulky Item Collection above the annual maximums, or other ancillary charges as approved by the City. Contractor assumes risk of non-payment of ancillary services for which it Bills.
- (D) Service Changes During Fiscal Year. For services changes that cause an increase or decrease to the monthly rate owed by a Residential Cart Customer during the Rate Year, Contractor shall either Bill the Customer the additional revenue, or refund over-Billing to the Customer until the following July 1, when a correction shall be made on the County property tax roll Billing. Contractor shall calculate the net change in franchise fees owed due to such adjustments, and itemize and adjust these amounts on Contractor's monthly franchise fee reports and payments to the City.

5.1.2 Cart Customers Not Billed on Tax Roll

Contractor shall be responsible for Billing Cart Customers that City does not Bill through the County property tax roll for any reason. If Contractor and Customer cannot agree as to whether the Customer shall be Billed through the County property tax roll, the City Manager shall make a final determination. Rates charged to Customers Billed by City shall be the same as Customers Billed on the County property tax roll.

These Customers shall be Billed no sooner than the first day of the period Billed for, with payment to be due no sooner than the last day of the service period Billed for or 30 days after the invoice date, whichever is later. Contractor assumes the risk of non-payment related to any services for which it Bills.

5.1.3 Bin Rates

Contractor shall Bill Bin Customers monthly at the beginning of the month, with payment due no sooner than thirty (30) days after the invoice date. Contractor shall Bill any one-time charges, such as extra pickups or extra Bin cleanings. Contractor assumes the risk of non-payment by Bin Customers.

5.1.4 Contractor's Invoices

Bills must include service description, including Container size, frequency of service, any special services (such as scout or push-out service), and period billed for. City must approve Contractor Billings as to content and format of invoice. All Bills must carry a due date, not "due upon receipt." Bills will not separately itemize City fees, surcharges, disposal components or other breakdown of rates without advance written approval from City. Bills shall include Contractor's telephone number for Billing and service inquiries.

5.1.5 Bin, Roll-off and Temporary Services Billing

Contractor shall Bill for Bin, Roll-off Box and temporary services and other special charges as permitted in Exhibit 2. Contractor shall bill monthly, no sooner than the first day of service, and require payment no sooner than thirty (30) days from the start of the service period Billed for.

For individually serviced Customers who request temporary Roll-off Box or temporary Bin service, Contractor will accept major credit cards for payment. Individually serviced

Customers who do not use credit cards may be required by the Contractor to post a security deposit or to pay on a "Cash on Delivery" (C.O.D.) basis. Any unused portion of a security deposit will be refunded to the Customer within five (5) business days of the termination of service.

5.1.6 Billing Disputes

- (A) City Payments to Contractor. If the Contractor disputes the amount paid in any monthly payment relating to City's monthly payment to Contractor for Residential services provided, Contractor will provide the City with written objection within thirty (30) days of the receipt of such payment indicating the portion of the paid amount that is being disputed and providing all reasons then known to Contractor for its objection to or disagreement with such amount. If the City and the Contractor are not able to resolve such dispute within thirty (30) days after Contractor's objection, either party may refer such dispute to mediation. Nothing contained in this subsection shall limit the authority of any authorized officer of City or any other governmental agency to raise a further objection to any amount paid to, or requested by, Contractor pursuant to an audit conducted pursuant to this Agreement or applicable law.
- (B) Contractor Billings. If any Customer disputes a Billing Statement provided by Contractor, Contractor shall provide notice thereof to the City Manager, with a copy of the Billing invoice and the nature of the dispute (including copies of any correspondence from the Customer). Contractor shall use its best efforts to resolve such disputes within seven (7) days of receipt of notice from the Customer of such dispute. If such dispute cannot be mutually resolved by the Contractor and the Customer within such seven (7) day period, the dispute will be submitted to the City Manager for binding dispute resolution. Contractor acknowledges that the determination of the City Manager relating to such dispute shall be final and un-appealable.

5.1.7 Delinquent Accounts

Contractor shall be responsible for collecting unpaid Contractor Billings, subject to limitations under this Section.

Contractor may not stop service at Premises Billed by the City (Residential Cart Customers) for reason of non-payment without advance written approval from City.

City is under no obligation to approve service suspension or to assist in any way with collection of delinquent Billings, and shall not be held liable for any Customer's failure to pay for services that must continue to be provided to Customers.

Contractor may apply the following delinquent account procedures to Multi-Family and Commercial Customers Billed by Contractor, including suspension of service, in order to encourage payment. However, City may require Contractor to resume providing service to Multi-Family Customers, despite non-payment and without incurring any obligation on the City's part to compensation Contractor for such services.

The following steps shall be taken in regards to delinquent accounts prior to suspension of service for non-payment:

1. If payment is not made within fifteen (15) days after the due date, Contractor shall notify Customer in writing that the payment is late.
2. If payment is not made within thirty (30) days after due date, Contractor may notify Customer that the invoice is over-due and that non-payment will result in suspended service and further collection action.
3. If payments is not made within fifteen (15) days after this subsequent notice, Contractor may provide written notice to Customer that the Billing remains unpaid and that service will be suspended if payment is not received within fifteen (15) days (a minimum of ninety (90) days from initial Billing).

This entire sequence of notifications must be followed by Contractor prior to suspending service, pursuing collection or charging a late fee. City is not required to lien property or assist in payment collection process.

Contractor may assess a 2% per month late fee on Multi-Family Bin and Commercial Customer balances outstanding more than 60 days beyond the due date (a minimum of 90 days from initial Billings).

5.1.8 Customer Billing Adjustments

Should Contractor determine that Contractor has under-billed a Customer, or Customers, Contractor may back-Bill for no more than six (6) months. Overbilling reimbursements to Customers are not limited.

If Contractor Bills Customers for any service charges not on the City-approved rate schedule, or not otherwise approved in writing by the City, such charges shall be refunded to Customers at City request.

5.1.9 Exemption from Service

City may establish guidelines to exempt properties from receiving, and paying Contractor for, Solid Waste Collection service. Exempt properties may include vacant or unoccupied properties, or properties in which owners can document alternative means of self-haul Disposal.

5.2 Customer Service

5.2.1 Local Office

Contractor shall maintain a local office. Said office shall be open for Customers, at a minimum, from 8:00 a.m. to 5:00 p.m., Monday through Friday, and from 8:00 a.m. to 12:00 p.m. on Saturday, exclusive of holidays (“Office Hours”).

A responsible and qualified bilingual (English and Spanish speaking) representative of Contractor shall be available at the local office, and by telephone, during Office Hours on Monday through Friday. Contractor shall have either a representative or an answering service available by telephone on Saturdays during Office Hours, and an answering service or a message machine available outside of office hours. Calls received outside of Office Hours, or by answering service on Saturdays, shall be responded to on the next business day. Contractor shall provide City with a twenty-four (24) hour emergency number to a live person, not voice-mail.

Contractor's telephone system shall be adequate to handle the volume of calls typically experienced on the busiest days. If City receives more than five (5) complaints in thirty (30) days that Customers are unable to contact Contractor by phone, City may require Contractor to increase capacity. Contractor shall record Customer complaints regarding Customer service personnel in accordance with Section 5.2.2. Customer service representatives receiving multiple complaints are to be transferred from Customer service duties or, with City approval, disciplined and appropriately trained.

5.2.2 Complaint Documentation

Service complaints received by City shall be directed to Contractor. Contractor shall keep daily logs of complaints forwarded to it for a minimum of three (3) years.

Contractor shall log all complaints received, and said log shall include the date and time the complaint was received, the name, address and telephone number of the caller/complainant, a description of the complaint, the name of the employee recording the complaint and the action taken by Contractor to respond to and remedy the complaint. Log shall also include each instance that Solid Waste and/or Recyclables are not Collected, the form of notification used to inform the participants of the reasons for non-Collection, and the end result or means of resolution of the incident.

All written Customer complaints and inquiries shall be date-stamped when received. All complaints shall be initially responded to within one (1) business day of receipt. Contractor shall use best efforts to resolve complaints within two (2) business days. Contractor shall log action taken by Contractor to respond to and remedy the complaint.

All Customer service records and logs kept by Contractor shall be available to City upon request. City shall, at any time during regular Office Hours, have access to Contractor's Customer service department for purposes that may include monitoring the quality of Customer service or researching Customer complaints.

5.2.3 Resolution of Customer Complaints

Disputes between Contractor and Customers regarding the services provided in accordance with this Agreement may be resolved by City. City's decision shall be final and binding.

Intervention by City is not a condition precedent to any rights or remedies third parties might otherwise have in any dispute with Contractor. Nothing in this section is intended to affect the remedies of third parties against Contractor.

5.2.4 Service Liaison

Contractor shall designate in writing a field supervisor as "Service Liaison" who shall be responsible for working with City and/or City's designated representative(s) to resolve Customer service related complaints. City shall have the right to approve the

Contractor's choice for a liaison. City shall be notified in advance of any change in Service Liaison.

5.3 Education and Public Awareness

5.3.1 General

Contractor acknowledges and agrees that education and public awareness are critical, key and essential elements of any efforts to achieve the requirements of AB 939. Accordingly, Contractor agrees to take direction from City to exploit opportunities to expand public and Customer knowledge concerning needs and methods to reduce, reuse and Recycle Solid Waste, and to cooperate fully with City in this regard.

Contractor shall maintain its own program of providing information relevant to needs and methods to reduce, reuse and Recycle Solid Waste with its Bills. All public education materials shall be approved in advance by City and shall be printed in English and Spanish.

5.3.2 Implementation and On-going Education Requirements

In order to promote public education, in addition to any other materials it develops, Contractor shall co-create the following public education materials and programs with the City, which will be distributed as indicated below. All of these materials and programs shall be produced and/or available in English and Spanish languages, including pictures wherever applicable. All brochures, mailings, and other educational materials are to be approved by City in advance of distribution. A Public Education Plan shall be submitted to City for review within sixty (60) days of the execution of this Agreement. The Plan shall address the items described in this section.

- **Initial Mailings** - Prior to the start of service, and during the first month of service, Contractor will prepare and mail information to all Customers explaining the transition from the existing Solid Waste Handling Service program to the new program as defined by this Agreement. The mailings will describe program changes, route changes if any, dates of program implementation, Recycling and Diversion programs available, and other pertinent information.
- **Instructional "How-to" Packets** - An information packet shall be provided to each Customer at the start of service under this Agreement and to each new Customer

throughout the Agreement term. This packet shall: describe available services, including available Recycling and Diversion programs; provide instructions for proper use of the Carts and Bins provided (such as how to place Carts or other permitted items for Collection, the types of materials to be placed in each Cart); detail holiday Collection schedules; and provide Billing and Customer service telephone numbers. This packet will contain updated information on how to use Containers, when, where and how to place Solid Waste for Collection, and who to contact with service or Billing questions, and for Bulky Item pickups.

The packet should also clearly indicate what materials, such as syringes and other HHW, should not be disposed of in these Containers. This brochure shall include instructions on how Customers should dispose of HHW and Sharps, such as information on the HHW drop-off facilities, Sharps program, and other available programs.

- **Annual Brochures/Mailings** - Not less than once per year during each Rate Year, Contractor shall prepare and distribute to each Customer a mailing to update Customers regarding program basics, program changes, holiday schedules and other service related information. Mailings should promote and explain: all Solid Waste programs offered by City and Contractor (such as Recycling, Green Waste, holiday tree and Bulky Item Collections) described in detail; the environmental, regulatory, and other benefits of participating in Recycling; how to properly dispose of Household Hazardous Waste such as syringes, paint, etc.; Collection schedules, including holiday schedules; Customers service numbers; and the procedures to begin and terminate services. Content must be approved by City, and City may require the inclusion of certain information.

This brochure shall be at least four (4) pages, and printed in at least one (1) color, color to be selected by City. City may request that this brochure be included in one of City's monthly newsletters, in which case Contractor shall develop the piece to meet City's mailing specifications. Alternatively, City may require Contractor to mail this brochure at Contractor's cost. Contractor is responsible for all costs associated with the development of this piece. Contractor shall provide at least 1,000 additional copies of this brochure each year directly to City for distribution at City Hall, by City at community events, or as the City may otherwise determine beneficial. Contractor shall also produce additional copies for its own distribution responsibilities at community events and otherwise.

- **Article and Press Release Assistance** - Contractor shall provide articles and information for City's inclusion in the City's monthly newsletters upon City request. Contractor will assist City in drafting press releases related to solid waste and recycling events and developments affecting the City.
- **Corrective Action "Red-Tag" Notice** - Contractor shall develop a corrective action notification form, or "Red-Tag notice, for use in instances where a Customer sets out inappropriate materials for Collection, that explains the appropriate manner for Disposal of such items.
- **Website** - Contractor shall develop and maintain a website to enable Customers to contact Contractor, and to display holiday schedules, Sharps program information, proper HHW disposal procedures, which materials are to be placed in Recycling Containers, and other useful information. Contractor shall provide a website for environmental education to be used by schools, businesses and the general community, such as its EchoRecycle website, or a comparable replacement.
- **Classroom Education Materials** - Contractor shall prepare and provide classroom education materials to the public K-12 schools in Pico Rivera, if requested by the school districts. Materials provided shall be in sufficient quantities to service all classrooms and students for which materials are requested.

5.3.3 Contractor Representative

Contractor shall retain on its staff an individual who shall, as part of his or her job function, routinely visit civic groups, school assemblies, homeowners' associations, Multi-Family complexes and businesses, to promote and explain the Recycling programs Contractor offers, and participate in demonstrations and civic events.

5.3.4 Community Events

At the direction of City, Contractor shall participate in and promote Recycling and other Diversion techniques at community events including Earth Day, and other local activities. Such participation would normally include providing, without cost, Collection and educational and publicity information promoting the goals of City's Solid Waste program.

5.3.5 Additional Transition Activities

Door-to-Door Education and Outreach - From two months prior to two months after implementation of service, Contractor will conduct door-to-door education and outreach to facilitate a smooth transition and improve Recycling.

Mandatory Commercial Recycling Visits - Door-to-door visits to Commercial sector will focus on implementing recycling programs in compliance with mandatory commercial recycling requirements, and will include offering training meetings for Customers and follow-up visits after new Recycling program implementation.

Community-Wide Events - Contractor shall conduct multiple workshops to teach Residential and Commercial Customers about the transition to the new Agreement and hauler, and the programs available.

5.3.6 Green Media Disk

Contractor shall develop, reproduce and distribute to all Customers (including Single-Family Dwellings, individual Multi-Family Dwelling Units, and each business) a Green Media disk. The disc will contain information regarding all Zero Waste Programs in place in the City, provide links to other City services, and provide programs and other online information useful to residents and businesses. Contractor will provide means for City the ability to track disk usage and open rates for links visited.

5.4 Waste Generation/Characterization Studies

Contractor acknowledges that City must perform Solid Waste generation and Disposal characterization studies periodically to comply with the requirements of AB 939. Contractor agrees to participate and cooperate with City and its agents and to accomplish studies and data collection and prepare reports, as needed and directed by City, to determine weights and volumes of Solid Waste Collected and characterize Solid Waste generated, disposed, transformed, diverted or otherwise handled/processed, by Customer type (Single Family, Multi-Family, Commercial), to satisfy the requirements of AB 939. Contractor will at its sole expense conduct such a waste generation and characterization study upon request of City, but not more than once every two (2) years.

Contractor will provide to City on a quarterly basis, for City's use in the City newsletter or otherwise, a chart reporting all recyclables and green waste tonnage recovered from

City Customers on a monthly basis for the prior twelve (12) months. The timing of this submittal shall be coordinated with the preparation of the newsletter.

5.5 Employment Opportunities

Job Fairs - Contractor shall continue to conduct in-City job fairs until all positions are filled, demonstrating a preference for the hiring of City residents and displaced employees of the City's previous Solid Waste contractor.

California Works Alliance - Contractor will partner with the California Works Alliance "Jobs Through Recycling and Resource Management" project to provide internships, providing job training opportunities for at least twelve months following the implementation of service.

5.6 El Rancho School District

Contractor shall donate \$25,000 per Rate Year, beginning 2012/13, to the El Rancho School District in coordination with the City of Pico Rivera.

ARTICLE 6

CONTRACTOR COMPENSATION AND RATES

6.1 General

The maximum rates set forth in Exhibit 2, and as more fully defined as Contractor Compensation in this Article, shall be the maximum amount that Contractor may charge Customers, or that City may Bill Customers on behalf of Contractor, as full, entire and complete compensation due pursuant to this Agreement for all labor, equipment, materials and supplies, City fees, taxes, insurance, bonds, letters of credit, overhead, Disposal, transfer, profit and all other things necessary to perform all the services required by this Agreement in the manner and at the times prescribed. Contractor shall impose no other charges for services provided to Customers unless approved by the City Manager.

6.2 Initial Rates

The maximum rates that Contractor may charge Customers through June 30, 2017, shall not exceed the maximum rates set forth in Exhibit 2; rates shall remain unchanged for years 2015 & 2017.

6.3 Schedule of Future Adjustments

Beginning with the Rate Year starting July 1, 2018 and ending on June 30, 2029, and for all subsequent Rate Years, Contractor may request an annual adjustment to the maximum approved rates. The Contractor shall submit its request in writing, to be received by City in person or via certified mail, by the preceding March 30, and shall be based on the method of adjustment described in Section 6.4. Failure to submit a written request by March 30 shall result in Contractor waiving the right to request such an increase for the subsequent Rate Year. Adjustment to the maximum rates is subject to the approval of the City Manager.

6.4 Method of Adjustments

Pursuant to Section 6.3, Contractor may request an adjustment to the maximum rates according to the method described below, subject to review and approval of City. All future adjustments are to be effective July 1.

Calculate the percentage increase or decrease in the Consumer Price Index for All Urban Consumers, all items index U.S. city average (CUUR0000SA0), measured as the average monthly index for the twelve-month period ended the December prior to the effective date of the rate adjustment versus the average monthly index for the preceding twelve-month period. If this results in a change greater than 5.0%, the change for the relevant year will be 5.0%. If this results in a negative change, the change for the relevant year will be 0% (no change). Index changes above 5% and decreases that are not applied to the rates will not roll forward to future adjustments.

Apply this percentage change to all rates permitted to be charged under this Agreement, including permanent Roll-off Box service per ton rates.

6.5 Extraordinary Adjustments

Contractor may request an adjustment to maximum rates in the event of extraordinary changes in the cost of providing service under this Agreement. Extraordinary rate adjustments may be requested no more than once per year. Reasons for such extraordinary rate adjustment requests shall not include changes in Recyclable Material or Green Waste tipping fees or processing costs, changes in the market value of Recyclables from the values assumed in Contractor's Proposal, inaccurate estimates by the Contractor of its proposed cost of operations, unionization of Contractor's work force, or change in wage rates or employee benefits. No extraordinary adjustments will be granted for fuel costs, because the CPI upon which annual rate adjustments to the service component are based includes an energy component. No extraordinary adjustment will be granted for processing costs for holiday trees due to the closure of Puente Hills landfill.

Contractor may request an extraordinary adjustment based upon changes in a direct per ton fee assessed at the Disposal Site by federal, state or local regulatory agencies after the Effective Date. Extraordinary rate adjustments shall only be effective after approval by City Council and may not be applied retroactively. Contractor will not request extraordinary rate adjustments due to any other Disposal cost increases.

For each request for an adjustment to the maximum rates that Contractor may charge Customers brought pursuant to this section, Contractor shall prepare a schedule documenting the extraordinary costs. Such request shall be prepared in a form

acceptable to City with support for assumptions made by Contractor in preparing the estimate. Contractor shall also submit a schedule showing how its total costs and total revenues have changed over the past three (3) years for the services provided under this Agreement.

City may request a copy of the Contractor's annual financial statements in connection with the City's review of Contractor's rate adjustment request. City shall review the Contractor's request and, in City's sole judgment and absolute, unfettered discretion, make the final determination as to whether an adjustment to the maximum rates will be made, and, if an adjustment is permitted, the appropriate amount of the adjustment. City may consider increases or decreases in the Contractor's total revenues and total cost of services when reviewing an extraordinary rate adjustment request.

ARTICLE 7

REVIEW OF SERVICES AND PERFORMANCE

7.1 Performance Review Meeting

City may hold a meeting or a public hearing annually to review Contractor's Solid Waste Collection efforts, source reduction, processing and other Diversion services and overall performance under this Agreement (the "Solid Waste Services and Performance Review Meeting"). The purpose of the Solid Waste Services and Performance Review Meeting is to provide for a discussion and review of technological, economic, and regulatory changes in Collection, source reduction, Recycling, processing and Disposal to achieve a continuing, advanced Solid Waste Collection, source reduction and Recycling and Disposal system; and to ensure services are being provided by Contractor with adequate quality, effectiveness and economy, and in full compliance with the terms of this Agreement. Topics for discussion and review at the Solid Waste Services and Performance Review Meeting shall include, but shall not be limited to, services provided, feasibility of providing new services, application of new technologies, Customer complaints, amendments to this Agreement, developments in the law, new initiatives for meeting or exceeding AB 939's goals, regulatory constraints, results of route audits, and Contractor performance. City and Contractor may each select additional topics for discussion at any Solid Waste Services and Performance Review Meeting.

City shall notify Contractor of its intent to hold a Solid Waste Services and Performance Review Meeting at least sixty (60) days in advance thereof. Thirty (30) days after receiving notice from City of a Solid Waste Services and Performance Review Meeting, Contractor shall submit a report to City which may contain such information as it wished to have considered, and shall contain the following:

- a) Current Diversion rates and a report on Contractor's outreach activities for the past year.
- b) Recommended changes and/or new services to improve City's ability to meet waste diversion goals and to contain costs and minimize impacts on rates. A specific plan for compliance with State diversion goals shall be included.
- c) Any specific plans for provision of new or changed services by Contractor.

The reports required by this Agreement regarding Customer complaints shall be used as one basis for review of Contractor's performance, and Contractor may submit other relevant performance information and reports for consideration at the Solid Waste Services and Performance Review Meeting. In addition to the above, City may request Contractor to submit any other specific information relating to its performance for consideration at the Solid Waste Services and Performance Review Meeting, and any Customer may submit comments or complaints during or before the Meeting, either orally or in writing. Contractor shall be present at and participate in the Solid Waste Services and Performance Review Meeting.

As a result of its findings following any Solid Waste Services and Performance Review Meeting, City may require Contractor to provide expanded or new services within a reasonable time and City may direct or take corrective actions for any performance inadequacies (although nothing contained in this provision should be construed as requiring City to hold a Solid Waste Services and Performance Review Meeting in order to enforce any rights or remedies it has pursuant to the terms hereof.) Should City require expanded or new services as a remedy for Contractor's failure to perform its obligations hereunder, no additional compensation shall be due for such services. Otherwise, any new or expanded services required of Contractor shall be subject to the provisions of Section 2.10.1.

7.2 Performance Satisfaction Survey

If requested by the City, Contractor will create and conduct a survey at Contractor's expense in preparation for any Solid Waste Services and Performance Review Meeting held pursuant to Section 7.1. City shall notify Contractor of its desire for such a survey at least ninety (90) days in advance of the Solid Waste Services and Performance Review Meeting. The purpose of the survey is to determine Customer satisfaction with current Collection services and Customer service provided by Contractor. The Survey will be distributed to a minimum of five percent (5%) of the Residential Customers and ten percent (10%) of the Commercial Customers, selected at random. City may instruct Contractor to send out separate Single Family and Multi-Family/Commercial surveys. Contractor shall obtain City's approval of each survey's content, format, and mailing list prior to its distribution. City may require that Contractor have Customer responses to the survey returned directly to City. The survey results shall be made available to the City thirty (30) days prior to the Solid Waste Services and Performance Review Meeting.

ARTICLE 8

RECORDS, REPORTS AND INFORMATION REQUIREMENTS

8.1 General

Contractor shall maintain such accounting, statistical and other records related to its performance under this Agreement as shall be necessary to develop the financial statements and other reports required by this Agreement. Also, Contractor agrees to conduct data collection, information and record keeping, and reporting activities needed to comply with applicable laws and regulations and to meet the reporting and Solid Waste program management needs of City. To this extent, such requirements set out in this and other articles of this Agreement shall not be considered limiting or necessarily complete. In particular, this article is intended to only highlight the general nature of records and reports and is not meant to define exactly what the records and reports are to be and their content. Further, with the written direction or approval of City, the records and reports to be maintained and provided by Contractor in accordance with this and other Articles of the Agreement shall be adjusted in number, format, or frequency.

8.2 Records

8.2.1 General

Contractor shall maintain records required to conduct its operations, to support requests it may make to City, and to respond to requests from City in the conduct of City business. Adequate record security shall be maintained to preserve records from events that can be reasonably anticipated such as a fire, theft and earthquake. Electronically maintained data/records shall be protected and backed up. All records shall be maintained for five (5) years, and shall continue to be available for five (5) years after the expiration of this Agreement. After minimum holding periods are met, Contractor will notify City ninety (90) days before destroying records.

Contractor agrees that the records of any and all companies conducting operations addressed in the Agreement shall be provided or made available to City and its official representatives during normal business hours. Account histories shall be accessible to the City by computer for a minimum of five (5) years. City may review or utilize any of

the records described in this section. Such records include, but are not limited to, financial, Solid Waste, CERCLA and Disposal records.

8.2.2 Financial Records

Contractor shall maintain financial records relating to its operations pursuant to this Agreement separate and segregated from such records relating to its other operations.

Contractor shall maintain at least the following records:

- Audited financial statements for Contractor or, if a guarantee was provided, for the parent company guarantor as a whole;
- Financial statements (compiled, reviewed or audited) of revenue and expense for this Agreement segregated from the other operations of Contractor (including without limitation those operations of Contractor in City and surrounding jurisdictions which are not covered by this Agreement), including a description of segregation methodology; and,
- Complete descriptions of related party transactions (corporate and/or regional management fees, intercompany profits from transfer, processing or Disposal operations).

8.2.3 Solid Waste Records

Contractor shall maintain and make available to the City upon request the following records relating to its operations pursuant to this Agreement:

- a) Customer services and Billing/City payment records;
- b) Records of tons Collected, processed, diverted and Disposed by waste stream (Refuse, Recycling, Green Waste and manure), by Customer type (Cart, Residential Bin, Commercial and Roll-off Box), and the Facilities (Transfer Station, MRF, or landfill) where such material was taken (Residential Bin versus Commercial Bin tonnage may be estimated based upon Container distribution or other method approved by City);
- c) Quantity of Recyclable Materials recovered by material type, as well as quantity of material diverted from landfills in compliance with AB 939;

- d) Bulky Item and special event tonnages, including tons disposed and diverted;
- e) Routes;
- f) Facilities, equipment and personnel used;
- g) Facilities and equipment operations, maintenance and repair;
- h) Number and type of Refuse, Recycling and Green Waste Containers in service;
- i) Complaints; and,
- j) Missed pickups.

8.2.4 CERCLA Defense and Disposal Records

The City views the ability to defend against CERCLA, State Hazardous Substance Law, and related litigation as a matter of great importance. For this reason, the City regards the ability to prove where Solid Waste Collected in the City was taken for Disposal, as well as where it was not taken, to be matters of concern. The Contractor shall maintain data retention and preservation systems that can establish where Solid Waste Collected in the City was landfilled (and therefore establish where it was not landfilled) and provide a copy of the reports required in Section 8.2.3 for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement, or to provide copies of such records to the City. Contractor shall continue to retain records in accordance with Section 8.2.3 for five (5) years after the term during which Collection services are to be provided pursuant to this Agreement. Contractor agrees to notify the City's Risk Manager and the City Attorney at least ninety (90) days before destroying such records. This provision shall survive the expiration of the period during which Collection services are to be provided under this Agreement.

8.2.5 Other Programs' Records

Records for other programs shall be tailored to specific needs. In general, they shall include:

- a) Plans, tasks, and milestones; and,
- b) Accomplishments in terms such as dates, activities conducted and numbers of participants and responses.

8.2.6 Audit

City may conduct an audit of Contractor at any time. The scope of the audit and auditing party will be determined by City, and the scope may include, but is not limited to, compliance with terms of this Agreement, Customer service levels and Billing, fee payments, Gross Receipts, tonnage and verification of Diversion rate.

Contractor will fund biennial audits. The first hauler-funded audit, to be performed during 2014, will be based on the Contractor's reports and records for calendar year 2013. Hauler-funded audits will be performed every other year thereafter. Contractor will reimburse to the City the cost of such audits (including audits conducted by City staff) up to \$50,000 for the first audit, and \$30,000 for each subsequent biennial audit in 2014 dollars. The \$30,000 amount in subsequent years shall be increased annually by the change in CPI identified in Section 6.4 as the change to the service component.

Should an audit conducted or authorized by the City disclose that fees payable by Contractor were underpaid by two percent (2%) or more, that tonnage was misreported by two percent (2%) or more, or that more than two percent (2%) of the Customers were inaccurately Billed based on the auditor's sampling for the period under review, City may expand the scope of the audit and recover additional audit costs from the Contractor.

8.2.7 Payments and Refunds

Should an audit disclose that fees payable by the Contractor were underpaid or that Customers were overcharged for the period under review, Contractor shall pay to City any underpayment of fees and/or refund to Contractor's Customers or to City, as directed by City, any overcharges within thirty (30) days following the date of the audit. Contractor shall pay interest to the City for any underpayment or overcharges at an annual rate of twelve percent (12%). Undercharges shall not be billed in arrears for more than ninety (90) days of service, with any remaining undercharges absorbed by Contractor. Should an audit disclose that fees were overpaid, City shall credit such amounts against future fees payable by Contractor.

8.3 Reports

8.3.1 Report Formats and Schedule

Records shall be maintained in forms and by methods that facilitate flexible use of data contained in them to structure reports, as needed. Contractor may propose report formats that are responsive to the objectives and audiences for each report. The format of each report shall be approved by City. In addition to submitting all reports on paper, Contractor agrees to submit all reports in an electronic format approved by City, compatible with City's software/computers at no additional charge.

Reports shall be submitted within thirty (30) calendar days after the end of the reporting period. Annual reports for which a date is not otherwise specified in this Agreement shall be submitted within thirty (30) calendar days after the end of the calendar year. If requested, Contractor's complaint summary, described in Section 5.2.2, shall be sent to the City Manager within five (5) business days of request.

All reports shall be submitted to:

City Manager
City of Pico Rivera
6615 Passons Boulevard
Pico Rivera, CA 90660-1016

8.3.2 Monthly Reports

The information listed below shall be the minimum reported:

- a) Solid Waste Collected by Contractor, sorted by type of Solid Waste Collected and diverted (Refuse, Recycling, Green Waste and manure) in tons (including contamination and Diversion rates for each waste stream and Customer type), Customer type (Cart, Residential Bin, Commercial Bin and Roll-off Box) and the Facilities where the tons were processed or Disposed.
- b) Warning notices issued for contaminated Refuse, Recyclable Materials and Green Waste Containers.
- c) Narrative summary of problems encountered and actions taken with recommendations for City, as appropriate.

- d) Quantity of Recyclable Materials recovered by material type, as well as quantity of material diverted from landfills in compliance with AB 939, by Customer type (Residential, Bin, Roll-off Box).
- e) Description of Contractor outreach activities and copies of promotional and public education materials sent during the month.
- f) Other information or reports that City may reasonably request or require.

Note: Monthly fee payment statement due per Section 3.2.2 may be submitted separately, accompanying the fee payment.

8.3.3 Annual Report

The annual report shall include:

- a) A summary of the number of Containers in service as of December 31 by size (number of gallons, number of yards), sector (Residential Cart, Commercial Cart, Residential Bin, Commercial Bin and Roll-off Box), service frequency, and type of service (Refuse, Recycling, Green Waste and manure).
- b) Records of tons Collected, processed, diverted and disposed by waste stream (Refuse, Recycling, Green Waste and manure), by Customer type (Cart, Residential Bin, Commercial Bin and Roll-off Box).
- c) Gross Receipts by sector (Cart, Bin and Roll-off Box).
- d) Number of routes and route hours per day by type of service as of December 31.
- e) General information about the Contractor and its most recent annual report.
- f) Other information or reports that County may reasonably request or require.

8.3.4 Financial Report

The City may, at City's option, request and be provided with Contractor's financial reports/statements for the most recently completed fiscal year in connection with any audit, extraordinary rate adjustment request, or verification of other information required under this Agreement.

The financial statements and footnotes shall be prepared in accordance with Generally Accepted Accounting Principles ("GAAP") and reviewed, in accordance with Generally Accepted Auditing Standards ("GAAS"), by a certified public accountant ("CPA") licensed (in good standing) to practice public accounting in the State of California as

determined by the State of California Department of Consumer Affairs Board of Accountancy. The cost of preparation of the financial statements and audit shall be borne by Contractor as a direct cost of service.

In addition to the above audited financial statements, Contractor shall provide to City the supplemental schedule of results of operations on a compiled basis. The supplemental schedule will show Contractor's specific revenues and expenses in connection with the operations provided for in this Agreement, separated from operations in other geographical areas. The supplemental schedule need not be audited; however, the total results of Contractor's operations per the supplemental schedule must agree to the audited financial statements.

8.4 Reporting Adverse Information

Contractor shall provide City two (2) copies (one to the City Manager, one to the City Attorney) of all reports, pleadings, applications, notifications, notices of violation, communications or other material relating in any way to Contractor's performance of services pursuant to this Agreement, submitted by Contractor to, or received by Contractor from, the United States or California Environmental Protection Agency, CalRecycle, the Securities and Exchange Commission or any other federal, state or local agency, including any federal or state court. Copies shall be submitted to City within thirty (30) days of receipt by Contractor, or sooner if reasonably apparent that to do so is materially relevant; any responses by Contractor shall be submitted to City simultaneously with Contractor's filing or submission of such matters with said agencies. Contractor's routine correspondence to said agencies need not be routinely submitted to City, but shall be made available to City promptly upon City's written request.

8.5 Right to Inspect Records

City shall have the right to inspect or review the specific documents or records required expressly or by inference pursuant to this Agreement, or any other similar records or reports of Contractor or its Affiliates that City shall deem, in its sole discretion, necessary to evaluate annual reports, and Contractor's performance provided for in this Agreement. Contractor shall make all records and documents to be reviewed and inspected by City as a part of any audit or other record review conducted by City,

available for City's review, inspection and copying within five (5) days of receiving written notice from City requesting the same.

8.6 Failure to Report

The refusal or failure of Contractor to file any required reports, or to provide required information to City, or the inclusion of any materially false or misleading statement or representation by Contractor in such report shall be deemed a material breach of the Agreement as described in Section 11.1 and shall subject Contractor to all remedies which are available to the City under Agreement or otherwise.

ARTICLE 9

INDEMNIFICATION, INSURANCE, BOND AND LETTER OF CREDIT

9.1 Indemnification

Contractor hereby agrees to and shall indemnify and hold harmless City, its elected and appointed boards, commissions, officers, employees, consultants and agents (collectively, "Indemnitees") from and against any and all loss, liability, penalty, forfeiture, claim, demand, action, proceeding or suit in law or equity of any and every kind and description (including, but not limited to, injury to and death of any Person and damage to property, or for contribution or indemnity claimed by third parties) arising or resulting from and in any way connected with (1) the negligence or willful misconduct of Contractor, its officers, employees, agents, contractors and/or subcontractors in performing services under this Agreement; (2) the failure of Contractor, its officers, employees, agents, contractors and/or subcontractors to comply in all respects with the provisions of this Agreement, applicable laws (including, without limitation, the Environmental Laws), ordinances and regulations, and/or applicable permits and licenses; (3) the acts of Contractor, its officers, employees, agents, contractors and/or subcontractors in performing services under this Agreement for which strict liability is imposed by law (including, without limitation, the Environmental Laws). The foregoing indemnity shall apply regardless of whether such loss, liability, penalty, forfeiture, claim, demand, action, proceeding, suit, injury, death or damage is also caused in part by any of the Indemnitees' negligence, but shall not extend to matters resulting from the Indemnitees' sole negligence, or willful misconduct. Contractor further agrees to and shall, upon demand of City, at Contractor's sole cost and expense, defend (with attorneys acceptable to City) the Indemnitees against any claims, actions, suits in law or equity or other proceedings, whether judicial, quasi-judicial or administrative in nature, arising or resulting from any of the aforementioned events, and to reimburse City for any and all costs and expenses City incurs in providing any such defense, either before, during or after the time Contractor elects to provide such defense, including any and all costs incurred in overseeing any defense to be provided herein by Contractor.

Contractor, upon demand of City, made by and through the City Attorney, shall protect City and appear in and defend the Indemnitees in any claims or actions by third parties,

whether judicial, administrative or otherwise, including, but not limited to disputes and litigation over the definitions of "Solid Waste" or "Recyclable Material," the scope of the rights granted herein, conflicts between the rights granted herein and rights asserted by other Persons, or the limits of City's authority with respect to the grant of licenses, or agreements, exclusive or otherwise, or asserting rights under the United States or California Constitutions or any federal or state law to provide Solid Waste Handling Services in the City.

THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION AND SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

9.2 Hazardous Substances Indemnification

A. Without regard to any insurance coverage or requirements, and without limiting the above general indemnification obligation in any way, Contractor specifically agrees to and shall, to the maximum extent permitted by law, defend (with counsel acceptable to City), reimburse, indemnify, and hold harmless Indemnitees from and against any and all claims, actions, liabilities, damages, demands, judgments, losses, costs, liens, expenses, suits, actions, attorneys' fees, consultant fees, penalties and any and all other losses, damages, fees and expenses of whatever kind or nature ("Claims") (including but not limited to response costs, investigative costs, assessment costs, monitoring costs, treatment costs, cleanup costs, removal costs, remediation costs, and similar costs, damages and expenses) that arise out of, or are alleged to arise out of, or in any way relate to any action, inaction or omission of Contractor that:

1. results in any demand, claim, notice, order, or lawsuit, asserting that any Indemnitee is liable, responsible or in any way obligated to investigate, assess, monitor, study, test, treat, remove, remediate, or otherwise clean up, any Hazardous Contaminant (as defined herein); or
2. relates to material Collected, transported, Recycled, processed, treated or Disposed of by Contractor.

B. Contractor's obligations pursuant to this section shall apply, without limitation, to:

1. any Claims brought pursuant to or based on the provisions of any Environmental Law;
2. any Claims based on, or arising out of, or alleged to be arising out of the ownership, use, lease, sale, design, construction, maintenance or operation of Contractor of any Facility;
3. any Claims based on or arising out of or alleged to be arising out of the marketing, sale, distribution, storage, transportation, Disposal, processing or use of any materials recovered by Contractor;
4. any Claims based on or arising out of, or alleged to be arising out of, any breach of any express or implied warranty, representation or covenant arising out of or in connection with this Agreement.

C. The foregoing indemnity and defense obligations shall apply irrespective of the negligence or willful misconduct of Contractor or any Affiliate of Contractor.

D. For purposes of this section, the term "Hazardous Contaminant" shall mean any Hazardous Substance, any Hazardous Waste, any crude oil or refined or unrefined petroleum product or any fraction or derivative thereof; and any asbestos or asbestos-containing material. The term "Hazardous Contaminant" shall also include any and all amendments to any referenced statutory or regulatory provisions made before or after the date of execution of this Agreement.

E. THE PROVISIONS OF THIS SECTION SHALL NOT TERMINATE OR EXPIRE, SHALL BE GIVEN THE BROADEST POSSIBLE INTERPRETATION AND SHALL SURVIVE THE EXPIRATION OR EARLIER TERMINATION OF THIS AGREEMENT.

9.3 AB 939 Indemnification and Guarantee

A. To the extent authorized by law, Contractor agrees to indemnify and hold harmless City from and against all fines and/or penalties imposed by CalRecycle in the event the source reduction and Recycling goals or any other requirement of AB 939 are not met by City with respect to the waste stream Collected under this Agreement.

B. Contractor warrants and represents that it is familiar with City's waste characterization study as set forth in City's Source Recovery and Recycling Element ("SRRE"), and that it has the ability to and will provide sufficient programs and services to ensure City will meet or exceed the Diversion requirements (including, without limitation, amounts of Solid Waste to be diverted, time frames for Diversion, and any other requirements) set forth in AB 939, with respect to that portion of the Solid Waste generated in City that is the subject of this Agreement.

9.4 Insurance

Contractor shall procure and maintain during the entire Term of this Agreement the following types of insurance, and shall maintain the following minimum levels of coverage, which shall apply to any claims which may arise from or in connection with Contractor's performance hereunder or the actions or inactions of any of Contractor's officers, agents, representatives, employees, or subcontractors in connection with Contractor's performance. The insurance requirements hereunder in no way limit Contractor's various defense and indemnification obligations, or any other obligations as set forth herein.

A. Minimum Scope of Insurance. Coverage shall be at least as broad as:

1. The most recent editions of Insurance Services Office Commercial General Liability coverage ("occurrence" form CG 00 01).
2. The most recent editions of Insurance Services Office form number CA 00 01 covering Automobile Liability, code 1 "any auto" and endorsement CA 00 25.
3. Workers' Compensation insurance as required by the Labor Code of the State of California and Employers Liability insurance.

B. Minimum Limits of Insurance. Contractor shall maintain in force for the term of this Agreement limits no less than:

1. Comprehensive General Liability: Five Million Dollars (\$5,000,000) limit aggregate and Five Million Dollars (\$5,000,000) limit per occurrence for bodily injury, Personal injury and property damage.

2. Automobile Liability: Five Million Dollars (\$5,000,000) limit aggregate and One Million Dollars (\$1,000,000) single limit per accident for bodily injury and property damage.
3. Workers' Compensation and Employers Liability: Workers' compensation limits as required by the Labor Code of the State of California (or provide evidence of State approval to be self-insured).

C. Deductibles and Self-Insured Retentions. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either: the insurer shall reduce or eliminate such deductibles or self-insured retention's as respects City, its officials, employees and agents; or Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration and defense expenses.

D. Other Insurance Provisions. The policies are to contain, or be endorsed to contain, the following provisions:

1. General Liability and Automobile Liability Coverages
 - a) City, its elective and appointive boards, commissions, officials, employees, agents and volunteers are to be named as additional insureds as respects: liability arising out of activities performed by or on behalf of Contractor; products and completed operations of Contractor; Premises owned, leased or used by Contractor; or vehicles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, its elective and appointive boards, commissions, officials, employees, agents or volunteers.
 - b) Contractor's insurance coverage shall be primary insurance as respects City, its elective and appointive boards, commissions, officials, employees, agents and volunteers. Any insurance or self-insurance maintained by City, its officials, elective and appointive boards, commissions, employees, agents or volunteers shall be excess of Contractor's insurance and shall not contribute with it.

- c) Any failure to comply with reporting provisions of the policies shall not affect coverage provided to City, its officials, elective and appointive boards, commissions, employees, agents or volunteers.
 - d) Coverage shall state that Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
2. Workers' Compensation and Employers Liability Coverage - The insurer shall agree to waive all rights of subrogation against City, its officials, elective and appointive boards, commissions, employees, agents and volunteers for losses arising from work performed by Contractor for City.
3. All Coverages - Each insurance policy required by this clause shall be endorsed to state that coverage shall not be suspended, voided, canceled by either party, reduced in coverage or in limits except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to City.

E. Acceptability of Insurers. The insurance policies required by this section shall be issued by an insurance company or companies authorized to do business in the State of California and with a rating in the most recent edition of Best's Insurance Reports of size category VII or larger and a rating classification of A or better.

F. Verification of Coverage. Contractor shall furnish City with certificates of insurance and with original endorsements affecting coverage required by this clause. Such certificates shall show the type and amount of coverage, effective dates and dates of expiration of policies, and shall have all required endorsements. The certificates and endorsements for each insurance policy are to be signed by a Person authorized by that insurer to bind coverage on its behalf. The certificates and endorsements are to be on forms provided by or acceptable to City and are to be received and approved by City before work commences. City reserves the right to require complete, certified copies of all required insurance policies at any time.

Renewal certificates will be furnished periodically to City to demonstrate maintenance of the required coverage throughout the Term.

G. Companies and Subcontractors. Contractor shall include all companies and subcontractors as insureds under its policies or shall furnish separate certificates and endorsements for each contractor and subcontractor. All coverages for companies and subcontractors shall be subject to all of the requirements stated herein.

H. Required Endorsements

1. The Workers' Compensation policy shall contain an endorsement in substantially the following form:

"Thirty (30) days (or ten (10) days in the event of cancellation for non-payment) prior written notice by certified mail, return receipt requested, shall be given to City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

City Manager
City of Pico Rivera
6615 Passons Boulevard
Pico Rivera, CA 90660-1016

2. The Public Liability policy shall contain endorsements in substantially the following form:

- a) "Thirty (30) days (or ten (10) days in the event of cancellation for non-payment) prior written notice shall be given to City in the event of cancellation, reduction in coverage, or non-renewal of this policy. Such notice shall be sent to:

City Manager
City of Pico Rivera
6615 Passons Boulevard
Pico Rivera, CA 90660-1016

- b) "Contractor agrees to endorse the third party general liability coverage required herein to include as additional insureds City of Pico Rivera, its officials, employees and agents, using standard ISO endorsement No. CB 2010 with an edition date of 1985, or equivalent provisions as determined acceptable by the Office of the City Attorney for the City of Pico Rivera in its sole discretion. Contractor also agrees to require all contractors, subcontractors and

anyone else involved in any way with the project contemplated by this agreement, to do likewise."

- c) "This policy shall be considered primary insurance as respects any other valid and collectible insurance maintained by City, including any self-insured retention or program of self-insurance, and any other such insurance shall be considered excess insurance only."
- d) "Inclusion of City as an insured shall not affect City's rights as respects any claim, demand, suit or judgment brought or recovered against Contractor. This policy shall protect Contractor and City in the same manner as though a separate policy had been issued to each, but this shall not operate to increase Contractor's liability as set forth in the policy beyond the amount shown or to which Contractor would have been liable if only one party had been named as an insured."

I. Other Insurance Requirements

1. In the event any services are delegated to another company or subcontractor, Contractor shall require such company or subcontractor to provide statutory workers' compensation insurance and employer's liability insurance for all of the company's or subcontractor's employees engaged in the work in accordance with this Section 9.4. The liability insurance required by this Section 9.4 shall cover all companies or subcontractors or the companies or subcontractors must furnish evidence of insurance provided by it meeting all of the requirements of this Section 9.4.
2. Contractor shall comply with all requirements of the insurers issuing policies. The carrying of insurance shall not relieve Contractor of any obligation under this Agreement. If any claim exceeding the amount of any deductibles or self-insured reserves is made by any third Person against Contractor or any company or subcontractor on account of any occurrence related to this Agreement, Contractor shall promptly report the facts in writing to the insurance carrier and to City.

If Contractor fails to procure and maintain any insurance required by this Agreement, City may take out and maintain, at Contractor's expense, such insurance as it may deem proper and deduct the cost thereof from any moneys due Contractor.

9.5 Faithful Performance Bond

Concurrently with execution of this Agreement, Contractor shall deliver to City a performance bond in the sum of the amount of Two Hundred Fifty Thousand Dollars (\$250,000), similar to the form provided in Exhibit 3, which secures the faithful performance of this Agreement, including, without limitation, payment of any penalty and the funding of any work to cure a breach of this Agreement. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his or her power of attorney. The bond may be issued for one year and be annually renewable; Contractor shall be responsible for securing a new (or renewed) bond each year. The surety company can issue an annual bond renewable each year.

9.6 Faithful Performance Letter of Credit

In addition to a corporate surety bond as noted in Section 9.5 above, Contractor shall furnish an irrevocable letter of credit in the amount of Two Hundred Fifty Thousand Dollars (\$250,000), from a financial institution acceptable to the City and in a form acceptable to the City Attorney as security for the performance of this Agreement (the "LOC"). The LOC shall be the sole responsibility of Contractor, and shall be released within thirty (30) days after both (i) the expiration of the term of this Agreement, or upon the earlier termination hereof; and (ii) Contractor's satisfactory performance of all obligations hereunder.

9.7 Forfeiture of Performance Bond

In the event Contractor shall for any reason become unable to, or fail in any way to, perform as required by this Agreement, City may declare a portion or all of the performance bond which is necessary to recompense and make whole the City forfeited to the City. Upon partial or full forfeiture of the performance bond, Contractor shall restore the performance bond to its face amount within thirty (30) days of the City's

declaration. Failure to restore the performance bond to its full amount within thirty (30) days shall be a material breach of the Agreement.

9.8 Forfeiture of Letter Of Credit

Thirty (30) days following City providing Contractor with written notice of its failure to pay City any amount owing under this Agreement, the LOC may be drawn upon by City for purposes including, but not limited to:

- a. Payment of sums due under the terms of this Agreement which Contractor has failed to timely pay to City; and/or,
- b. Reimbursement of costs borne by City to correct violations of this Agreement not corrected by Contractor, including but not limited to the liquidated damages described in Section 11.3.

City may draw upon the entire LOC and convert it to a cash deposit if Contractor fails to cause the LOC to be extended or replaced with another satisfactory letter of credit no later than sixty (60) days prior to its expiration during the term hereof.

9.9 Performance Security Beyond Service Term

Some Agreement requirements extend beyond the Term and other requirements, such as minimum Diversion rates per Section 4.2.7, will not be substantiated until after the final service date. Therefore, Contractor shall not terminate the performance bond or letter of credit, and will renew it to ensure continuous availability to the City, until receiving a written release from the City. Any performance bond and letter of credit will automatically expire at the end of twenty-four (24) months after the end of the Term, unless City has notified Contractor in writing as to a specific contractual area of concern yet to be resolved, instructing Contractor to retain bond and letter of credit. Neither permission from the City to discontinue holding this surety, nor permitted expiration after twenty-four (24) months, shall relieve Contractor of payments to the City that may be due, or may become due.

ARTICLE 10

CITY'S RIGHT TO PERFORM SERVICE

10.1 General

In the event that Contractor, for any reason whatsoever, fails, refuses or is unable to Collect, Recycle, process, transport or Dispose of any or all Solid Waste as required by this Agreement, at the time and in the manner provided in this Agreement, for a period of more than forty-eight (48) hours, and if, as a result thereof, Solid Waste should accumulate in City to such an extent, in such a manner, or for such a time that such accumulation endangers or menaces the public health, safety or welfare, then City shall have the right, but not the obligation, (1) to perform, or cause to be performed, such services itself with its own or other personnel without liability to Contractor; and/or (2) to take possession of any or all of Contractor's land, equipment and other property used or useful in the Collection and transportation of Solid Waste, and to use such property to Collect and transport any Solid Waste generated within City which Contractor would otherwise be obligated to Collect, transport and properly Dispose of or process pursuant to this Agreement.

Notice of City's determination to effect its rights under this Section may be given orally by telephone to Contractor at its principal office and shall be effective immediately. Written confirmation of such oral notification shall be sent to Contractor within twenty-four (24) hours of the oral notification.

Contractor further agrees that in such event:

- A. It will take direction from City to effect the transfer of possession of equipment and property to City for City's use, or for use by any Person or entity designated by the City.
- B. It will, if City so requests, keep in good repair and condition all of such equipment and property, provide all motor vehicles with fuel, oil and other service, and provide such other service as may be necessary to maintain said property in operational condition.
- C. City may immediately engage all or any personnel necessary or useful for the Collection and transportation of Solid Waste, including, if City so desires, employees

previously or then employed by Contractor. Contractor further agrees, if City so requests, to furnish City the services of any or all management or office personnel employed by Contractor whose services are necessary or useful for Solid Waste Collection, transportation, processing and Disposal operations and for the Billing and Collection of fees for these services.

City agrees that it assumes complete responsibility for the proper and normal use of such equipment and facilities while in its possession.

If the interruption or discontinuance in service is caused by any of the reasons listed in Section 11.4, City shall pay to Contractor the reasonable rental value of the equipment and facilities, possession of which is taken by City, for the period of City's possession, if any, which extends beyond the period of time for which Contractor has rendered Bills in advance of service, for the class of service involved. If the interruption or discontinuance in service is caused by any other reason, regardless of City's implementation of options under this agreement, City may consider this a default.

10.2 Billing and Compensation to City During City's Possession

Contractor agrees that it shall reimburse City for any and all costs and expenses incurred by City beyond revenue Billed and received by City in taking over possession of the above-mentioned equipment and property for Solid Waste service in such manner and to an extent as would otherwise be required of Contractor under the terms of this Agreement. Such reimbursement shall be made from time to time after submission by City to Contractor of each statement listing such costs and expenses, but in no event later than five (5) working days from and after each such submission.

10.3 City's Right to Relinquish Possession

It is further mutually agreed that City may at any time at its discretion relinquish possession of any or all of the above-mentioned property to Contractor and thereupon demand that Contractor resume the Solid Waste Handling Services as provided in this Agreement, whereupon Contractor shall be bound to resume the same.

10.4 City's Possession Not A Taking

It is expressly agreed between the Parties that City's exercise of its rights under this article (1) does not constitute a taking of private property for which compensation must

be paid, (2) shall not create any liability on the part of City to Contractor, and (3) does not exempt Contractor from any of the indemnity and insurance provisions of this Agreement, which are meant to extend to circumstances arising under this section provided that Contractor is not required to indemnify City against claims and damages arising from the sole negligence of City, its elective and appointive boards, commissions, officers, employees and agents in the operation of Collection vehicles during the time City has taken possession of such vehicles.

10.5 Duration of City's Possession

City's right pursuant to this Article to retain temporary possession of Contractor's facilities and equipment, and to render Collection services, shall terminate when City determines that such services can be resumed by Contractor, or when City no longer reasonably requires such property or equipment. In any case, City has no obligation to maintain possession of Contractor's property or equipment and/or continue its use for any period of time and may at any time, in its sole discretion, relinquish possession to Contractor.

ARTICLE 11

DEFAULT, REMEDIES AND LIQUIDATED DAMAGES

11.1 Events of Default

All provisions of the Franchise and this Agreement to be performed by Contractor are considered material. Each of the following shall constitute an event of default by the Contractor.

A. Fraud or Deceit or Misrepresentation. If the Contractor engages in, or attempts to practice, any fraud or deceit upon City or makes a misrepresentation regarding material information to City.

B. Insolvency or Bankruptcy. If Contractor becomes insolvent, unable, or unwilling to pay its debts, files a bankruptcy petition or takes steps to liquidate its assets.

C. Failure to Maintain Coverage. If Contractor fails to provide or maintain in full force and effect the Workers' Compensation, liability, or indemnification coverage as required by this Agreement. (Provided insurance is already secured, Contractor shall be permitted two business days to provide physical documentation to the City demonstrating that the required insurance is in place.)

D. Violations of Regulation. If Contractor violates any orders or filings of any regulatory body having jurisdiction over Contractor relative to this Agreement, provided that Contractor may contest any such orders or filings by appropriate proceedings conducted in good faith, in which case no breach of the Franchise and this Agreement shall be deemed to have occurred until a final decision adverse to the Contractor is entered.

E. Failure to Pay. If Contractor fails to make any payments required under this Agreement and/or refuses to provide City, within ten (10) days of the demand, with required information, reports, and/or records in a timely manner as provided for in the Agreement.

F. Failure to Cooperate with Audits. Failure to complete, perform or cooperate with any audit as described by this Agreement.

G. Failure to Submit Reports or Documentation. Failure to complete or to provide required reports or documents to City as required by this Agreement.

H. Acts or Omissions.

A. Any act or omission by Contractor relative to the services provided under this Agreement which violates the terms, conditions, or requirements of this Agreement, or AB 939, or any law, statute, ordinance, order, directive, rule, or regulation issued pursuant to AB 939 shall constitute a default by Contractor. Any failure to correct or remedy any such violation within the time set in the written notice of the violation or, if Contractor cannot reasonably correct or remedy the breach within the time set forth in such notice, if Contractor should fail to commence to correct or remedy such violation within the time set forth in such notice and diligently effect such correction or remedy thereafter, shall constitute a default by Contractor.

B. Any situation in which Contractor or any of its officers, directors or employees is found guilty of any crime related to the performance of this Agreement, or of any crime related to anti-trust activities, illegal transport or Disposal of hazardous or toxic materials, or bribery of public officials shall constitute a default by Contractor. The term "found guilty" shall be deemed to include any judicial determination that Contractor or any of Contractor's officers, directors or employees is guilty as well as any admission of guilt by Contractor or any of Contractor's officers, directors or employees including, but not limited to, the plea of "guilty", "nolo contendere", "no contest", and "guilty to a lesser charge."

I. False or Misleading Statements. Any representation or disclosure made to City by Contractor in connection with or as an inducement to entering into this Agreement, or any future amendment to this Agreement, which proves to be false or misleading in any material respect as of the time such representation or disclosure is made, whether or not any such representation or disclosure appears as part of this Agreement.

J. Attachment. The seizure of, attachment of, or levy on, the operating equipment of Contractor, including, without limits, its equipment, maintenance or office facilities, or any part thereof.

K. Suspension or Termination of Service. If Contractor ceases to provide all or a portion of the Collection, processing or Recycling services, or any other Solid Waste Handling Services as required under this Agreement (including, without limitation, due

to labor unrest including strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action if all requirements of Section 11.4 are not met) for two (2) or more consecutive days.

L. Failure to Provide Assurance of Performance. If Contractor fails to provide reasonable assurances of performance as required under Section 11.6.

M. Commingling of Recyclables With Refuse / Landfilling of Recyclables. If Contractor empties Containers of properly set out Recyclable Materials or Green Waste into a Refuse load, or transports Recyclable Materials or Green Waste to a landfill or other location at which the material will not be diverted from landfilling (with the exception of Green Waste used as alternative daily cover provided full Diversion credit is received).

N. Failure to Meet Section 4.2.7.A Diversion Goal. Failure to meet the minimum recycling requirements identified in Section 4.2.7.A for two (2) consecutive calendar years.

Contractor shall have five (5) business days from the time it is given notification by City to cure any default arising under subsections E, F, G, J, K, L and M provided, however, that City shall not be obligated to provide Contractor with a notice and cure opportunity if Contractor has committed the same or similar breach within a twenty-four (24) month period. It is expressly understood that Contractor is not entitled to receive notice of default, or to cure such default, with respect to those matters listed in subsections A, B, C, D, H, I, and N above.

11.2 Right to Terminate Upon Default and Right to Specific Performance

If Contractor commits a material breach, including specifically any of the matters listed in subsections A through N of Section 11.1 above (and, if permitted to cure, does not cure it within the five day period, City shall be entitled to unilaterally terminate this Agreement or impose other such sanctions (which may include financial sanctions, temporary suspensions or any other conditions it deems appropriate short of termination) as it shall deem proper. Should City decide to terminate this Agreement upon a default by Contractor, City shall have the right to do so upon giving ten (10) days notice to Contractor, and shall not be required to take any further action (such as holding any hearing, bringing any suit or taking any other action.)

City's rights to terminate this Agreement and to take possession of Contractor's Facility and/or equipment are not exclusive, and City's termination of this Agreement shall not constitute an election of remedies. Instead, such remedies shall be in addition to any and all other legal and equitable rights and remedies which City may have.

By virtue of the nature of this Agreement, the urgency of timely continuous and high-quality service, the time required to effect alternative service, and the rights granted by City to Contractor, the remedy of damages for a breach hereof by Contractor is inadequate and City shall be entitled to seek injunctive relief and/or specific performance of any breach of this Agreement.

11.3 Liquidated Damages

A. General. City finds, and Contractor agrees, that as of the time of the execution of this Agreement, it is impractical, if not impossible, to reasonably ascertain the extent of damages which shall be incurred by City as a result of a breach by Contractor of certain specific obligations under this Agreement. The factors relating to the impracticability of ascertaining damages include, but are not limited to, the fact that: (i) substantial damage results to members of the public who are denied services or denied quality or reliable service; (ii) such breaches cause inconvenience, anxiety, frustration, and deprivation of the benefits of the Agreement to individual members of the general public for whose benefit this Agreement exists, in subjective ways and in varying degrees of intensity which are incapable of measurement in precise monetary terms; (iii) that the services that are the subject of this Agreement might be available at substantially lower costs than alternative services and the monetary loss resulting from denial of services or denial of quality or reliable services is impossible to calculate in precise monetary terms; and (iv) the termination of this Agreement for such specific breaches, and other remedies are, at best, a means of future correction and not remedies which make the public whole for past breaches.

B. Service Performance Standards; Liquidated Damages for Failure to Meet Standards. The Parties further acknowledge that consistent, reliable Solid Waste Handling Service is of utmost importance to City and that City has considered and relied on Contractor's representations as to its quality of service commitment in entering this Agreement with it. The Parties further recognize that some quantified standards of performance are necessary and appropriate to ensure consistent and reliable service and performance. The Parties further recognize that if Contractor fails

to achieve the performance standards, or fails to submit required documents in a timely manner, City and its residents will suffer damages and that it is and will be impractical and extremely difficult to ascertain and determine the exact amount of damages which City will suffer. Therefore, without prejudice to City's right to treat such breaches as an event of default under this Article 11, the Parties agree that the following liquidated damage amounts represent a reasonable estimate of the amount of such damages for such specific breaches, considering all of the circumstances existing on the date of this Agreement, including the relationship of the sums to the range of harm to City that reasonably could be anticipated and the anticipation that proof of actual damages would be costly or impractical. In placing their initials at the places provided, each party specifically confirms the accuracy of the statements made above and the fact that each party has had ample opportunity to consult with legal counsel and obtain an explanation of the liquidated damage provisions at the time that the Agreement was made.

Contractor _____ City
Initial Here _____ Initial Here _____

Contractor agrees to pay (as liquidated damages and not as a penalty) the amounts set forth below:

1. Collection Reliability

- a) For each failure to commence service to a new Customer account within seven (7) days after order, which exceeds five (5) such failures annually:
\$50.00
- b) For each failure, which exceeds ten (10) such failures annually, to Collect Solid Waste from any established Customer account on the scheduled Collection day and not make up the Collection within the time allotted per Section 4.6.1.3:
\$50.00
- c) For each failure to Collect Solid Waste, which has been properly set out for Collection, from the same Customer on two (2) consecutive scheduled pickup days:
\$50.00

2. Collection Quality

- a) For each occurrence of failure to properly return empty Containers to avoid pedestrian or vehicular traffic impediments or to place Containers upright which exceeds ten (10) such occurrences annually: \$50.00
- b) For each occurrence in violation of the City's noise ordinance or of discourteous behavior which exceeds ten (10) annually: \$150.00
- c) For each occurrence of Collecting Solid Waste during unauthorized hours which exceeds five (5) such occurrences annually: \$150.00
- d) For each failure to clean up Solid Waste spilled from Solid Waste Containers within ninety (90) minutes which exceeds ten (10) such failures annually: \$150.00

3. Customer Responsiveness

- a) For each failure to initially respond to a Customer complaint within one (1) business day, and for each additional day in which the complaint is not addressed, which exceeds five (5) annually: \$100.00
- b) For each failure to process Customer complaints as required by Article 5, Section 5.2.2, which exceeds five (5) annually: \$100.00
- c) For each failure to remove graffiti from Containers, or to replace with Containers bearing no graffiti, within twenty-four (24) hours (excepting holidays and weekends) of request from City or Customer: \$ 50.00 per day
- d) For each failure to repair or replace a damaged or missing Container within three (3) business days of request from City or Customer: \$ 50.00 per day
- e) For each failure to process a claim for damages within thirty (30) days from the date submitted to Contractor: \$100.00
- f) For each additional thirty (30) day increment of time in which Contractor has failed to resolve a claim for damages within thirty (30) days from the claim date: \$100.00

4. Diversion Efforts

- a) For each calendar year in which Contractor fails to provide support to the City within thirty (30) days of year-end, documenting that it diverted at least the minimum tonnage required by Section 4.2.7.A under this Agreement:
\$50 for each ton below tonnage level
necessary to meet Diversion goal
- b) For every Recycling or Green Waste Cart Collected as Refuse without issuing a red tag per Section 4.2.5: \$50 per Cart

5. Timeliness of Submissions to City

Any report shall be considered late until such time as a correct and complete report is received by City. For each calendar day a report is late, the daily liquidated damage amount shall be:

- i) Monthly Reports: \$50 per day
- ii) Annual Reports: \$100 per day

6. Accuracy of Billing

Each Customer invoice that is not prepared in accordance with the City's approved rate schedule, or includes charges not identified on the City-approved rate schedule or otherwise approved in writing by the City, in excess of ten (10) invoices annually, and that are not accurately corrected in the next Billing run:
\$25 per invoice, not to exceed \$2,500 per Billing run

7. Cooperation with Service Provider Transition

- a) For each day routing information requested by City Manager in accordance with Section 12.8 is received after City-established due dates, both for preparation of a request for proposals and for new service provider's implementation of service : \$1,000/day
- b) For each day delivery of keys, access codes, remote controls, or other means of access to Solid Waste Containers is delayed beyond one (1) day prior to

new service provider servicing Customers with access issues, as described in Section 12.8: \$1,000/day

- c) For delay in not meeting the requirements contained in Sections 4.11 and 12.8 in a timely manner, in addition to the daily liquidated damages for breach under 7(a) and 7(b) above, liquidated damages of: \$10,000

8. Replacement of Collection Vehicles

For each Collection Vehicle that does not use not use exclusively LNG or CNG fuel in accordance with Section 4.6.2(B), for each year vehicle is non-compliant. For example, if 3 vehicles in use do not use LNG or CNG before July 2013 (within 12 months of the start of service under the Agreement), and are not replaced until July 2015, damages would be 3 trucks x \$25,000 per truck x 2 years = \$150,000. Damages may be pro-rated to reflect partial years.):

\$25,000 per vehicle per year

City Manager may determine the occurrence of events giving rise to liquidated damages through the observation of/documentation by of its own employees or representative or investigation of Customer complaints.

Prior to assessing liquidated damages, City Manager shall give Contractor notice of its intention to do so. The notice will include a brief description of the incident(s)/non-performance. Contractor may review (and make copies at its own expense) all information in the possession of City Manager relating to incident(s)/non-performance. Contractor may, within ten (10) days after receiving the notice, request a meeting with City Manager. Contractor may present evidence in writing and through testimony of its employees and others relevant to the incident(s)/non-performance. City Manager will provide Contractor with a written explanation of its determination on each incident(s)/non-performance prior to authorizing the assessment of liquidated damages. The decision of City Manager shall be final.

C. Amount. City Manager may assess liquidated damages for each calendar day or event, as appropriate, that Contractor is determined to be liable in accordance with this Agreement.

D. Timing of Payment. Contractor shall pay any liquidated damages assessed by City Manager within ten (10) days after they are assessed. If they are not paid within

the ten (10) day period, City may proceed against the performance bond required by the Agreement or find Contractor in default and terminate this Agreement pursuant to Section 11.2, or both.

11.4 Excuse from Performance

11.4.1 Force Majeure

The Parties shall be excused from performing their respective obligations hereunder in the event they are prevented from so performing by reason of floods, earthquakes, other natural disasters, war, civil insurrection, riots, acts of any government (including judicial action), and other similar catastrophic events which are beyond the control of and not the fault of the party claiming excuse from performance hereunder.

11.4.2 Labor Unrest

Labor unrest, including but not limited to strike, work stoppage or slowdown, sick-out, picketing, or other concerted job action conducted by the Contractor's employees or directed at the Contractor will be considered an excuse from performance to the extent that Contractor meets the terms of this Section 11.4. Notwithstanding other remedies to which the City shall be entitled under this Agreement in event of failure to perform, in the event of Contractor's failure to perform, or anticipated failure to perform, due to labor unrest, Contractor shall:

- 1) Provide a contingency plan to the City Manager within ninety (90) days of the execution of this Agreement demonstrating how services will be provided during the period of labor unrest. The contingency plan is subject to City approval, and Contractor shall amend the plan to meet City requirements, including reasonably demonstrating how City's basic Collection and sanitary needs will be met to the City's satisfaction. Plan shall address, at a minimum, the priority of Collection by customer type (residents, hospitals, restaurants, nursing homes, etc.) and waste streams, additional Collection options to be provided (drop-off sites, etc.), source of additional personnel to be utilized, and detailed communications procedures to be used.
- 2) Notify City Manager sixty (60) days prior to the expiration of its drivers' labor agreement.

- 3) Meet the requirements agreed to in the contingency plan.
- 4) Meet requirements of 11.4.3 below.

Contractor shall meet all requirements under this Section or City may choose to revoke this excuse from performance offered under this Agreement and may choose to use enforcement provisions under this Agreement, including Sections 11.1, 11.2 and 11.3, in which case Contractor is not excused from performance and Contractor shall be obligated to continue to provide service notwithstanding the occurrence of any or all of such events.

11.4.3 Procedures In Event of Excused Performance

The party claiming excuse from performance under Section 11.4.1 or 11.4.2 shall, within two (2) days after such party has notice of such cause, give the other party notice of the facts constituting such cause and asserting its claim to excuse under this section. Throughout service disruption, Contractor shall:

- 1) Provide City with a minimum of daily service updates.
- 2) Notify Customers on a real-time basis as to alternative Collection procedures. At a minimum, Contractor shall update its website and shall provide ongoing updates to City for use on its website, and a "reverse 911" contact method to reach all possible Customers. Should enhanced contact technologies become available, Contractor shall use such methods upon approval from City.

The interruption or discontinuance of the Contractor's services caused by one or more of the events excused shall not constitute a default by the Contractor under this Agreement. Notwithstanding the foregoing, however, if the Contractor is excused from performing its obligations hereunder for any of the causes listed in this section for a period of thirty (30) days or more, the City shall nevertheless have the right, in its sole discretion, to terminate this Agreement by giving ten (10) days' notice, in which case the provisions relative to taking possession of Contractor's land, equipment and other property and engaging the Contractor's personnel in Article 10 and this Article 11 will apply.

11.5 Notice, Hearing and Appeal of City Breach

- (A) Administrative Hearing. Should Contractor contend that City is in breach of any aspect of this Agreement, it shall give notice to the City Manager requesting an administrative hearing on the allegation. A hearing officer shall be appointed by the City Manager, and the hearing shall occur as soon as reasonably possible, or on such date as mutually agreed by the City Manager. The hearing officer shall make an advisory ruling on Contractor's allegations, and suggest a remedy if a breach by City is determined to exist. The hearing officer's ruling shall be advisory only.
- (B) Other Remedies; Claims. Contractor shall be entitled to all available remedies in law or equity for City's breach of this Agreement; provided, however, Contractor shall not file or otherwise commence any action against City, in law or equity, in any court, until after an administrative hearing as set forth above has been completed, and a thirty (30) day period to accept the hearing officer's decision has passed, or either City or Contractor has given timely written notice to the other that it will not accept the hearing officers decision.
- (C) Actions for Damages. As a prerequisite to the filing and maintenance of any action for damages by Contractor against City arising out of this Agreement, Contractor shall present a claim to City, as required by Government Code section 910 et seq, within thirty (30) days of the date of the occurrence giving rise to the claim for damages.

11.6 Assurance of Performance

City may, at its option and in addition to all other remedies it may have, demand from Contractor reasonable assurances of timely and proper performance of this Agreement, in such form and substance as City may require. If Contractor fails or refuses to provide satisfactory assurances of timely and proper performance in the form and by the date required by City, such failure or refusal shall be an event of default.

ARTICLE 12

OTHER AGREEMENTS OF THE PARTIES

12.1 Relationship of Parties

The Parties intend that Contractor shall perform the services required by this Agreement as an independent contractor engaged by City and not as an officer or employee of City, nor as a partner of or joint venture with City. No employee or agent or Contractor shall be or shall be deemed to be an employee or agent of City. Except as expressly provided herein, Contractor shall have the exclusive control over the manner and means of conducting the Solid Waste Handling Services performed under this Agreement, and all Persons performing such services. Contractor shall be solely responsible for the acts and omissions of its officers, employees, Affiliates, contractors, subcontractors and agents. Neither Contractor nor its officers, employees, Affiliates, contractors, subcontractors and agents shall obtain any rights to retirement benefits, workers' compensation benefits, or any other benefits which accrue to City employees by virtue of their employment with City.

12.2 Compliance with Law

In providing the services required under this Agreement, Contractor shall at all times, at its sole cost, comply with all applicable laws and regulations of the United States, the State of California, and any federal, state, regional or local administrative and regulatory agencies, now in force and as they may be enacted, issued or amended, including but not limited to the payment of prevailing wage, if applicable.

12.3 Governing Law

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

12.4 Jurisdiction

Except for those matters where Federal Courts have exclusive jurisdiction, any lawsuits between the Parties arising out of this Agreement shall be brought and concluded in the courts of the State of California, which shall have exclusive jurisdiction over such lawsuits.

With respect to venue, the Parties agree that this Agreement is made in and will be performed in Los Angeles County.

12.5 Assignment

Except as may be provided for in Article 10 (City's Right to Perform Service), Contractor shall not assign its rights, nor delegate, subcontract or otherwise transfer its obligations under this Agreement (collectively referred to as an "assignment") to any other Person without the prior written consent of City. Any such assignment made without the consent of City shall be void and the attempted assignment shall constitute a material breach of this Agreement.

For purposes of this section the term "assignment" shall be given the broadest possible interpretation, and shall include, but not be limited to (i) a sale, exchange or other transfer of substantially all of Contractor's assets dedicated to service under this Agreement to a third party; (ii) a sale, exchange or other transfer of outstanding common stock of Contractor to a third party provided said sale, exchange or transfer may result in a change of control of Contractor; (iii) any dissolution, reorganization, consolidation, merger, re-capitalization, stock issuance or re-issuance, voting trust, pooling agreement, escrow arrangement, liquidation or other transaction which results in a change of ownership or control of Contractor; (iv) any assignment by operation of law, including those resulting from mergers or acquisitions by or of Contractor of any of its Affiliates, insolvency or bankruptcy, making assignment for the benefit of creditors, writ of attachment for an execution being levied against this Agreement, appointment of a receiver taking possession of Contractor's property, or transfer occurring in the event of a probate proceeding; and (v) any combination of the foregoing (whether or not in related or contemporaneous transactions) which has the effect of any such transfer or change of ownership, or change of control of Contractor.

Contractor acknowledges that this Agreement involved rendering a vital service to City's residents and businesses, and that City has selected Contractor to perform the services specified herein based on (1) Contractor's experience, skill and reputation for conducting its Solid Waste Handling Services in a safe, effective and responsible fashion, at all times in keeping with applicable Environmental Laws, regulations and best Solid Waste management practices, and (2) Contractor's financial resources to maintain the required equipment and to support its indemnity obligations to City under

this Agreement. City has relied on each of these factors, among others, in choosing Contractor to perform the services to be rendered by Contractor under this Agreement.

If Contractor requests City's consideration of and consent to an assignment, City may deny or approve such request in its sole and absolute discretion. Any request for an assignment must be approved by the City Manager, and no request by Contractor for consent to an assignment need be considered by City unless and until Contractor has met (or with respect to matters that would only occur upon completion of the assignment if approved, made reasonable assurances that it will meet) the following requirements:

- a) Contractor shall pay City its reasonable expenses for attorney's fees and investigation costs necessary to investigate the suitability of any proposed assignee, and to review and finalize any documentation required as a condition for approving any such assignment. An advance payment towards expenses may be requested by City prior to City consideration of any assignment request and Contractor shall be responsible to pay all costs incurred by City in considering a request for assignment, including those in excess of the aforesaid deposit amount, regardless of whether City consents to the assignment.
- b) Contractor shall pay a transfer fee to the City equal to one percent (1%) of the annual revenue for the most recent twelve (12) months prior to the effective date of the change of ownership, multiplied by the number of remaining years, or fraction thereof, under this Agreement. Notwithstanding the above, payment of a transfer fee will not be required in the event of an assignment to an Affiliate of Contractor;
- c) Contractor shall furnish City with audited financial statements for itself, and the proposed assignee's operations for the immediately preceding three (3) operating years. (This requirement shall not be required of an Affiliate.)
- d) Contractor shall furnish City with a pro-forma financial statement (income statement and balance sheet) for the proposed assignee with the projected results of operations assuming that the assignment is completed. Such pro-forma financial statement shall reflect any debt to be incurred by the assignee as part of the acquisition of Contractor's operations. (This requirement shall not be required of an Affiliate.)

- e) Contractor shall furnish City with satisfactory proof: (i) that the proposed assignee has at least ten (10) years of Solid Waste management experience on a scale equal to or exceeding the scale of operations conducted by Contractor under this Agreement; (ii) that in the last five (5) years, the proposed assignee has not suffered any significant citations or other censure from any federal, state or local agency having jurisdiction over its Solid Waste management operations due to any significant failure to comply with state, federal or local Environmental Laws and that the assignee has provided City with a complete list of any such citations and censures; (iii) that the proposed assignee has at all times conducted its operations in an environmentally safe and conscientious fashion; (iv) that the proposed assignee conducts its Solid Waste management practices in accordance with sound Solid Waste management practices in full compliance with all federal, state and local laws regulating the Collection and Disposal of Solid Waste including Hazardous Substances; and, (v) of any other information required by City to ensure the proposed assignee can fulfill the terms of this Agreement in a timely, safe and effective manner.

Under no circumstances shall City be obliged to consider any proposed assignment by City if Contractor is in default at any time during the period of consideration. Should City consent to any assignment request, such assignment shall not take effect until all conditions relating to City's approval have been met.

12.6 Contracting or Subcontracting

Contractor shall not utilize any subcontractors, in direct interaction with City customers or City staff, for the performance of the services under this Agreement, except with the consent of the City Manager, which may be withheld or delayed at its sole and absolute discretion.

12.7 Binding on Assigns

The provisions of this Agreement shall inure to the benefit to and be binding on the permitted assigns (if any) of the Parties.

12.8 Cooperation in Preparation for Termination or Expiration of Contract

Prior to, and at, the end of the Term or in the event this Agreement is terminated for cause prior to the end of the Term, Contractor shall cooperate fully with City and any

subsequent Solid Waste enterprise it designates to assure a smooth transition of Solid Waste Handling Services. Contractor's cooperation shall include, but not be limited to, providing route lists, Billing information and other operating records needed to service all Premises covered by this Agreement. Cooperation is required in a timely manner to assist with the City's preparation of a request for proposals or a new agreement, as well as at the time of transition. The failure to cooperate with City following termination shall be conclusively presumed to be grounds for specific performance of this covenant and/or other equitable relief necessary to enforce this covenant.

Contractor shall provide a new service provider with all keys, security codes and remote controls used to access garages and Bin enclosures. Contractor shall be responsible for coordinating transfer, including removing Contractor's Containers, immediately after Contractor's final pickups, so as not to disrupt service. Contractor shall provide City with detailed route sheets containing service names and addresses, Billing names and addresses, monthly rate and service levels (number and size of Containers and pickup days) at least ninety (90) days prior to the transition date, and provide an updated list two (2) weeks before the transition and a final list of changes the day before the transition. Contractor shall provide means of access to the new service provider at least one (1) full business day prior to the first day of Collection by another party, and always within sufficient time so as not to impede in any way the new service provider from easily servicing all Containers.

12.9 Parties in Interest

Nothing in this Agreement, whether express or implied, is intended to confer any rights on any Persons other than the Parties to it and their representatives, successors and permitted assigns.

12.10 Waiver

The waiver by either party of any breach or violation of any provisions of this Agreement shall not be deemed to be a waiver of any breach or violation of any other provision nor of any subsequent breach or violation of the same or any other provision. The subsequent acceptance by either Party of any moneys which become due hereunder shall not be deemed to be a waiver of any pre-existing or concurrent breach or violation by the other Party of any provision of this Agreement.

12.11 Contractor's Investigation

Contractor has made an independent investigation (satisfactory to Contractor) of the conditions and circumstances surrounding the Agreement and the work to be performed by it.

12.12 Condemnation

City fully reserves the rights to acquire Contractor's property utilized in the performance of this Agreement, by purchase or through the exercise of the right of eminent domain. This provision is additive, and not intended to alter the rights of the Parties set forth in Article 10.

12.13 Notice

All notices, demands, requests, proposals, approvals, consents and other communications which this Agreement requires, authorizes or contemplates shall be in writing and shall either be personally delivered to a representative of the Parties at the address below or be deposited in the United States mail, first class postage prepaid, addressed as follows:

If to City:

City Manager
City of Pico Rivera
6615 Passons Boulevard
Pico Rivera, CA 90660-1016

If to Contractor: General Manager
NASA Services, Inc.
1701 Gage Road
Montebello, CA 90640

The address to which communications may be delivered may be changed from time to time by a written notice given in accordance with this section.

Notice shall be deemed given on the day it is personally delivered or, if mailed, three (3) days from the date it is deposited in the mail.

12.14 Representatives of the Parties

References in this Agreement to the "City" shall mean the City Council and all actions to be taken by City shall be taken by the City Council except as expressly provided herein. The City Council may delegate, in writing, authority to the City Manager, and/or to other City employees and may permit such employees, in turn, to delegate in writing some or all of such authority to subordinate employees. Contractor may rely upon actions taken by such delegates if they are within the scope of the authority so delegated to them.

Contractor shall, by the Effective Date, designate in writing a responsible officer who shall serve as the representative of Contractor in all matters related to the Agreement and shall inform City in writing of such designation and of any limitations upon his or her authority to bind Contractor. City may rely upon action taken by such designated representative as actions of Contractor unless they are outside the scope of the authority expressly delegated to him/her by Contractor as communicated to City.

12.15 City Free to Negotiate with Third Parties

City may investigate all options for the Collection, transporting, Recycling, processing and Disposal of Solid Waste for periods during which this Agreement has expired or been terminated. Without limiting the generality of the foregoing, City may solicit proposals from Contractor and from third parties for the provision of Solid Waste Handling Services which are the subject of this Agreement, including without limitation Collection services, Disposal services, Recycling services, Green Waste services and processing, and any combination thereof, and may negotiate and execute agreements for such services which will take effect upon the expiration or earlier termination of this Agreement pursuant to Section 11.1 or otherwise.

12.16 Compliance with Municipal Code

Contractor shall comply with those provisions of the municipal code of City which are applicable, and with any and all amendments to such applicable provisions during the Term of this Agreement.

12.17 Privacy

Contractor shall strictly observe and protect the rights of privacy of Customers. Information identifying individual Customers or the composition or contents of a Customer's waste stream shall not be revealed to any Person, governmental unit, private agency, or company, unless upon the authority of a court of law, by statute, or upon valid authorization of the Customer. This provision shall not be construed to preclude Contractor from preparing, participating in, or assisting in the preparation of waste characterization studies or waste stream analyses which may be required by AB 939. This provision shall not apply to reports or records provided to City pursuant to this Agreement.

12.18 Proprietary Information, Public Records

The City acknowledges that a number of the records and reports of Contractor are proprietary and confidential. Contractor is obligated to permit City inspection of its records on demand and to provide copies to City where requested. City will endeavor to maintain the confidentiality of all proprietary information provided by Contractor. Notwithstanding the foregoing, any documents provided by Contractor to City that are public records may be disclosed pursuant to a proper public records request.

ARTICLE 13

MISCELLANEOUS PROVISIONS

13.1 Entire Agreement

This Agreement contains the entire integrated agreement and understanding concerning the subject matter herein and supersedes and replaces any prior negotiations, promises, proposals (including Contractor's Proposal), and agreements between the Parties, whether written or oral. The Parties acknowledges this document has been executed with the consent and upon the advice of counsel. Each of the Parties acknowledges that no Party or agent or attorney of any other party has made any promise, representation, or warranty, express or implied, not contained in this Agreement, to induce the other Party to execute this instrument.

13.2 Section Headings

The article headings and section headings in this Agreement are for convenience of reference only and are not intended to be used in the construction of this Agreement nor to alter or affect any of its provisions.

13.3 References to Laws and Other Agreements

All references in this Agreement to laws shall be understood to include such laws as they may be subsequently amended or re-codified, unless otherwise specifically provided.

13.4 Interpretation

This Agreement, including the Exhibits attached hereto, shall be interpreted and construed reasonably and neither for nor against either Party, regardless of the degree to which either Party participated in its drafting.

13.5 Agreement

This Agreement may not be modified or amended in any respect except by a writing signed by the Parties.

13.6 Severability

If any non-material provision of this Agreement is for any reason deemed to be invalid and unenforceable, the invalidity or unenforceability of such provision shall not affect any of the remaining provisions of this Agreement which shall be enforced as if such invalid or unenforceable provision had not been contained herein.

13.7 Exhibits

Each of Exhibits identified as Exhibit "1" through "5" is attached hereto and incorporated herein and made a part hereof by this reference.

13.8 Attorneys' Fees

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

IN WITNESS WHEREOF, City and Contractor have executed this Agreement as of the day and year first above written.

CITY OF PICO RIVERA

("City")

DATED: _____
CITY OF PICO RIVERA

DATED: _____
NASA Services Inc.

By: _____
Brent Tercero
Mayor

By: _____
Arsen Sarkisian
President

Approved as to form:

By: _____
Arnold Alvarez-Glasman
City Attorney

By: _____
Nick Sarkisian
Vice President

ATTEST:

Rene Bobadilla
City Manager

Ana Jerome
City Manager

EXHIBIT 11
CITY OF PICO RIVERA RATE SCHEDULE (CONTINUED)

Following are the rates for July 1, 2014 through June 30, 2015:

Residential Cart Service	Rate/Month*
Cart Service - one each refuse, recycling and green waste cart	\$ 15.73
Additional Refuse Cart	\$ 6.85
Additional Recycling Cart	\$ -
Additional Green Waste Cart (above two)	\$ 4.06
Additional Special Overage Pickup for Automated Cart Customers (in excess of two pickups per year)	\$ 5.08
Additional Bulky Item pickups (in excess of 10 annual free pickups for Residential Cart Customers, and 1 annual pickup per unit for Residential Bin Customers)	\$ 25.38
Returned Check ("NSF") Fee (applicable to all customers)	\$ 25.38
Credit Card Declined Fee (applicable to all customers)	\$ 25.38

* Including all fees retained by, or paid to, City. These rates to be adjusted by changes in cart rates

EXHIBIT 1
CITY OF PICO RIVERA RATE SCHEDULE

Following are the rates for July 1, 2014 through June 30, 2015:

Monthly Bin Rates*							
Container Size	Pickups per week						
	1	2	3	4	5	6	Extra Empty**
Refuse							
96-gallon cart	\$ 27.88	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 8.96
1 yard bin	\$ 49.79	\$ 81.65	\$ 117.51	\$ 147.38	\$ 174.27	\$ 215.10	\$ 33.85
2 yard bin	\$ 68.71	\$ 120.49	\$ 173.27	\$ 221.07	\$ 310.69	\$ 364.47	\$ 39.83
2 yard compactor	\$ 122.48	\$ 217.09	\$ 311.69	\$ 398.33	\$ 559.64	\$ 656.24	\$ 70.70
3 yard bin	\$ 99.58	\$ 179.25	\$ 255.93	\$ 329.61	\$ 408.28	\$ 483.97	\$ 45.81
3 yard compactor	\$ 179.25	\$ 321.64	\$ 460.06	\$ 592.51	\$ 735.91	\$ 872.34	\$ 81.65
4 yard bin	\$ 128.46	\$ 235.02	\$ 334.60	\$ 434.18	\$ 537.74	\$ 637.32	\$ 50.79
4 yard compactor	\$ 232.02	\$ 422.22	\$ 603.47	\$ 781.72	\$ 968.92	\$ 1,147.17	\$ 92.61
6 yard bin	\$ 147.38	\$ 264.89	\$ 379.40	\$ 487.95	\$ 605.46	\$ 717.98	\$ 114.52
Recycling							
96-gallon cart ***	\$ 10.95	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
3 yard bin	\$ 39.83	\$ 71.70	\$ 102.57	\$ 131.45	\$ 163.31	\$ 194.19	\$ 17.93
Manure							
96-gallon cart	\$ 33.13	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
2 yard bin	\$ 81.65	\$ 158.34	\$ 235.02	\$ 312.68	\$ 389.36	\$ 466.04	\$ 47.80
3 yard bin	\$ 118.34	\$ 235.54	\$ -	\$ -	\$ -	\$ -	\$ -
Food Scrap Recycling							
96-gallon	\$ 16.92	\$ 33.84	\$ 50.77	\$ 67.69	\$ 84.61	\$ 101.53	\$ 16.92
Additional Services							
Locking Bin	\$ 13.94	\$ 21.91	\$ 29.87	\$ 37.84	\$ 45.81	\$ 53.77	\$ 6.97
Scout Truck	\$ 25.90	\$ 51.78	\$ 77.68	\$ 103.56	\$ 129.46	\$ 154.36	\$ 25.90

* Including all fees retained by, or paid to, City. These rates to be adjusted by changes in bin rates

** Extra empties for locking bins may be charged and extra \$5.00 in additional to these rates for each additional tip

*** Multi-family customers may receive recyclables collection using 96-gallon recycling carts at not additional charge

EXHIBIT 1
CITY OF PICO RIVERA RATE SCHEDULE (CONTINUED)

Following are the rates for July 1, 2014 through June 30, 2015:

Additional Service Charges	Rate Per Service *
Commercial Bulky Item Pickup:	
-First Item	\$ 18.12
-Each additional item on same pick-up	\$ 10.19
Bin Return Trip / Dry Run Fee	\$ 76.13
Bin Re-delivery Fee (if bins are pulled for non-payment)	\$ 65.98
Bin Cleaning (over once per year)	\$ 40.60
3-yard Temporary Bin	
-First Bin (delivery, disposal and 7-day rental included)	\$ 111.66
-Bin exchange	\$ 55.83
-Rental per day after 7 days without a dump	\$ 5.08
Emergency Service Rates - one crew and one collection truck	\$ 86.28

* Including all fees retained by, or paid to, City. These rates to be adjusted by changes in bin rates

EXHIBIT 1
CITY OF PICO RIVERA RATE SCHEDULE (CONTINUED)

Following are the rates for July 1, 2014 through June 30, 2015:

Roll-off Box Charges	Rate
Permanent Roll-off Box Service	
Standard Roll-off Box - Rate per pull (including delivery and rental)	
-Standard roll-off box (40 yard)	\$ 177.64
-Low-boy roll-off box	\$ 177.64
Compactor Roll-off Box - Rates per pull (excluding compactor rental)	\$ 228.40
Per Ton Rates for Permanent Roll-Off Boxes	
-Refuse	\$ 48.72
-Green Waste	\$ 39.59
-Mixed Construction and Demolition Debris	\$ 48.72
Temporary Roll-off Box Service	
Standard Roll-off Box - Rate per pull (including delivery, 7-day rental and disposal up to six tons)	
-Standard roll-off box (40-yard)	\$ 502.47
-Low-boy roll-off box	\$ 456.80
-Per day rental after 7 days without a pull	\$ 35.53
Per Ton Rates for Temporary Roll-Off Boxes - for each ton over six tons/load	
-Refuse	\$ 48.72
-Green Waste	\$ 39.59
-Mixed Construction and Demolition Debris	\$ 48.72
Additional Roll-off Box Fees	
-Dry Run / Redelivery / Return Trip / Relocation Fee	\$ 76.13
-Weight Ticket Copy Fee	\$ 2.54

* Including all fees retained by, or paid to, City. These rates to be adjusted by changes in roll-off rates

EXHIBIT 2

Contractor's Faithful Performance Bond

KNOW ALL MEN BY THESE PRESENTS:

That _____, a California _____, as PRINCIPAL, and _____, a Corporation organized and doing business by virtue of the laws of the State of California, and duly licensed for the purpose of making, guaranteeing, or becoming sole surety upon bonds or undertakings required or authorized by the laws of the State of California, as SURETY, are held and firmly bound to City, hereinafter called OBLIGEE, in the penal sum of two hundred fifty thousand dollars (\$250,000) lawful money of the United States, for the payment of which, well and truly to be made, we and each of us hereby bind ourselves, and our and each of our heirs, executors, administrators, successors, and assigns, jointly and severally, firmly by these presents.

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH THAT:

WHEREAS, the above bounden PRINCIPAL has entered into a contract, entitled "INTEGRATED SOLID WASTE MANAGEMENT SERVICES" with City, to do and perform the following work, to wit: Collect, Process and dispose of Solid Waste generated within City, in accordance with the contract.

NOW, THEREFORE, if the above bounden PRINCIPAL shall well and truly perform, or cause to be performed each and all of the requirements and obligations of said contract to be performed by said PRINCIPAL, as in said contract set forth, then this BOND shall be null and void; otherwise it will remain in full force and effect.

And the said Surety, for value received hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract or to the work to be performed there under or the specifications accompanying the same shall in any wise affect its obligations on this BOND, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract or to the work or to the specifications.

In the event suit is brought by OBLIGEE to enforce the provisions of this bond, said Surety will pay to OBLIGEE a reasonable attorney's fee, plus costs of suit, in an amount to be fixed by the court.

IN WITNESS WHEREOF, said PRINCIPAL and said SURETY have caused these presents to be duly signed and sealed this _____ day of _____, 2012.

a California Corporation

SURETY

By: _____
(PRINCIPAL)
(SEAL)

By: _____
(ATTORNEY IN FACT)
(SEAL)

**EXHIBIT 3
STREET SWEEPING ROUTING - OCTOBER 2011**

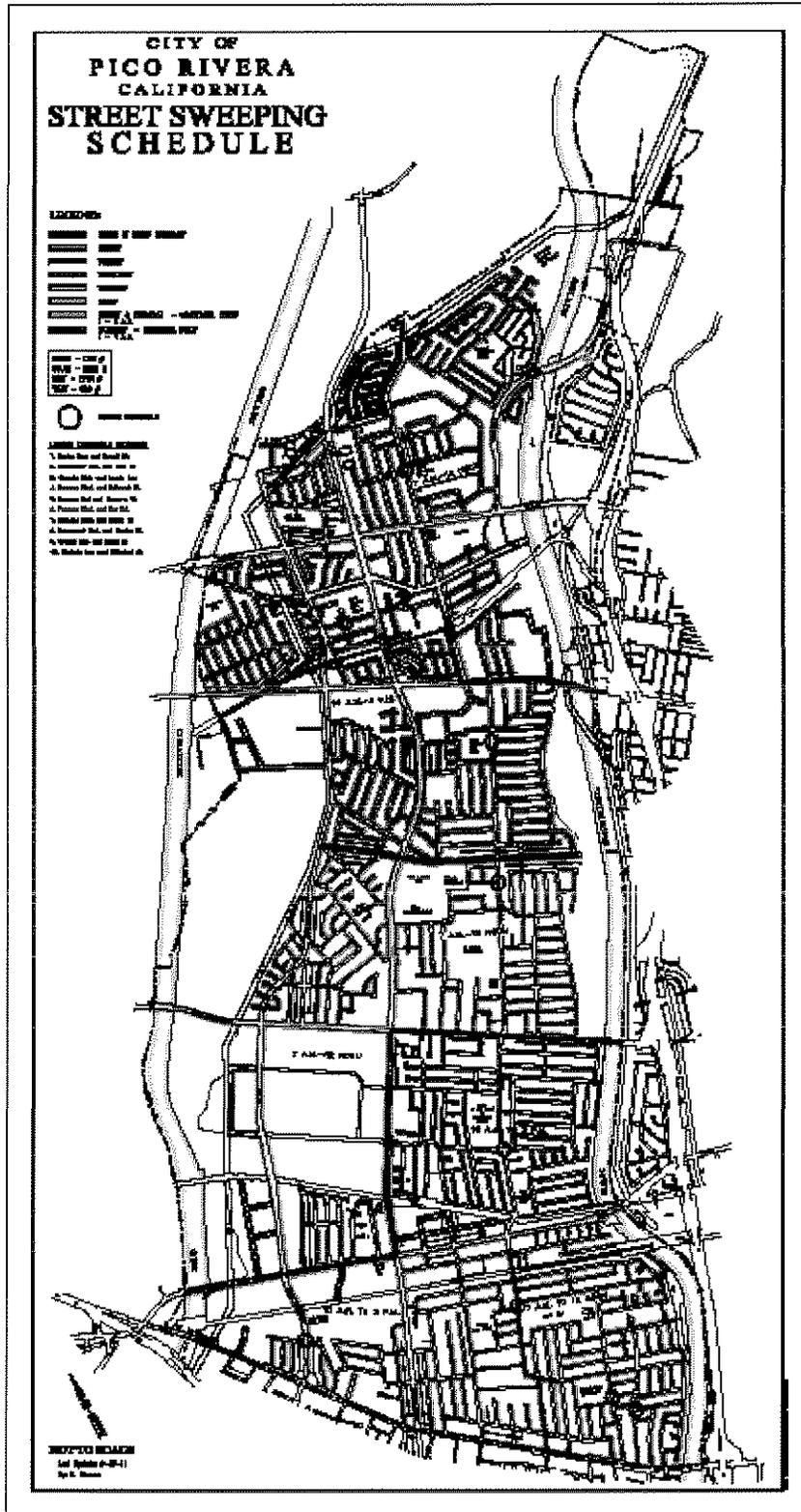


EXHIBIT 4

NOTARY CERTIFICATION

STATE OF CALIFORNIA)

COUNTY OF _____) ss:

On _____, _____, before me, the undersigned, a Notary Public in and for the State of California, personally appeared _____, known to me to be the _____ of Contractor that executed the within instrument on behalf of the Contractor therein named, and acknowledged to me that such Contractor executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal in the County of _____ this _____ day of _____, _____.

Notary Public

My Commission Expires:



To: Mayor and City Council

From: City Manager

Meeting Date: September 23, 2014

Subject: PHOENIX GROUP INFORMATION SYSTEMS - CITATION PROCESSING AND COLLECTION SERVICES – APPROVAL OF AGREEMENT

Recommendation:

- 1) Approve Agreement with Phoenix Group Information Systems to provide citation processing and collection services at an annual cost not-to-exceed \$48,700. The term of the Agreement shall be for three (3) years commencing October 1, 2014 and shall automatically renew for a maximum of two (2) subsequent 1-year periods unless terminated earlier in the manner set forth in the Agreement.
- 2) Authorize the Mayor to execute Agreement.

Fiscal Impact: \$48,700 annually (General Fund)

Background:

The City utilizes the services of Phoenix Group Information Systems (Phoenix) located at 2670 North Main Street, Suite 200, Santa Ana, CA 92705, to process parking citations and for collection services. Parking citations are electronically sent to Phoenix which collects the fines, issues delinquent notices, and generates various reports utilized by staff. For the fiscal year 2013-2014, Phoenix processed over 16,807 violations issued by City Parking Enforcement Officers (PEOs), with a value of over one million dollars. Additionally, all parking tickets issued by the Sheriff's Department at the Pico Rivera station are also processed by Phoenix.

Phoenix began citation processing and collection services for the City in September 2003. In 2011 the agreement was renewed for a period of 3 years with a clause to continue on a month-to-month basis until renewed. Staff recommends that the City continue to use Phoenix for these services.

COUNCIL AGENDA REPORT – MTG. OF 09/23/14
PHOENIX GROUP INFORMATION SYSTEMS - CITATION PROCESSING AND
COLLECTION SERVICES

Page 2 of 2

Phoenix has provided quality service to the City of Pico Rivera over the years. They have not raised their basic rates since 2003 and provide very good technical support. In addition, they keep City staff apprised of any upcoming changes in state fees or enforcement laws.

Staff's proposal is to amend the agreement for a period of 3 years which shall automatically renew for a maximum of two (2) subsequent one-year periods. The estimated cost of the service is \$48,700 annually. Fees are dependent upon the amount of citations processed and are charged in accordance with the attached rate schedule, Exhibit B.

Recently, with assistance and advice from Phoenix, Parking Enforcement Officers (PEOs) began utilizing the latest in technology to issue citations and access photos and reports. Utilizing the latest Wi Fi technology and Samsung Note smart phones staff is able to have immediate access to any citations and/or photos generated by PEOs. This allows access to data to almost real time and improves our customer service responses. Previously we would have to wait 24 to 48 hours for the information to be available. Additionally, time saved by PEOs on report writing allows them to be more productive in the field. Phoenix provided technical assistance at no cost as part of the services they already provide.

Phoenix offers a cost-effective service. It should be noted that Phoenix has not raised its rates since the original agreement was signed and will continue with its present rate structure through at least the first year of this contract. Phoenix continues to provide excellent service and has a great working relationship with City staff.



Rene Bobadilla

RB:BM:SG:AR

Enc.

- 1) Agreement
- 2) Exhibit A to Agreement
- 3) Exhibit B to Agreement

AGREEMENT NO. _____
AGREEMENT BETWEEN THE CITY OF PICO RIVERA AND
PHOENIX GROUP INFORMATION SYSTEMS

1. IDENTIFICATION

THIS AGREEMENT (“Agreement”) is entered into by and between the City of Pico Rivera, a California municipal corporation (the “City”) and Phoenix Group Information Systems, a California Corporation (the “Contractor”). The City and the Contractor are referred to herein individually as a “Party” and collectively as “Parties.”

2. RECITALS

- 2.1. The City has determined that it requires professional services from Contractor to process City/Sheriff parking citations.
- 2.2. The Contractor represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. The Contractor further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

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

3. TERM

The term of this Agreement shall commence on October 1, 2014 and shall expire on October 1, 2017. The City shall hold two one-year extension options, which the City may exercise to extend the Agreement up to October 1, 2019. If the City desires to exercise either option to extend, the City shall notify the Contractor within thirty (30) days prior to the expiration of then-current term.

4. CONTRACTOR’S SERVICES

- 4.1. The Contractor shall perform the services identified in the Scope of Services (attached hereto and incorporated by reference as Exhibit A). The City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.
- 4.2. The Contractor shall perform all work to the highest professional standards of the Contractor’s profession and in a manner reasonably satisfactory to the City.

5. COMPENSATION

- 5.1. The City agrees to compensate the Contractor for the services provided under this Agreement to the City's satisfaction, as solely determined by the City. The Contractor agrees to accept in full satisfaction for such services, payment in accordance with the Fee Schedule (attached hereto and incorporated by reference as Exhibit B).
- 5.2. The total compensation payable to the Contractor under this Agreement shall not exceed Forty-eight thousand, seven hundred Dollars (\$48,700.00) unless specifically approved in advance, in writing, by the City.
- 5.3. The Contractor shall submit a monthly invoice to the City for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within fourteen (14) days of receipt of each invoice, the City shall notify the Contractor in writing of any disputed amounts included on the invoice. Within thirty (30) calendar days of receipt of each invoice, the City shall pay all undisputed amounts included on the invoice. Except as provided in this Agreement, the City shall not withhold applicable taxes or other authorized deductions from payments made to the Contractor.
- 5.4. Prices and fees are subject to change in accordance with the CPI (Consumer Price Index) and State and County municipal fee schedule. Contractor shall provide the City with written notification of any changes in fees proposed upon renewal of the agreement or extension of the term. Changes shall not be effective until the City provides written approval.

6. BUSINESS LICENSE

The Contractor shall obtain a City business license prior to commencing performance under this Agreement.

7. COMPLIANCE WITH LAWS

The Contractor shall keep informed of State, Federal and local laws, ordinances, codes and regulations that in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Contractor shall at all times comply with such laws, ordinances, codes and regulations. Without limiting the generality of the foregoing, if the Contractor is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of California pursuant to sections 2105 and 17708.01, *et seq.* of the California Corporations Code. The City, its officers and employees shall not be liable at law or in equity occasioned by failure of the Contractor to comply with this Section.

8. CONFLICT OF INTEREST

The Contractor covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by the Contractor under

this Agreement, or which would conflict in any manner with the performance of its services hereunder. During the term of this Agreement, the Contractor shall not perform any work for another person or entity for whom the Contractor was not working at the Commencement Date if: (i) such work would require the Contractor to abstain from performance of the work under this Agreement pursuant to a conflict of interest; and (ii) the City has not consented in writing prior to the Contractor's performance of such work.

9. PERSONNEL

The Contractor represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by the Contractor or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. The Contractor reserves the right to determine the assignment of its own employees to the performance of the Contractor's services under this Agreement, but the City reserves the right, for good cause, to require the Contractor to exclude any employee from performing services on the City's premises. Nick Stanton, Vice President of Client Relations shall be the Contractor's project administrator and shall have direct responsibility for management of the Contractor's performance under this Agreement. No change shall be made in the Contractor's project administrator without the City's prior written consent.

10. INDEPENDENT CONTRACTOR

- 10.1. The Contractor is, and shall at all times remain as to the City, a wholly independent contractor. The City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise a joint venture or member of any joint enterprise with the Contractor. The Contractor shall have no power to incur any debt, obligation, or liability on behalf of the City or otherwise to act on behalf of the City as an agent. Neither the City nor any of its officers, employees or agents shall have control over the conduct of the Contractor or any of the Contractor's employees, except as set forth in this Agreement. The Contractor shall not at any time represent that it is, or that any of its agents or employees are, in any manner employees of the City.
- 10.2. The Contractor is not entitled to any benefit typically associated with an employee such as medical, sick leave, retirement, or vacation benefit. The Contractor expressly waives any claim to any such rights.
- 10.3. The personnel performing services pursuant to this Agreement on behalf of Contractor shall be under Contractor's exclusive direction and control. Neither the City, nor any of its employees, shall have any control over the manner, mode, or means by which Contractor, its agents, or its employees, perform the services required herein, except as otherwise set forth herein. The City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, representatives, or agents, or in fixing their number, compensation, or hours of service.

11. OWNERSHIP OF WRITTEN PRODUCTS

- 11.1. All reports, documents or other written material (“written products”) developed by the Contractor in the performance of this Agreement shall be and remain the property of the City without restriction or limitation upon its use or dissemination by the City. The Contractor may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by the Contractor.
- 11.2. The City acknowledges that the software provided by the Contractor, and software programs provided by the Contractor and used by the City, have been developed by the Contractor. The software provided is the Contractor’s PROPRIETARY AND INTELLECTUAL PROPERTY.

12. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by the Contractor or provided for performance of this Agreement are deemed confidential and shall not be disclosed by the Contractor without prior written consent by the City. The City shall grant such consent if disclosure is legally required. Upon request, all the City data and any copies thereof shall be returned to the City upon the termination or expiration of this Agreement.

13. INDEMNIFICATION

- 13.1. The Contractor hereby agrees to protect, indemnify and hold the City and its employees, officers and servants free and harmless from any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgment, interests, court costs, legal fees (including reasonable attorneys’ fees incurred by counsel of the City’s choice), expert costs, expert fees and all other expenses incurred by the City to the maximum extent allowed by law arising in favor of any party, including claims, liens, debts, personal injuries, including employees of the City, death or damages to property (including property of the City) and without limitation by enumeration, all other claims or demands of every character occurring or arising directly out of or as a consequence of the performance of the work performed hereunder, except only such injury to persons or damage to property due or claimed to be due to the sole negligence of the City. This provision is not intended to create any cause of action in favor of any third party against Contractor or the City or to enlarge in any way the Contractor’s liability but is intended solely to provide for indemnification of the City for liability for damages or injuries to third persons or property arising from Contractor’s negligent performance hereunder.
- 13.2. The provisions of this Section 13 are intended by the Parties to be interpreted and construed to provide the fullest protection possible under the law to the City. The Contractor acknowledges that the City would not enter into this Agreement in the

absence of the Contractor's commitment to indemnify and protect the City as set forth herein.

- 13.3. The City shall have the right to offset against the amount of any compensation due the Contractor under this Agreement any amount due the City from the Contractor as a result of the Contractor's failure to pay the City promptly any indemnification arising under this Section 13 and related to the Contractor's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.
- 13.4. The obligations of the Contractor under this Section 13 will not be limited by the provisions of any workers' compensation act or similar act. The Contractor expressly waives its statutory immunity under such statutes or laws as to the City, its officers, agents, employees and volunteers.
- 13.5. The Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 13 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of the Contractor in the performance of this Agreement.
- 13.6. In the event the Contractor fails to obtain such indemnity obligations from others as required in this Section 13, the Contractor's duty to indemnify pursuant to this Section 13 shall extend to indemnify the City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers from and against any and all losses, claims, liens, demands and causes of action of every kind and character including, but not limited to, the amounts of judgment, interests, court costs, legal fees (including reasonable attorneys' fees incurred by counsel of the City's choice), expert costs, expert fees and all other expenses incurred by the City to the maximum extent allowed by law arising in favor of any party, including claims, liens, debts, personal injuries, including employees of the City, death or damages to property (including property of the City) and without limitation by enumeration, all other claims or demands of every character occurring or arising directly out of or as a consequence of the performance of the work performed hereunder by the Contractor's subcontractors or any other person or entity involved by, for, with or on behalf of the Contractor in the performance of this Agreement.
- 13.7. The City does not waive any rights that it may possess against the Contractor because of the acceptance by the City, or the deposit with the City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

14. PERS ELIGIBILITY INDEMNITY

- 14.1. In the event that the Contractor or any employee, agent, or subcontractor of the Contractor providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, the Contractor shall indemnify, defend, and hold harmless the City for the payment of any employee and/or employer contributions for PERS benefits on behalf of the Contractor or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of the City.
- 14.2. Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, the Contractor and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by the City, including but not limited to eligibility to enroll in PERS as an employee of the City and entitlement to any contribution to be paid by the City for employer contribution and/or employee contributions for PERS benefits.
- 14.3. Contractor is solely responsible for compliance with PERS restrictions applicable to any of Contractor's employees, agents, or subcontractors.

15. INSURANCE

- 15.1. During the term of this Agreement, the Contractor shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with the Contractor's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:
 - 15.1.1. Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence.
 - 15.1.2. Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of One Million Dollars (\$1,000,000) per claimant and One Million dollars (\$1,000,000) per incident.
 - 15.1.3. Worker's Compensation insurance as required by the laws of the State of California.
- 15.2. The Contractor shall require each of its subcontractors, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

- 15.3. The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.
- 15.4. The Contractor agrees that if it does not keep the aforesaid insurance in full force and effect the City may either (i) immediately terminate this Agreement; or (ii) obtain the necessary insurance at the Contractor's expense.
- 15.5. At all times during the term of this Agreement, the Contractor shall maintain certificate(s) of insurance and required endorsements on file with the City Clerk, showing that the aforesaid policies are in effect in the required amounts and, for the general liability and automobile liability policies, naming the City as an Additional Insured.
- 15.6. The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming the City, its officers, employees, agents and volunteers as Additional Insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to the City. The Contractor agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.
- 15.7. At least fourteen (14) days prior to the expiration of any insurance required by this Agreement, the Contractor shall provide proof of insurance policy renewals or replacements with insurance policies providing at least the same coverage. The Contractor shall provide such proof to the City at least two weeks prior to the expiration of the coverages.
- 15.8. The general liability and automobile policies of insurance provided by the Contractor shall be primary to any coverage available to the City. Any insurance or self-insurance maintained by the City, its officers, employees, agents or volunteers, shall be in excess of the Contractor's insurance and shall not contribute with it.
- 15.9. All insurance coverage provided pursuant to this Agreement shall not prohibit the Contractor, and the Contractor's employees, agents or subcontractors, from waiving the right of subrogation prior to a loss. the Contractor hereby waives all rights of subrogation against the City.
- 15.10. Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, the Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to the City, or the Contractor shall procure a bond guaranteeing payment of losses and expenses.

15.11. Procurement of insurance by the Contractor shall not be construed as a limitation of the Contractor's liability or as full performance of the Contractor's duties to indemnify, hold harmless and defend under Section 13 of this Agreement.

16. MUTUAL COOPERATION

16.1. The City shall provide the Contractor with all pertinent data, documents and other requested information as is reasonably available for the proper performance of the Contractor's services under this Agreement.

16.2. In the event any claim or action is brought against the City relating to the Contractor's performance in connection with this Agreement, the Contractor shall render any reasonable assistance that the City may require.

17. RECORDS AND INSPECTIONS

The Contractor shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. The City shall have the right to access and examine such records, without charge, during normal business hours. The City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

18. PERMITS AND APPROVALS

The Contractor shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, encroachment permits and building and safety permits and inspections.

19. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand or overnight courier service during the Contractor's and the City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the Parties may, from time to time, designate in writing).

If to the City: Steve Gutierrez, Supervisor, 6615 Passons Blvd, PO Box 1016, Pico Rivera, CA. 90660-1016

If to the Contractor: Nick Stanton, Vice-President of Client Relations, 2677 N. Main St., Santa Ana, CA 92705

20. SURVIVING COVENANTS

The Parties agree that the covenants contained in Sections 12, 13, 14 and Paragraph 16.2 of Section 16, of this Agreement shall survive the expiration or termination of this Agreement.

21. TERMINATION

- 21.1. The City may terminate this Agreement at any time without cause by giving thirty (30) calendar days written notice to the other of such termination and specifying the effective date thereof. If this Agreement is terminated as provided herein, Contractor shall be paid only the total amount equal to the service Contractor has provided, to the City's satisfaction, as determined solely by the City, as of the termination date. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Agreement or the value of services provided as of date of termination.
- 21.2. If for any reason, Contractor shall fail to fulfill in a timely and proper manner its obligation under this Agreement, or if Contractor shall violate any of the covenants or stipulations of this agreement, the City shall then have the right to terminate this agreement by giving a five (5) calendar day written notice to Contractor. The notice shall refer to this clause, shall specify the nature of the alleged default, and shall specify the effective date of the termination. The Contractor will be paid a total amount equal to the service Contractor has provided, to the City's satisfaction, as determined solely by the CITY, as of the termination date. In no event shall the amount payable upon termination exceed the total maximum compensation provided for in this Agreement.
- 21.3. The Contractor agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All the City data, documents, objects, materials or other tangible things, including, but not limited to electronic and handwritten citations, reports, electronic media and other relevant documents, shall be returned to the City upon the termination or expiration of this Agreement. This including copies and reproductions assembled or prepared by Contractor employees, agency, or officers, in connection with this Agreement.

22. ASSIGNMENT

The Contractor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without the City's prior written consent, and any attempt to do so shall be void and of no effect. The City shall not be obligated or liable under this Agreement to any Party other than the Contractor.

23. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

- 23.1. In the performance of this Agreement, the Contractor shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation, and will take affirmative action to avoid such discrimination.

- 23.2. The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor in relation to this Agreement, state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.
- 23.3. The Contractor will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement, except contracts or subcontracts for standard commercial supplies or raw materials.

24. HEADINGS

The headings appearing at the commencement of each Section of this Agreement, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the Section or paragraph at the head of which it appears, the Section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

25. NON-WAIVER

- 25.1. The waiver by the City or the Contractor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. The City's payment to the Contractor shall not constitute a waiver of any breach of covenant, or any default which may then exist on the part of the Contractor. The City's payment shall not impair or prejudice any right or remedy available to the City with regard to such breach or default. No term, covenant or condition of this Agreement shall be deemed waived by the City or the Contractor, unless expressed in writing.
- 25.2. The Contractor shall not be liable for any failure to perform if the Contractor presents acceptable evidence, in the City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of the Contractor.
- 25.3. The respective duties and obligations of the parties hereunder shall be suspended while and so long as performance hereto is prevented or impeded by strikes, disturbances, riots, fire, severe weather, government action, war acts, acts of God, or any other cause similar or dissimilar to the foregoing which are beyond the control of the party from whom the affected performance was due.

26. COURT COSTS

- 26.1. Each right, power, and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any Party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such Party of any of all of such other rights, powers or remedies.
- 26.2. If any action, at law or in equity, is brought to enforce or to interpret any provisions of this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorney's fees, costs and necessary disbursements, in addition to such other relief as may be sought and awarded. The venue for any litigation shall be Los Angeles County, California.

27. GOVERNING LAW

This Agreement shall be governed by and construed in accordance with laws of the State of California. In the event of litigation between the parties, venue in state trial courts shall lie exclusively in the County of Los Angeles. In the event of litigation in a U.S. District Court, exclusive venue shall lie in the Central District of California.

28. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

29. ENTIRE AGREEMENT

All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between the City and the Contractor with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the Parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by the City and the Contractor.

Each Party has cooperated in the drafting and preparation of this Agreement. Therefore, this Agreement shall not be construed against any Party on the basis that such Party drafted this Agreement or any provision within it.

TO EFFECTUATE THIS AGREEMENT, the Parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

“CITY”
CITY OF PICO RIVERA

“CONTRACTOR”
PHOENIX GROUP INFORMATION SYSTEMS

Rene Bobadilla, City Manager

Robert J. Murphy

Dated: _____

Dated: 9/17/14

ATTEST:

Anna Jerome, City Clerk

APPROVED AS TO FORM:

Arnold M. Alvarez-Glasman
City Attorney

EXHIBIT "A"

SCOPE OF SERVICES

CONTRACTOR shall perform the following services for the CITY:

1.0 PROCESSING SERVICES

- 1.1 Management System. CONTRACTOR shall provide the CITY with a citation processing management system and access to the database via Internet and Wincite™.
- 1.2 Notices. CONTRACTOR shall generate and mail notices for citations that have been referred to CONTRACTOR by CITY.
 - 1.2.1 Notices shall follow the guidelines set forth in California Vehicle Code Section 40207.
 - 1.2.2 Notices shall be sent from CONTRACTOR to the Registered Owner ("RO") of the cited vehicle at the time the citation is written.
 - 1.2.3 CONTRACTOR shall obtain RO information from current California Department of Motor Vehicles ("DMV") records.
 - 1.2.4 Notices must include:
 1. All information included on the citation;
 2. The consequences for nonpayment, and/or any additional information required by the code section;
 3. CONTRACTOR will modify the parking delinquent notice to include a warning statement that if the parking citation remains unpaid, the data will be turned over to Collection Recovery; and
 4. A remittance return portion for payment.
 - 1.2.5 Additional Letters may be generated if required by CITY.
- 1.3 Payment Status. CONTRACTOR shall update the CITY on a monthly basis regarding status of payment updates.
 - 1.3.1 The CITY may update this information directly to the database remotely.
- 1.4 Maintaining Online Communications. CONTRACTOR shall be responsible for maintaining online communications with the DMV as required as part of the Agreement to request registered owner information.
- 1.5 The City shall forward any payment information as well as cancellations, dismissals, voids, corrections and/or other relevant information pertaining to the citation(s) status.

2.0 COLLECTION SERVICES

- 2.1 Generally. CONTRACTOR shall provide collections services for all parking citations issued by the CITY.

EXHIBIT A
SCOPE OF SERVICES

- 2.2 Late Fees. Late fees are included within the accounts assigned. No additional fees or interest will be added without the consent of the CITY.
- 2.3 Collection Agency. CONTRACTOR shall work with a certified collection agency for all unpaid collections.
- 2.3.1 Parking citations shall meet the criteria of special collections under any of the following conditions:
1. The citation is 12 months old and NOT on DMV hold;
 2. The citation has been returned by DMV as uncollected, recalled due to age, or rejected by DMV; or
 3. The citation was issued to an out-of-state vehicle and the delinquent notice is 90 days past the mailing date of the notice.
- 2.3.1 The eligible data ready to send to collections is automatically created daily and updated through the FTP site for the collection agency to automatically pick up and process the information. Additionally any payments made at the CITY or through the collection agency will be updated into Wincite through the daily routine updating process.
- 2.3.2 At all times during the term of this Agreement, all third party collection agencies shall comply with all applicable laws and requirements including, but not limited to, the following: (a) FDCPA, (b) PPA, and (c) Fair Debt Practice Act.
- 2.4 Collections Daily Protocol. Collections is required to have a daily communication protocol for extracting new records and updating dispositions. The layout of these files will be directed and provided by CONTRACTOR. These files consist of:
- 2.4.1 New citations: CONTRACTOR will provide a daily export of new eligible records for collections to begin collection process. Collections will pick-up and import these files (records) and begin processing within one business day.
- 2.4.2 Dispositions: CONTRACTOR will provide daily export to provide a file with any new payments, dispositions or changes. CONTRACTOR will update any new changes within one day.
- 2.4.3 Collection Company Updates: CONTRACTOR shall provide and update Wincite daily with all payments collected by the collection agency.
- 2.5 Collections Monthly Protocol. The collection company will work with CONTRACTOR to reconcile month end and insure all payments agree to Wincite.
- 2.6 FTB Interagency Intercept Collections. The State Controller's Office ("SCO") expanded the Interagency Intercept program to include intercepts to FTB funds, refunds, and unclaimed property or California State Lottery winnings for unpaid parking citations.
- 2.6.1 CONTRACTOR will set up an account with the FTB if not already established.

EXHIBIT A
SCOPE OF SERVICES

- 2.6.2 CONTRACTOR will submit an annual notification of intent, then a routine export for any citations that meet the established criteria along with weekly payment updates.
- 2.6.3 CONTRACTORS shall notify CITY immediately or within 72 hours of any claim that may involve this program.

3.0 PAYMENT PROCESSING

- 3.1 Generally. CONTRACTOR shall provide payment processing services for CITY. CONTRACTOR has an internal online payment processing capability to insure correct payment and due date.
 - 3.1.1 CONTRACTOR will do everything it its power to reduce duplicate payments.
- 3.2 Invoicing. Invoices for total services provided by CONTRACTOR, including processing, collections, and additional agreed upon fees shall be sent monthly to CITY.
- 3.3 Bank Returned Checks. Fees established by CONTRACTOR for bank returned checks and additional follow-up shall be included to the citation/account as directed by CITY.
- 3.4 Credit Card Payments. Credit Card payments shall be accepted by phone and/or internet.
 - 3.4.1 Cited Persons (“INDIVIDUAL”) can connect to an optional secured website provided by CONTRACTOR.
 - 3.4.2 Access to INDIVIDUAL information will be available based on a License Plate or Citation Number.
 - 3.4.3 Wincite™ will access, store, and present data in real time.
 - 3.4.4 Data is comprised of citation and INDIVIDUAL information and includes total amount due (may include credit card fees) before final authorization is complete.
 - 3.4.5 Payments can be made with Discover, MasterCard, Visa or AMEX. The INDIVIDUAL will be charged a credit card transaction fee of \$3.95 or 3.25 % with no additional costs passed on to the CITY.
 - 3.4.6 If a charge back notification is received by CONTRACTOR, CONTRACTOR shall take the following steps:
 - 1. CONTRACTOR shall locate the citation(s) that were paid on the transaction being disputed;
 - 2. CONTRACTOR shall send a letter of dispute describing the charge to the credit card company;
 - 3. If the dispute is found in favor of the credit card holder, then the charge back is accepted and CONTRACTOR shall send a notice of unpaid fees to the registered owner;
 - 4. CONTRACTOR shall reverse the payment of the citation(s) and reopen the citation(s) immediately;

EXHIBIT A
SCOPE OF SERVICES

5. CONTRACTOR shall enter notes regarding the credit card payment information including, but not limited to: (a) original transaction ID(s); (b) chargeback ID(s); and (c) any pertinent correspondence regarding the charge back;
 6. CONTRACTOR shall file charge back paperwork for later retrieval if necessary; and
 7. CONTRACTOR shall reflect charge backs in the monthly reporting.
- 3.5 Bank Account and Depositing Procedures. Mail (INDIVIDUAL Non-Electronic Payments) shall be picked up from a local post office daily and normally processed within 24 hours.
- 3.5.1 Bank deposits are endorsed to the bank selected by CITY.
 - 3.5.2 Payments can be taken at both the CITY and at CONTRACTOR.
 - 3.5.3 CITY shall have an internal online payment processing capability to enter payment data.
- 3.6 The CITY retains the right to change the banking procedure. Changes to the procedure will be agreed upon in writing between the CITY and CONTRACTOR.

4.0 PARKING PERMITS

- 4.1 Generally. CONTRACTOR shall design and implement the capability for online parking permit purchases.
- 4.1.1 The system and service will allow online purchases for parking permits and provide the ability to Track, Edit and View all permits purchased.
 - 4.1.2 Services will include the following:
 1. An online option to purchase permits;
 2. A web-based system for online permit processing;
 3. Permits purchased by credit card will include an immediate temporary permit;
 4. Provide a permit application form that is downloadable for mail-in payment option;
 5. Provide the option for the CITY and CONTRACTOR to fulfill the permits;
 6. Provide a secure log-on for each CITY operator with specific capabilities;
 7. The purchase will provide a receipt for the permit purchase;
 8. Provide a printing function for the CITY to reprint an existing temporary permit;
 9. Provide CITY access to the Permit system through a web based system (asp.net program);
 10. Allow for permits to be edited remotely;
 11. Provide a search mode to find permit information by license plate, contact name or permit number;

EXHIBIT A
SCOPE OF SERVICES

12. Maintain the following data in the system: Name, Address, Telephone number, Vehicle Number, Make, Model Color and Year;
 13. Provide data entry and maintenance screens for entering permit data and viewing status on existing permits;
 14. Provide the ability for the City to waive fees for lost, damaged, or stolen permits if fees have already been paid;
 15. Provide management reports to identity payments and all activity in the permit system; and
 16. Provide instructions on the website for various other permits, such as Staff, Disabled Person's permits, or Carpool.
- 4.1.3 Disbursement of permit revenue shall be made to the CITY the following month with detailed reporting to reflect and balance permit activity.
- 4.1.4 Letters of renewal may optionally be generated in advance, if applicable.
- 4.1.5 The following custom settings can be implemented:
1. The cost of the permit is directed by the City;
 2. The number of permits per individual may be limited by name or address;
 3. Custom design and specification for the permit decal and/or hang tag; and
 4. Dates valid for permit purchases and restrictions.
- 4.2 Credit Card Payments. CONTRACTOR shall establish a client website for public use when purchasing a permit.
- 4.2.1 Credit card options for payment will include: Discover, Master Card, Visa, or AMEX.
- 4.2.2 The Secure site will verify the credit card, approve the payment and update the transaction in real-time.
- 4.2.3 The website established to purchase online permits shall be created and maintained by CONTRACTOR.
- 4.2.4 The credit card option will be set-up and maintained by CONTRACTOR at no additional costs to CITY.
- 4.3 Mail-in Payments. Wincite will provide a mail in options for those who do not want to make the purchase by credit card.
- 4.3.1 The Mail-In option will provide:
1. Mail in option on the website;
 2. Ability to print the application; and
 3. Mail in payment with the application.
- 4.3.2 This process will provide the data entered by the INDIVIDUAL for tracking purposes and validation of the name and address information when payment is applied.

EXHIBIT A
SCOPE OF SERVICES

5.0 CUSTOM WEBSITE

- 5.1 Creation of Website. CONTRACTOR will create a website and link for public inquiry and payment.
- 5.1.1 The website will simulate the CITY's existing website to provide consistency when the public is transitioning from the CITY's existing website to the CONTRACTOR provided pay site.
- 5.1.2 The website will be integrated with any existing CONTRACTOR web services.
- 5.1.3 The services include:
1. Setting up a custom header and footer based on graphics approved by CITY;
 2. All merchant fees;
 3. Internet security and website fees; and
 4. Provide for the ability to make payments, contest the citation, and provide any governing rules that are applicable
- 5.2 Remote Data Entry. Remote data entry capability will be provided via the internet using Internet Explorer and Wincite™.
- 5.2.1 Each operator within the CITY will be set up with a unique password and security level.
- 5.2.2 Individual function levels will include view only, edit, add and dismiss/void capabilities.
- 5.3 User Accounts. Accounts may be established by the CITY and/or CONTRACTOR.
- 5.3.1 Access is limited to employees of the CITY only.
- 5.3.2 This limitation specifically excludes CONTRACTOR and/or consultants.
- 5.3.3 Exceptions to this limitation must be approved in writing by CONTRACTOR and CITY.
- 5.4 Online Services. CONTRACTOR will provide the following to the CITY:
1. Access to the citation data available by citation number, vehicle license number, name or VIN number;
 2. All citation information;
 3. Current status of the citation;
 4. Delinquent notice information, due date, mailing date;
 5. Administrative review, hearing court appeals, and disposition information;
 6. Payment information, including all date, amounts, and payment codes; and
 7. Registered owner information and Electronic facsimile of the original citation.

EXHIBIT A
SCOPE OF SERVICES

- 5.5 The City shall have a minimum operating system with Microsoft Internet Explorer 7.0 or greater and Windows XP Pro or greater to access systems and services provided by CONTRACTOR. CONTRACTOR will provide Wincite™ to the CITY for citation data and reporting access. The CITY shall obtain any license requirements to operate any software not provided by CONTRACTOR.

6.0 REPORTING

- 6.1 Monthly Reporting. CONTRACTOR shall supply CITY with electronic monthly reporting.
- 6.1.1 The reports will be supplied to the CITY in a PDF format available for access using Adobe Reader with the option to export to Excel.
- 6.1.2 The reports will include (if applicable) the following:
1. Monthly Billing Report;
 2. Officer Summary Report;
 3. Officer Summary Y-T-D Monthly Recap;
 4. Void/Dismiss Report by Operator;
 5. Habitual Offender Hot Sheet Report and Detail;
 6. DMV Monthly Reports;
 7. Out of State Revenue Detail Report;
 8. Revenue Collection Detail Report;
 9. Revenue Distribution Surcharge Report;
 10. Contested Citations pending and outcome;
 11. Refunds ‘Due’ Report; and
 12. FTB or Special Collections Report.
- 6.1.3 The monthly production report schedule may change as needed. Reporting information may also be provided to the CITY in Excel or other method mutually agreeable to both parties.
- 6.2 Surcharge Disbursement Report. CONTRACTOR shall provide a monthly Surcharge Disbursement Report that includes the surcharges identified by the CITY as part of the monthly reports as identified above.
- 6.2.1 The CONTRACTOR will disburse surcharges funds directly to the County; if applicable.

7.0 PAYMENT PLANS AND SETTLEMENT AGREEMENTS

- 7.1 Payment Plans. If CITY chooses to allow payment arrangements due to INDIVIDUAL financial hardship, CONTRACTOR shall establish the number of payments and the final due date of the citation.
- 7.1.1 CONTRACTOR shall suspend the citation to an agreed upon date in Wincite™ in accordance to payment arrangement between the CITY and the INDIVIDUAL.

EXHIBIT A
SCOPE OF SERVICES

8.0 DATA RETENTION POLICY

- 8.1 Data will be removed/archived from the system daily. Data archived from the system will be retained by Contractor in an archived database and it is retained for a period of five years unless returned to the City before that time. The City has the option to request such data.
- 8.2 Criteria for Removal/Archival of data will be:
 - 8.2.1 Closed Citations: Any citation date older than 18 months, and has been closed for a period of one year.
 - 8.2.2 Open Citations: Any citation that is open that is not on DMV hold, and older than 24 months.
 - 8.2.3 Regardless of age open citations that are on DMV files with a hold on the registration will remain on the system until DMV clears the citation.
- 8.3 Hard copy data: Hard copy files can be returned to the City or shredded by Contractor for the City; this will be done twice a year, if first agreed to in writing by both AGENCY and Contractor. For example, anything from January – June will be returned to the City the following January.

9.0 SECURITY

- 9.1 The Contractor shall provide security measures to ensure the City's secure access to the City's records and files. Contractor shall take extraordinary precautions to prevent such occurrences. Contractor shall hold all City data in strict confidence and shall not provide any data to any other party, unless directed by City in writing or as ordered by a local, state or federal entity.
- 9.2 The Contractor shall safeguard and hold confidential from disclosure all information received in connection with this Agreement. This includes all account numbers and such other non-public personally identifiable information related to the collection accounts in connection with this Agreement.

EXHIBIT "B"

COMPENSATION

In consideration of the Services provided to the CITY by CONTRACTOR, the CITY agrees to pay CONTRACTOR according to the following fee schedule:

1. CUSTOM WEBSITE

Item	Price	Description
1. Additional Programming	\$150.00 Per Hour	Additional programming requested by the CITY in furtherance of CONTRACTOR's performance of Custom Website services pursuant to Exhibit A - Scope of Services, Section 5.0.

2. CITATION PROCESSING COSTS

Item	Price	Description
1. Set Up Fee	\$0.00	One-time Fee to customize the website and correspondence.
2. Monthly Fee	\$150.00	If the cost of citations issued exceeds \$150.00 in actual billing charges, monthly fee will be waived.
3. Per Electronic Cite Processed	\$1.09	Per Electronic Cite Processed.
4. Per Manual Cite Processed	\$1.14	Per Manual Cite Processed.
5. Out of State Citations	32%	Out of State processing includes any costs charged by the state for the registered owner. The percentage is only for citations that are collected.
6. Notice of Violation/ Delinquent Notice	\$0.85	A notice of violation (delinquent notice) is sent after an INDIVIDUAL received the initial citation as a courtesy reminder. If applicable, a second notice of delinquency is sent if the payment is not made by the initial due date.
7. Payment Processing/ Updates	\$0.00	Cost per Payment Processed.
8. Postage	FIRST CLASS RATES	Current First Class rates will be charged for all correspondence mailed.
9. Payment Plans	NO CHARGE	Included.
10. Credit Card Payments	NO CHARGE	A credit card processing fee of \$3.95 or 3.25%, whichever is greater, will be charged to the INDIVIDUAL at no cost to the CITY.

EXHIBIT "B"
COMPENSATION

3. CITATION PROCESSING COSTS: Optional Costs/Services

Item	Price	Description
1. Special customer letters	\$1.75	Custom notices used to follow-up for hearing dates, review results, hearing results, or habitual violations, special collections warning letters.
2. Bank returned checks	\$10.00	Bank returned items are charged to the CITY. These charges are usually passed on to the INDIVIDUAL. There is no charge to reopen a citation.
3. Refunds	\$5.00	Bank account must be accessed and controlled by CONTRACTOR. CITY approve (in writing) each refund in advance of advance of disbursement.
4. Expedited Collections	26%	If bail amount is recovered after 90 days and before 14 months from citation period.
5. Special Collections	35%	Activated based on age of collections. Percentage is based on bail amount collected.
6. FTB Collections	35%	Activated based on age of collections. Percentage is based on bail amount collected.
7. Online Contesting	\$35.00	Provide online application which provides dispute instructions, forms and information provided by CONTRACTOR for CITY processing and as a convenient portal to the public.

4. PERMIT COSTS

Item	Price	Description
1. Permit Customization for Basic Permits	\$1,200.00	One Time set up fee.
2. Permits Purchased On-Line	\$1.00	Per permit.
3. Cash Management Processing	NO CHARGE	Included.

EXHIBIT "B"
COMPENSATION

4. Telephone Customer Support	No CHARGE	Included.
5. Hand Processing	\$2.50	Fulfilling, verifying and mailing the permit.
6. Postage	FIRST CLASS RATE	Current First Class rates will be charged for all correspondence mailed.
7. Remote Access License	NO CHARGE	Each per month remote access license included.
8. Additional Custom Programming	\$150.00	Custom programming after initial set-up.
9. Permit Decals	TO BE QUOTED	Design, custom layout, and permit. Costs per lot and quoted each order. Future orders to be quoted each time.

5. PERMIT COSTS: Optional Costs/Services

Item	Price	Description
1. Renewal Notification Letter	\$1.50	Cost per letter, includes postage.
2. Merchant Services Communications (Elavon)	CONVENIENCE FEE/MERCHANT FEE	May be charged to the public or billed to the CITY

6. In the event of an increase in postage amounts during the term of the Agreement, the CONTRACTOR may adjust fees to offset the postal increase only. The CONTRACTOR shall provide the CITY with advanced written notice of any increase resulting from postage costs.



To: Mayor and City Council

From: City Manager

Meeting Date: September 23, 2014

Subject: REQUEST FOR AN APPEAL PER CHAPTER 18.64, *APPEALS*, OF THE PICO RIVERA MUNICIPAL CODE FOR A 29 TOWNHOME APARTMENT DEVELOPMENT AT 8540, 8554 AND 8642 BEVERLY BOULEVARD

Recommendation:

Approve a request to appeal a decision by the Planning Commission and bring forth the application to develop a 29 townhome rental development for City Council consideration or Planning Commission re-consideration to a date uncertain.

Fiscal Impact: None.

Discussion:

At the September 9th City Council meeting, the City Council requested additional information to consider a request to appeal a Planning Commission decision to develop a 29 unit townhome apartment project on 8540, 8554 and 8642 Beverly Boulevard. As such, staff has attached the meeting minutes and staff report presented to the Planning Commission.

On September 3, 2014 the Planning Commission denied an application for the development of the 29 unit townhome rental development project and associated amendments to the General Plan designation and zone classification from commercial to residential uses.

Per Chapter 18.64, *Appeals*, of the Pico Rivera Municipal Code, "The City Council may, at its own discretion, review the decision of the Planning Commission..."

COUNCIL AGENDA MEMO – MTG. OF SEPT 23, 2014
CONDITIONAL USE PERMIT NO. 710
GENERAL PLAN AMENDMENT NO. 52
ZONE RECLASSIFICATION NO. 314

Page 2 of 2

Conclusion:

Should the City Council approve the appeal process, staff will work with the applicant to revise the project to address community concerns and take the item to a date uncertain to the City Council or Planning Commission for further consideration, as directed.



Renè Bobadilla

RB:BM:JG:ll

Attachments:

- 1) Planning Commission Staff Report
- 2) Planning Commission Minutes



PLANNING COMMISSION

AGENDA REPORT

To: Planning Commission

From: Community and Economic Development Director

Meeting Date: September 2, 2014

Subject: PUBLIC HEARING: CONDITIONAL USE PERMIT NO. 710, GENERAL PLAN AMENDMENT NO. 52 AND ZONE RECLASSIFICATION NO. 314, AN APPLICATION TO CHANGE THE LAND USE DESIGNATION AND ZONE CLASSIFICATION TO DEVELOP 29 TOWNHOME APARTMENT UNITS ON THREE SEPARATE PARCELS LOCATED AT 8540, 8554 AND 8642 BEVERLY BOULEVARD

Recommendation:

To approve Conditional Use Permit No. 710 and recommend approval to the City Council of General Plan Amendment No. 52 and Zoning Reclassification No. 314.

Description:

The proposed project consists of the development of a 29 townhome apartment development dispersed on three separate parcels on Beverly Boulevard between Paramount Boulevard and the western City boundary. The project addresses are 8540 (Site 1), 8554 (Site 2) and 8642 (Site 3) E. Beverly Boulevard. The townhomes are proposed to be two stories in height with 7 of the 29 units having a third floor loft bedroom area. Approximately 80 to 100 square feet of private open space will be provided for each unit and 7,000 square feet of common open space will be provided. The height of the units will range between 25 feet to 32 feet at the top of the third floor loft bedroom area. The units range from 1,069-1,310 square feet with two to three bedrooms and one and one-half bath. Ingress and egress is proposed through Beverly Boulevard and Pine Street. Two parking spaces are being proposed per unit as required. Four guest parking spaces are required and six guest parking spaces are being proposed.

Site 1 (8540 Beverly Boulevard) features 10 units fronting Beverly Boulevard. Five units are attached on either side bisected by a walkway that leads to Beverly Boulevard. Site 2 (8554 Beverly Boulevard) features 8 units. Six units are attached and front Beverly Boulevard. Two attached units are located towards the rear of the lot. Site 3 (8642 Beverly Boulevard) features 11 units fronting Beverly Boulevard. Six units are attached and bisected by a common walkway with five adjacent attached units

The architecture is influenced by Spanish features including a white stucco exterior, roof tiles, towers with special treatments such as moldings, ornamental iron works along gates and windows, ornamental wall lamps and stone veneers. Building frontages are accented with strong architecture definition which includes recesses, changes in wall planes, height and depth projections and varying sizes of windows that avoid large expanses of un-articulated walls.

EXISTING SETTING:

	Address	General Plan Designation	Zone Classification	Lot Area (Sq. Ft.)	Existing Land Use
Site 1	8540 Beverly Blvd.	Commercial	Commercial Planned Development	27,010	Vacant for 18 years, paved, no structures
Site 2	8554 Beverly Blvd.	Commercial	Commercial Planned Development	19,180	Vacant for 13 years, paved, two dilapidated commercial structures built in the mid 1960's
Site 3	8642 Beverly Blvd.	Commercial	Community-Commercial	28,925	Vacant for 15 years, three one-story dilapidated commercial structures built in the 1960's and 1970's
Total				75,115	(1.7 Acres)

SURROUNDINGS USES:

	Surrounding Land Uses	Zone
North	Mobile Home Park, Public Storage, 3 story Townhomes, LADWP Transmission Tower,	Residential-Multi-Family, Public Facility
South	Single-Family Residential	Single-Family Residential
East	LADWP Transmission Tower, Strip Center	Public Facility, Community-Commercial
West	Single-Family Residential	Single-Family Residential

Analysis:

General Plan Amendment

The sites currently have a General Plan designation of Commercial (C) and must be re-designated to Highest Density (H-D) Residential for consistency between land uses. The H-D Residential designation will not be in conflict with surrounding uses as the site is mainly surrounded by residential properties. To the south and west there are single-family dwellings and to the north there are several multi-family units. All the sites to the north with the exception of the Los Angeles Department of Water & Power properties which are developed with the power lines (zoned as Public Facilities) are designated as H-D.

Zone Reclassification

Two sites, 8540 Beverly and 8554 Beverly Boulevard have a zoning classification of Commercial Planned Development (CPD). The site located at 8642 Beverly Boulevard has a zoning classification of Community Commercial (C-C). In order for the development to be consistent with the zoning classification, it must be rezoned to Multiple Family Residential (R-M). The R-M classification will not be in conflict with surrounding uses as the sites are mainly surrounded by residential properties. To the south and west there are single-family dwellings and to the north there are several multi-family units. All the sites to the north with the exception of the Los Angeles Department of Water & Power properties which are developed with the power lines (zoned as Public Facilities) are designated as R-M.

Density Bonus Law (Government Code 65915)

The Density Bonus law, Government Section 65915 (C) permits up to three concessions for projects that include at least 30 percent of the total units for lower income households, at least 15 percent for very low income households, or at least 30 percent for moderate income households. The developer will have the option to provide anyone of these ratio requirements. Providing these affordable housing units will help to meet the 2014-2021 Housing Element Regional Needs Housing Assessment. Per the law, the units must be maintained affordable for 30 years.

The applicant is not requesting to build at a higher density than is permitted in the R-M zone. Government Code Section 65915 (n) allows local entities to grant a lower density bonus than what is required per the law. Per the summary table below, the applicant is within the density of the R-M zone.

	Address	Lot Area (Sq. Ft.)	Proposed Units	Density	R-M Zone Max Density (Units/5000 sq. ft.)
Site 1	8540 Beverly Blvd.	27,010	10 units	27,010/10 = 2,701 sq. ft.	1 unit/1,450 sq. ft.
Site 2	8554 Beverly Blvd.	19,180	8 units	19,180/8 = 2,397.5 sq. ft.	1 unit/2,000 sq. ft.
Site 3	8642 Beverly Blvd.	28,925	11 units	28,925/11 = 2,629.5 sq. ft.	1 unit/1,450 sq. ft.

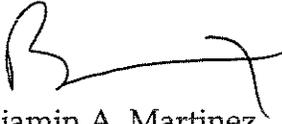
The applicant is requesting concessions or waivers from the City's development standards. These include open space, setbacks, and compact parking spaces. The applicant has worked with City staff to provide development standards that will give sufficient protection to the surrounding community. The applicant is providing approximately 80 to 100 square feet of private open space and approximately 7,000 square feet of common open space. The applicant will provide minimum setbacks for screening and landscaping where necessary. The applicant exceeds the number of required parking spaces. The zoning ordinance requires two parking spaces per unit and one guest parking space per every eight units. The applicant is provide two parking spaces per unit and has exceeded the guest parking requirement by two. However, in order to meet the parking ratio, the applicant included compact parking.

Environmental Review:

A Draft Mitigated Negative Declaration with a Mitigation Monitoring Program has been prepared under the provisions of the California Environmental Quality Act (CEQA). A Mitigated Negative Declaration with Monitoring Program is recommended as no environmental impacts are foreseen if the mitigation measures are implemented.

Conclusion:

Staff recommends that the Planning Commission adopt a resolution approving Conditional Use Permit No. 710 and recommends adoption of General Plan amendment No. 52 and Zone Reclassification No. 314.



Benjamin A. Martinez

BAM:JG:ll

Attachments:

- 1.) Conditional Use Permit No. 710, Draft Resolution
- 2.) General Plan Amendment No. 52, Draft Resolution
- 3.) Zone Reclassification No. 314, Draft Resolution
- 4.) Zone Reclassification No. 314, Draft Ordinance



PLANNING COMMISSION

MINUTES

Wednesday, September 3, 2014

A special meeting of the Planning Commission was called to order by Chairperson Garcia at 6:00 p.m., in the City Hall Council Chambers, 6615 Passons Boulevard, Pico Rivera, CA.

STAFF PRESENT:

Ben Martinez, Director
Julia Gonzalez, Deputy Director
John Lam, Assistant City Attorney

ROLL CALL:

PRESENT: Commissioners Celiz, Elisaldez, Garcia, Gomez, Zermeno

ABSENT: None.

FLAG SALUTE: Led by Commissioner Elisaldez

APPROVAL OF MINUTES:

July 21, 2014

Motion to approve the minutes was made by Commissioner Celiz and seconded by Commissioner Gomez:

AYES: Celiz, Elisaldez, Garcia, Gomez, Zermeno

NOES: None

ABSTAIN: None

ABSENT: None

PUBLIC HEARING:

CONDITIONAL USE PERMIT NO. 710, GENERAL PLAN AMENDMENT NO. 52, ZONE RECLASSIFICATION NO. 314 - A REQUEST TO DEVELOP A 29 TOWNHOME APARTMENT UNIT DEVELOPMENT ON THREE SEPARATE PARCELS LOCATED AT 8540, 8554, AND 8642 BEVERLY BOULEVARD AND A GENERAL PLAN AMENDMENT AND ZONE RECLASSIFICATION TO CHANGE THE LAND USE DESIGNATION AND ZONING FROM COMMERCIAL TO RESIDENTIAL

Project Planner: Julia Gonzalez
Deputy Director

Deputy Director Julia Gonzalez presented the staff report. The project, located near the southwest corner of Beverly Boulevard and Paramount Boulevard, consists of three separate parcels of different widths and depths, which has made it difficult to develop on.

Site one, located at 8540 Beverly Boulevard has been vacant for 18 years. Site two, located at 8554 Beverly Boulevard has two dilapidated structures existing on the site. The site has been vacant for the last 13 years. Site three, located at 8642 Beverly Boulevard, has been vacant for 15 years, and has three existing structures at the site.

The project includes an application for a General Plan land use designation amendment and zone reclassification from commercial to residential. The General Plan designation is proposed for High-Density and the zone classification is proposed for Multiple-Family Residential. The residential zone is consistent with the surrounding residential neighborhoods. The project consists of 29 townhomes, two to three stories in height, 24 to 32 feet. There is approximately 80-100 sq. ft. of private open space for each unit and approximately 7,000 sq. ft. of common open space, two parking spaces per unit and six guest parking spaces, which exceeds the guest parking requirements per the City's municipal code. The site features Spanish architectural features.

Site 1 is proposed to be developed with 10 units. The site will be developed with carports towards the rear of the site; there is a 20 foot building setback from the main residential structure to the rear of the property. The applicant provided a line-of-sight analysis, which included trees to provide privacy to the rear single-family homes. The applicant is requesting concessions from setbacks.

Site 2 is proposed with eight units. Most of the units are oriented towards Beverly Boulevard, and two units are oriented towards the rear. The two rear units have a rear side setback of 20 feet, which is the minimum required. The side and front setbacks vary from four to twenty feet.

Site 3 has eleven units. The entrance and exits are through Beverly Boulevard. There is a 20 foot setback from the residential structures to the rear of the properties. There is a zero setback where the carport is proposed to the commercial strip center and the Department of Water and Power property.

The applicant is requesting concessions from required setbacks, open space and the use of the carport which will house the parking spaces. The State's Density Bonus Law will be utilized to allow the developer to obtain the noted concessions while in turn, the developer will have to include some units for low or moderate income housing as

required per state law. The applicant will not be granted a density greater than what is permitted in the Multiple-Family residential zone.

Deputy Director Gonzalez stated that staff is proposing revisions to the stated conditions. Public Works condition #49 stated that no parking will be allowed on Beverly Boulevard. Staff is requesting to eliminate condition #49 and work with the Public Works Department to investigate if street parking could be allowed on either side of Beverly Boulevard. A preliminary traffic study was also prepared which stated that parking on Beverly Boulevard was possible.

Staff also proposed to remove condition #50, regarding the construction of a bus shelter. The applicant is already being impacted by the condition to construct two fire hydrants and possibly replace the street lights.

The traffic study indicated that a traffic light was warranted at the intersection of Beverly Boulevard and Pine Street. The engineer stated that the traffic light would be warranted with or without the project. The developer will be asked to contribute a \$20,000 towards the traffic light instead of the entire cost.

Staff also requested to add condition #61, that requires the developer to assign the parking spaces.

Staff has received comments from the public. Two letters were provided by residents that live behind the proposed development, in the single family homes. They are concerned about the lack of on-street parking due to the townhomes located on the north side of Beverly Boulevard.

Staff recommended that the Planning Commission approve Conditional Use Permit 710 and the General Plan designation and zone reclassification to the City Council.

Director Martinez stated the subject properties have been vacant for many years. Staff has worked to develop a quality design and the street parking issue will be further discussed with Public Works.

Commissioner Elisaldez asked why 29 units are being proposed at this area and if the number could be modified.

Director Martinez stated that this question should be addressed to the developer. However, for the developer the number of units is important because the project must be economically feasible.

Commissioner Elisaldez stated that the two assigned parking spaces per unit will not be enough. Parking in this City is a major concern. He also stated that privacy will be a concern.

Commissioner Gomez asked if the proposal was for rental apartments or condominiums.

Director Martinez stated the units would be rented as apartments but could be subdivided for condominiums in the future.

Commissioner Celiz asked if some of the units would be developed for low income housing.

Deputy Director Gonzalez responded that the developer has the choice to develop either four low income or nine moderate income housing units. Per the State income guidelines if the developer chose the moderate income rent, the max rental amount permitted would be \$1,600 to \$1,700 per month. This amount could potentially be a higher rent than the average Pico Rivera rental rate per the latest census.

Commissioner Celiz stated that the City needs to be careful when bringing in low income apartments because it may not be safe for the community. She stated there are also privacy issues.

Chairperson Garcia opened the public hearing.

Phil Pace of Pace Development spoke on the project. Mr. Pace stated that he has conducted several feasibility studies and chose 29 units, which would make the project feasible. He stated that eventually they would be converted to condominium projects. He stated that the project is aesthetically pleasing and includes private and common open space which is not typical of rental projects. He stated that he had already looked at trying to make it a commercial project but it did not work.

Commissioner Zermeno asked why it would not be feasible to build single family homes for sale.

Mr. Pace responded that in the current economy it is not feasible to sale the units.

Commissioner Zermeno responded that the rooms are small and is concerned about the number of windows. He expressed concerns in regards to privacy.

Mr. Pace responded that the units are larger than 1,100 square feet. He stated in general there are not many rental properties this size.

Commissioner Gomez asked Mr. Pace how long he owned the properties.

Mr. Pace responded that he has owned the property for 12 years. He stated that he has worked on this project for many years. This project would be the most feasible.

Commissioner Gomez asked how many units were across the street from this location.

Deputy Director Gonzalez responded that the units are built at a density of 30 units per

acre. The units were built in the early 90's and with similar parking requirements. The units located on the left are three stories and the ones to the right are two stories.

Commissioner Elisaldez stated that the complaints on the parking are the same complaints that the residents have now regarding the existing condominiums and there not being enough parking.

Commissioner Gomez asked Mr. Pace what he originally planned for this property.

Mr. Pace responded that they were thinking of putting commercial development at the site. After several studies, commercial development did not fit there because of the depth of the lots.

Virginia Corral, a resident, stated she has concerns with the existing condominiums already taking up their street parking. The residents have four to five vehicles per unit, and the residents leave their vehicles the entire week. She stated she has complained to the City several times. Ms. Corral's husband has had confrontations with someone due to the parking issue. The elderly residents that live in the area do not want to say anything for fear of retaliation. Ms. Corral also has concerns with the properties being rentals, not homes for sale. Ms. Corral asked if the residents should start a petition. She asked what they can do in opposition of the rental units being built.

Guadalupe Velasquez, a resident of 8521 Arma Street, has had issues with cars from the residents of the condos parking for up to a week. She stated she has called the City several times. She stated they only move the cars when the street sweeper goes by. Also, Ms. Velasquez, has concerns with her backyard facing these apartments. Ms. Velasquez has a pool and teenagers and is concerned with her family's privacy. Also, Beverly Boulevard is a high traffic street, and parking on this street does not seem possible. Ms. Velasquez stated she was worried that some of her neighbors did not know the day before that the meeting was cancelled, and that is the reason they were not at this meeting to speak in opposition of this development. She stated that she is willing to obtain signatures. She stated that a few years ago her mother tried to build a two story home and she was not allowed to build because of privacy issues.

Chairperson Garcia stated that staff waited until 6:15 p.m. the day before to advise the public of the meeting change. Signs were posted as well at the doors that the meeting would be postponed for Wednesday.

Martha Raya and her husband have lived in this area for over 20 years. Over the last few years, the parking has been an issue with residents from the condominiums taking up parking on Pine Street. She stated that people go there to sleep in their cars. Mrs.

Raya's husband has had issues with trying to back out of their driveway due to parked cars blocking a portion of the driveway. Mrs. Raya is concerned with several people living in the same home in order to pay for the rent. She stated that there will not be sufficient parking with only two spaces being assigned per unit. She stated that she has had problems with one person who owns five vehicles that park on her street. She also has problems with the owner of a large truck parked on her street which blocks her visibility. When Ms. Raya first moved in, there were several commercial businesses, which included a gas station, a dairy, and a mechanic shop which did not cause issues to the neighborhood. She also asked if she should obtain signatures from her neighbors.

Jamie Corral, a resident of 4435 Pine Street. He was surprised that the development was being proposed to be rentals units and not for sale. He stated that it is good for the developer to invest in the properties but not for the residents. He stated that some of the units are up to three stories and his property will not have privacy. He believes the properties should be used for commercial development. There will be a lot of people and families due to this project. He said entering and exiting the site will be a problem. He will need to call his neighbors to help to protest.

Fidencio Raya said that the project is a good investment for the developer but not for the residents that live behind the project. He said the apartments are beautiful. He asked how many people will be brought in due to the development. He also stated that the condominiums on the north side of Beverly Boulevard park on his residential street. Mr. Raya stated that most of the residents in the area are retired, and the additional residents will bring more noise and loud children. He said that at his age, he cannot support additional noise and needs peace.

Mr. Pace stated he understands the public's concerns. He stated the rental apartments would have a manager on-site that would control the parking issues unlike private homes with no control. Mr. Pace feels the development is a benefit to the area and the community and disagrees with the parking concerns.

Commissioner Zermeno asked if 10-12 single-family residences would be feasible.

Mr. Pace responded that he doesn't believe this would be feasible as it would not provide a proper return on his investment.

Commissioner Gomez asked which direction the windows would face. He stated the carports would be oriented towards the rear.

Mr. Pace responded that all the windows would be facing the north towards Beverly Boulevard. He also stated that he believes there are two story homes in that area that

would also cause to have privacy issues.

Commissioner Celiz stated that the residents are concerned with privacy. She asked in which floor the patios would be located on.

Mr. Pace responded that they are trying to orient all the windows towards Beverly Boulevard. All the patios are located on the ground level.

Deputy Director Gonzalez stated that a line-of-sight analysis was prepared which showed the size of the trees to achieve privacy. She also stated that the rear side setback from the structure to the rear setback adjacent to the single family homes is 20 feet.

Chairperson Garcia asked if any windows would be oriented towards the rear. He asked if they would include privacy windows.

Deputy Director Gonzalez stated that only seven units have a third floor loft area. She stated that they could require privacy windows pending approval by the Building Division.

There being no further questions, it was motioned to close the public hearing by Commissioner Elisaldez, seconded by Commissioner Celiz.

Commissioner Elisaldez stated that the parking issue is a real problem, and disagrees with Mr. Pace that this would not be a problem. He said that children will be an issue and that the open space will not be sufficient. He stated that even with an apartment manager parking cannot be controlled. Commissioner Elisaldez stated that he would not want the development in his neighborhood.

Commissioner Gomez stated that he agrees that there is a parking problem. He asked if the neighborhood could have permit parking. He agreed that children would be a problem. He stated that something needed to happen with the property. He is concerned with the high-density. He said that perhaps a for sale project would relieve some of the issues. He stated if the property is owned people will have an incentive to take care of it.

Commissioner Elisaldez stated Mr. Pace is in the right track to try to invest on the sites because the properties are an eyesore, however he disagrees with the type of development. He said he is against commercial development there.

It was motioned to reopen the public hearing.

Mr. Pace asked what the Planning Commissioners wanted at the site if not commercial or residential.

Commissioner Elisaldez stated that he did not want apartments, he preferred for sale property. He commended Mr. Pace for his efforts in trying to revitalize the area.

It was then motioned to close the public hearing.

Commissioner Gomez said if the units were for sale the parking issue may not be a problem.

Commissioner Celiz stated that maybe issuing parking permits for the residents on Pine Street can be looked into. She thought the development was for condominiums and not apartment units.

Commissioner Zermeno mentioned that on Gallatin Boulevard there were five large single family units built recently that residents would like.

Chairperson Garcia stated that he would not like to buy a single family home on Beverly Boulevard, a major thoroughfare. He said that the commercial development that was there in the past would not return and that the residents' concerns in regards to parking and privacy were very compelling. He stated that converting the units to condominiums may alleviate some of the issues. He requested to entertain a motion to turn the project back to the Planning Division to further work with the developer on refining the project.

City Attorney Lam stated that the applicant would need to consent to go back to the Planning Division to further refine the project and address the issues presented. Under California Law developers have a limited amount of time to obtain a decision.

Commissioner Gomez said everyone agreed that they would like to see the site developed with residential units but that the project would need to be modified.

Mr. Pace said that single family homes would not sale on Beverly Boulevard. He stated that he would be willing to look at modifying the project.

City Attorney Lam read the motion to direct staff and the applicant to try to resolve some of the issues that the Commission has brought forward.

Mr. Pace asked if the Commission would be specific about the non-negotiable items.

City Attorney Lam stated that the issues were the privacy, density and parking. He stated that perhaps at twenty units the Planning Commission may reconsider.

Mr. Pace stated that at twenty units the project would not work.

Commissioner Elisaldez stated that the main issue is between rental versus for sale units.

Mr. Pace said it would be a tough to sale the units due to the properties being oriented towards Beverly Boulevard in the current climate. There have been several studies conducted. He stated that he would consider working with staff further to refine the project.

Director Martinez stated that staff has heard the comments from the Planning Commission and residents and recommended that the Planning Commission adjourn the meeting to a date uncertain.

Chairperson Garcia reiterated the issues; ownership versus rental, obtain parking permits, and certain design issues.

City Attorney Lam stated that Public Works would need to research the parking issues further and that permitted parking could not be conditioned.

Commissioner Elisaldez stated that he still considered the project problematic and that it could not be modified because the developer is fixed on 29 units.

Commissioner Celiz stated that she agreed with Commissioner Elisaldez.

City Attorney Lam read the motion to direct staff to further work with the applicant and present a revised project to the Commission.

Commissioner Gomez motioned. A second to the motion was not made.

It was motioned by Commissioner Elisaldez to deny Conditional Use Permit No. 710, seconded by Commissioner Celiz.

Motion carried by the following roll call vote:

AYES: Commissioners Celiz, Elisaldez, Garcia, Gomez, Zermeno

NOES: None

ABSTAIN: None

ABSENT: None

City Attorney Lam stated that the applicant has 14 days to the City Council, subject to submitting an application and filing requisite fees.

PUBLIC COMMENTS – NON-AGENDA ITEMS: None.

NEW BUSINESS: None.

CONTINUED/OLD BUSINESS: None.

PLANNING COMMISSION REPORTS:

PLANNING COMMISSION REPRESENTATIVE TO THE CITY COUNCIL MEETING
OF Tuesday, July 22, 2014.

Director Zermeno had no business to report.

PLANNING COMMISSION REPRESENTATIVE TO THE CITY COUNCIL MEETING
OF Tuesday, September 9, 2014.

Chairperson Gomez confirmed his attendance.

There being no further business the Planning Commission meeting was adjourned at
7:55 p.m.



Ruben L. Garcia, Chairperson

ATTEST:



Benjamin A. Martinez, Secretary
Planning Commission
Director of Community and Economic Development



To: Mayor and City Council
From: City Manager
Meeting Date: September 23, 2014
Subject: WAIVER OF PARKS AND RECREATION FACILITY USAGE FEE DURING OFF-SEASON FOR COMMUNITY SPORTS ORGANIZATIONS

Recommendation:

Waive the \$20 per player facility usage fee during off-season play for the Community Sports Organizations that utilize city recreation facilities as their home field.

Fiscal Impact:

The fiscal impact to the General Fund is an estimated revenue loss of \$23,200. This revenue was included in the adopted 2014-2015 FY budget.

Estimated Revenue From 2014 Off Season

Organization	Registration	Fee
Football For Youth	50	\$1,000
Twin Cities Wolverines	50	\$1,000
AYSO, Region 603	200	\$4,000
Pico Rivera Youth Soccer Club	30	\$ 600
Rivera Baseball Association	180	\$3,600
Pico Fastpitch Association	300	\$6,000
Pico Boys Baseball League	150	\$3,000
Pico Rivera Baseball Academy	50	\$0
Smith Park Pony Baseball	200	\$4,000
		\$23,200

Discussion:

At the August 14, 2012 City Council meeting, Council instituted a \$20 per participant facility usage fee that was to take effect on January 1, 2013. However, in December 2013, due to park construction delays, Council authorized a deferral of the fee implementation to January 1, 2014.

WAIVER OF PARKS AND RECREATION FACILITY USAGE FEE DURING OFF-SEASON
FOR COMMUNITY SPORTS ORGANIZATIONS

Page 2

Deferring the implementation of the \$20 fee until January 1, 2014 allowed the fall sports organizations impacted by park renovations the opportunity to utilize concession amenities and resume regular operations for an entire season before having to pay the new fee.

Organizations were invoiced at the end of their season following the end of league registrations and payment was due within 30 days. To date, 2 of the 5 leagues have paid their fall season user fees. The remaining 3 leagues have a cumulative outstanding total due of \$20,880. The organizations were notified in 2012, and regularly thereafter, of the upcoming fees.

Due to the need for major field renovations at Rivera and Smith Parks between seasons, the fields have been unavailable to some of the user groups during the current off season. Recommend waiving the 2014 off-season fees until 2015.



René Bobadilla

RB:SJG:ca

Attachments: 1) City Council Minutes dated 08-14-12
2) Resolution No. 6693

Mayor Archuleta opened the public hearing and noted that there was no written communications to provide public testimony.

City Manager Bates stated that under direction of the City Council staff was asked to work with the youth organizations to put together a program that the organizations were comfortable with. In doing this, he stated, staff looked at various options specifically for this program. Staff would like to emphasize, he stated, that the city continues to face serious budget challenges.

Parks & Recreation Director Aranda stated that a meeting was held with the presidents of the primary youth organizations with Councilmember Salcido in attendance. He stated staff posed the question on how the city could recover the fees and the organizations came up with the suggestion of a \$20.00 per player recovery fee for the upkeep of the fields.

Oral Communications:

Esther Celiz:

- Addressed the City Council to suggest that the city host tournaments as a way of recovering fees for the youth sports programs.

Mayor Archuleta stated that Council began their session this evening meeting and receiving a final report and recommendation from a consultant in regard to our Parks & Recreation facilities. He stated that once the construction of all the parks has been completed the recommendation is to host tournaments.

Councilmember Salcido further stated that the league presidents of the youth organizations also made the recommendation to host tournaments as their main vehicle to raise the necessary funds.

Mayor Archuleta closed the public hearing.

Motion by Mayor Pro Tem Camacho, seconded by Councilmember Salcido to establish a \$20.00 per player recovery fee for Community Youth Sports Organizations (CYSO) that utilize city recreation facilities as their home field. Motion carries by the following roll call vote:

AYES: Camacho, Salcido, Tercero, Archuleta

NOES: None

RESOLUTION NO. 6693

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PICO RIVERA, CALIFORNIA, RESCINDING RESOLUTION NO. 6530, 6534, and 6538 AND "INCREASING" PROGRAM FEES AND CHARGES FOR PARKS & RECREATION DEPARTMENT PROGRAMS AND REVISING RULES, REGULATIONS, POLICIES, PROCEDURES AND FEE SCHEDULES FOR THE USE OF RECREATIONAL FACILITIES AND CITY COUNCIL CHAMBERS WITHIN THE CITY OF PICO RIVERA

WHEREAS, the City of Pico Rivera (the "City") collects fees for certain programs and services for which there is a relationship between the service provided and the fee charged; and

WHEREAS, it is a routine and standard practice to increase or adjust fees and charges to reflect the changing cost of providing those services because of inflation, staffing, and other variables which affect the cost of delivering these services; and

WHEREAS, the City Council has established a policy of recovering full cost of fee-supported services, except in the case of certain subsidized services that are deemed to be a priority to the community, such as Parks and Recreation services; and

WHEREAS, due to declines in revenue to the City, the City must reduce the subsidy for certain Parks and Recreation services; and

WHEREAS, the City wishes to offer certain Parks and Recreation programs and services and charge a fee for those services.

WHEREAS, the City of Pico Rivera (the "City") owns and operates recreational facilities which are publicly owned and operated facilities; and

WHEREAS, the recreational facilities are financed and constructed with public funds; and

WHEREAS, the City desires to recover the reasonable costs associated with renting its recreational facilities and City Council chambers; and

WHEREAS, City staff has conducted an extensive analysis of the necessary services and activities, including the amount of staff time, involved in renting out the City's recreational facilities; and

WHEREAS, the City Council of the City of Pico Rivera has determined that it is in the best interest of the public if the primary use of the recreational facilities are for recreation and community events and programs; and

WHEREAS, it is necessary that the City Council of the City of Pico Rivera enact a uniform policy of rules, regulations, policies, procedures, and fee schedules for the use of recreational facilities and City Council Chambers; and

WHEREAS, the City Council of the City of Pico Rivera has determined that local non-profit civic and community organizations, local private groups and organizations, and City Council appointed committees can use the recreational facilities on a space available basis; and

WHEREAS, notice of public hearing was published in a newspaper of general circulation within the City in accordance with the notice and publication requirements; and

WHEREAS, the City Council has conducted a public hearing to take written and oral testimony to consider the program fees and charges and fees for the use of facilities owned and maintained by the City; and

WHEREAS, a review of present policy on fees, charges, and facility use dictates the need for revision thereof; and,

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Pico Rivera does hereby resolve as follows:

SECTION 1. The City Council of the City of Pico Rivera hereby determines that the primary use of the recreational facilities shall be for recreation and community service programs.

SECTION 2. The City Council of the City of Pico Rivera has determined that local non-profit civic and community organizations, local private groups and organizations, and City Council appointed committees can use the recreational facilities on a space available basis.

SECTION 3. Resolution Nos. 6530 dated March 23, 2010, 6534 dated April 12, 2010 and 6538 dated May 10, 2010 are hereby rescinded in their entirety.

SECTION 4. The City Council hereby adopts this Resolution increasing some Parks and Recreation program fees and fees for use of facilities.

SECTION 5. The City Council hereby approves the following rules, regulations, policies, and procedures for the limited use of recreational facilities by local non-profit civic and community organizations, and local private groups and organizations as set forth in this resolution.

FACILITY USE RULES AND REGULATIONS

A. PURPOSE

The primary purpose of having recreational facilities available to local non-profit civic or

community organizations, is to enhance the service or programs they offer to the community, and allow for local private groups and organizations to conduct events including, but not limited to, meetings, trainings, workshops, social and other similar events.

B. ADMINISTRATION

The Director of Parks & Recreation shall administer the process by which recreational facilities are used by local non-profit civic or community organizations, or local private groups and organizations. The City Manager shall administer the process for use of the City Council Chambers.

C. GENERAL INFORMATION

1. When a recreational facility is not needed for City-sponsored recreation or community service activities and has not otherwise been set aside for general public use, a local non-profit civic or community organization, or local private group or organization shall have the opportunity to reserve and use said facility.
2. Reservations and use of City recreation facilities shall fairly and equally be extended to local non-profit civic and community organizations, private groups and organizations.
3. An issued Facility Use Application and Permit is required for any use of a recreational facility by any local non-profit civic or community organization, or private group or organization.
4. The City shall not approve a Facility Use Application & Permit for the following events for outdoor use: motorized sporting events, aircraft and ballooning events, pyrotechnical uses, concerts, mechanical amusement devices, animal shows (including dog shows), equestrian events, circuses, boxing, car shows, swap meets, and flea markets. Religious events that are a regularly reoccurring use by a single entity or group of entities are not permitted.
5. City shall not approve the following use of the Senior Center or community centers for private party celebrations, including, but not limited to, wedding receptions, birthday parties, quinceañeras, sweet sixteen's, baby showers, etc. This list is not exhaustive of the type of private party celebrations that may be approved uses of the Senior Center or community centers.
6. All requests for use and reservations must be received by the City fourteen (14) days prior to the date of the event unless an exigent circumstance exists requiring use of a community center or Senior Center with less than fourteen (14) days' notice.
7. If City discovers that the event will not be the same as that approved by the City, City has the right to cancel the Applicant's use of the facility immediately.

8. All local non-profit civic or community organizations must be registered with the Department of Parks & Recreation to be recognized as a local community group.

D. LOCAL NON-PROFIT CIVIC OR COMMUNITY ORGANIZATION RECOGNITION

General criteria for determining local civic or community group recognition:

1. The principal activity of the group is recreational or community service in nature and directly serves the interest of Pico Rivera residents; and
2. The group has been accorded non-profit tax status from the Internal Revenue Service; and
3. The group shall have an organizational structure and meet regularly; and
4. The group shall have at least sixty percent (60%) of its members as residents of Pico Rivera or the group must serve the residents of Pico Rivera; and
5. A Community Group worksheet must be completed or a current worksheet on file with the Parks & Recreation Department; and
6. Local non-profit civic or community organizations who work with children must provide proof that volunteers are subject to a criminal background check satisfactory to the City.
7. All applications for recognition as a local non-profit civic or community organization shall be reviewed by the Parks and Recreation Commission.
8. Rental fees for use of facilities by recognized local civic and community groups are waived. Group may be subject to pay fees for staffing, maintenance, Sport Lights, etc.

E. LOCAL PRIVATE GROUPS AND ORGANIZATIONS

A local private group and organization is one that does not meet the criteria established to qualify as a local non-profit civic or community organization.

F. APPLICATION PROCESS

1. All organizations requesting to use and reserve a recreational facility shall complete a Facility Use Application & Permit online or submit a signed and completed Facility Use Application & Permit form.
2. A Facility Use Application & Permit form may be submitted no sooner than twelve (12) months in advance of the date requested and no later than fourteen (14) days prior to the

- event.
3. Only applications signed by the civic or community organizations president and/or presiding officer will be accepted.
 4. Applications from Applicants under the age of 21 will not be accepted.
 5. The City reserves the right to determine the date, hours, and location of reservations and events.
 6. Facility Use Applications & Permits shall be reviewed by the Facility Supervisor in charge of the requested facility and approved by the Director of Parks and Recreation or designee.
 7. The City Manager shall have the authority to approve all applications for the use of the City Council Chambers.
 8. In the event one or more requests are received for the same facility, date and time, the following shall be the order of priority:
 - a. The organization is a recognized local civic or community organization.
 - b. The organization that has established a history of use of that particular facility for that particular time period.
 - c. Date and time application was received.
 9. A Facility Use Application & Permit is not confirmed until all required fees and deposits have been paid and the Applicant receives an issued permit from the Parks & Recreation Department. The Applicant shall not advertise its use of the facility until a permit is issued.
 10. Any requested changes shall be done in writing and shall be submitted at least three (3) business days prior to scheduled usage.
 11. Cancellation of an approved application is subject to a cancellation fee. (Refer to FEE SCHEDULE)
 12. Any application or reservation may be canceled by the City for a City-sponsored program or event. In the event of such cancellation, notice shall be given as far in advance of the approved reservation as possible. If the reservation cannot be rescheduled, all paid fees and deposits shall be refunded in full. City shall not be liable for any damages resulting from cancellation of an event.

G. FEES – DEPOSITS – SECURITY – SPECIAL EVENT INSURANCE

1. Facility use fees are charged to recover cost for utilities, maintenance, supervision, and administration of reservations. Facility fees are waived for recognized local non-profit civic and community organizations. Local non-profit civic and community organization and government agencies may be required to pay staffing, security, deposits, admissions, sports lights and insurance fees. (Refer to FEE SCHEDULE)
2. Deposits are paid to ensure proper clean-up and to recover the cost of any facility or equipment replacement, repairs, damage, loss, or for additional staffing costs associated with the reservation. (Refer to FEE SCHEDULE)
3. When the application is approved, the Applicant has seven (7) days to pay fees and deposits after receiving the approved permit. If fees and deposit is not paid, the facility request is then canceled and approval is withdrawn.
4. All refundable deposits shall be paid by city check within four (4) weeks following the reservation date or last reservation date if multiple dates are reserved. It is the responsibility of the applicant to check with facility staff to make sure there are no damages and that all conditions of the agreement regarding clean-up, and scheduled reservation hours have been met with acceptable standards as established by the City.
5. The Applicant shall also be required to pay the full cost of for damages, over and above the deposit fee, regardless of the amount. If damage occurs and is less than the amount of deposit, the difference shall be refunded.
6. The City may require the presence of security personnel. The number and hours of security personnel needed shall be determined at time of application. The City will contract with an approved security agency and the Applicant will be charged for those services. Payment for security services must be paid at the time when all fees are due. Nonpayment of security services may result in cancellation of event by the City.
7. Liability or Special Event Insurance is required for all reservations. Applicants may provide acceptable proof of insurance coverage naming the city and property owner as additional insured or may purchase insurance through the City. Insurance shall provide general liability insurance up to one million dollars (\$1,000,000.00) per occurrence.

H. CONDITIONS OF USE

1. City staff has the authority to request any person(s) to leave the premises if they are in violation of any City rule or regulation as defined in the Pico Rivera Municipal Code, Chapter 8.44.050.
2. Applicant shall consult with staff before moving any City property.

3. All noise and amplification shall be kept at a reasonable sound level as set forth in the Pico Rivera Municipal Code, Chapter 8.40.030. The City shall determine if sound level is deemed disturbing the peace, quiet and comfort of the neighboring properties or other persons.
4. Outdoor use of amplification equipment must be identified on Facility Use Application and Permit forms must be approved by Director of Parks & Recreation. Outdoor amplification equipment shall only be allowed: Monday - Friday, 3:00 p.m. to 8:30 p.m.; Saturdays, 8:00 a.m. to 8:30 p.m.; and Sundays, 10:00 a.m. to 7:00 p.m.
5. Reservations and events held in the Senior Center or community centers shall be no longer than six (6) hours in duration and shall conclude no later than 12:00 a.m. (midnight). Reservations and events held in the swimming pool and batting cages shall conclude by 9:00 p.m. All clean-up and removal of supplies, decorations and equipment shall be completed within thirty (30) minutes following the conclusion of the event.
6. Applicant shall be responsible for observing, following and enforcing all rules and regulations as determined and set forth by the Director of Parks & Recreation.
7. The City reserves the right of access to all activities at any time during their occurrence to see that all rules, regulations, conditions of use, City and Health & Safety Laws are not violated.
8. All recreational facilities are designated "smoke free" as defined in the Pico Rivera Municipal Code, Chapter 8.48.010 and "drug free" as defined in the Pico Rivera Municipal Code, Chapter 9.08.080.
9. Following a reservation or event, the Facility Supervisor submits a Facility Usage Report. If no damage or additional costs are incurred, the deposit shall be refunded to the Applicant's name as it appears on the payment receipt. The refund is mailed within four (4) weeks after the event. The applicant shall be invoiced for costs or damages in excess of the deposit as required.
10. Applicant must sign the Facility Usage Report at the conclusion of the event. This report will include any damages, additional security charges and applicant's comments and/or suggestions.
11. Animals are not permitted inside recreational facilities except those that serve as service animals.
12. An event or reservation may be canceled at any time due to unsafe conditions as determined by City staff.

13. Posting permanent identification signs shall not be allowed. Temporary signs must be pre-approved by the Director of Parks & Recreation and shall be removed at the conclusion of the event.
14. Applicant shall not transfer, assign or sublet use of recreational facility or apply for recreational facility on behalf of another group.
15. Parking and/or driving motor vehicles on City property other than parking lots, is prohibited unless specifically authorized by the Director of Parks & Recreation. Authorized vehicles must be properly insured.
16. Recurring reservations with less than ten (10) participants are subject to cancellation.
17. Applicants with recurring, multiple or regularly scheduled reservations shall notify the Facility Supervisor in advance of any cancellations or changes. Failure to notify the City of a cancellation shall be cause for cancellation of said permit.
18. Violations of the rules, regulations and conditions of use and/or failure to follow directives given by City staff shall be cause for cancellation of said reservation.
19. All events which are open to the public must adhere to the Americans with Disabilities Act ("ADA"), and all Federal, State and Local laws. The City shall not endorse, allow or abide by discriminatory rules or practices of any organization using City facilities.
20. Other Conditions of Use may be required. Applicants should review their approved permit for other conditions of use.

I. ALCOHOLIC BEVERAGES

1. Consumption or possession of alcohol on City recreational facilities is forbidden by Pico Rivera Municipal Code Section 9.08.020 except where specifically permitted by City Resolution No. 4196.
2. If alcohol is permitted, the following policies must be observed:
 - a) Applicants who desire to sell liquor must obtain a one-day liquor license from the Alcoholic Beverage Control (ABC). A letter from the Director of Parks & Recreation shall be obtained prior to obtaining a license from ABC. Said license shall be visibility posted at the designated serving location during the entire event.
 - b) The person or people serving alcohol must be designated and identified to City staff and security personnel. Liquor sales or service must stop one-half (1/2) hour before the event ends. Alcoholic beverages are not permitted on park grounds, in parking lots or outside the Senior Center or community centers.

- c) Alcoholic beverages must be served from a designated location approved by the Facility Supervisor. All beverages must be served in plastic or paper cups.
- d) The Applicant shall ensure that persons under twenty-one (21) years of age are not served or consume alcoholic beverages. If any person under twenty-one (21) years of age is found consuming alcoholic beverages or if guests become intoxicated, City staff reserves the right to discontinue alcoholic beverage service or terminate the event immediately with no refund of deposit to the Applicant.
- e) All Applicants must offer a non-alcoholic beverage option for guests in attendance.

J. EVENT PREPARATION AND SET-UP

1. Event preparation time is limited to the two (2) hours prior to the reservation. Additional time may be requested and is dependant on room availability and subject to staffing fees.
2. All supplies, decorations and/or equipment shall be delivered within the two (2) hour preparation time and shall be removed thirty (30) minutes following the event unless prior permission is received by the City. Storage of supplies, decorations, equipment, etc. prior to the reservation is dependant on facility availability and subject to additional fees.
3. Decorations shall only be attached to wood or metal surfaces using only painters tape or string to avoid leaving marks on walls or surfaces. The use of tacks, staples, nails, screws, and flammable items is prohibited. Tablecloths shall be taped to the bottom of the table using only painters tape. All tape or string shall be removed at the conclusion of the event.
4. A proposed event set-up diagram must be submitted. The requested tables and chairs for the event shall be arranged by City staff according to the submitted diagram. The Facility Supervisor shall have the authority to modify the set-up diagram as needed.
5. Guests shall not be allowed into the facility prior to the reservation time.

K. ADVERTISING AND FUNDRAISING

The following activities shall be prohibited unless specifically authorized by the Director of Parks & Recreation Department:

- Commercial advertising/promotion.
- Collection of fees or charges.

- Profit making by businesses or individuals.

L. USE OF CONCESSION STANDS

The Director of Parks & Recreation is hereby authorized to grant concession privileges and use of concession stands to recognized local non-profit organizations or community groups in connection with a recreation activity conducted by said non-profit organization or community groups referred to as Applicant under the following conditions:

1. The Applicant must obtain, obey and pay for the related cost for all health, fire and building permits and inspection thereof, as defined in the Pico Rivera Municipal Code, Chapters 8.04 and 8.08.
2. The Applicant agrees to maintain and restore the premises to the same condition found prior to the granting of the concessions and further agrees to be responsible for the cleanup of the premises and removal of all debris.
3. Use of structures, signs or equipment on recreational facilities must be approved in writing by the Director of Parks & Recreation and may be subject to permits and inspection by the Building and Fire Departments.
4. Hours of operation must be approved in advance by the Director of Parks & Recreation.
5. Reservations and permits shall be granted for a period no longer than six (6) months.
6. Unless approved in writing in advance by the Director of Parks and Recreation, Applicant shall only operate concessions during the reservation period or regularly scheduled activities hosted by the local civic or community organization.
7. Concession operations must have a certified food handler certificate posted at all times.
8. Concession stands shall, at all times, be supervised by an adult who is twenty-one (21) years of age or older.
9. Applicant shall secure concession stands and lock all doors, gates, and windows after each and every use.
10. Applicant shall remove trash in and around concession buildings and recreational facilities after each and every use.
11. Applicant shall be responsible for cleaning all food preparation equipment and utensils, floors, stoves, deep fryers, sinks, counters, walls, freezers, refrigerator, freezer, and storage areas after each use. Applicant must leave the concession stand in a clean condition following each and every use. This condition applies even when the same

Applicant is the next user of the concession stand.

12. Applicant shall not pour grease down any drainage pipes nor shall grease be disposed on City property. Discarded grease shall be disposed of properly as directed by the Facility Supervisor.
13. Applicant must receive approval from the Facility Supervisor for use and installation of privately owned appliances and equipment.
14. Non approved concession items including, but not limited to, athletic equipment, office equipment, alcoholic beverages or supplies, shall not be stored in concession stand.
15. Food and unused oil/lard shall be properly covered and stored each night.
16. Sunflower seeds, confetti eggs, and similar items shall not be sold. All food and beverage items to be sold at a concession stand must be approved by the Director of Parks and Recreation.
17. Organizations operating concession stands shall be encouraged to offer healthy food options.
18. All food and drinks shall be served in paper or soft plastic. Metal utensils, cans, and glass bottles are prohibited.
19. Cash shall not be stored overnight in concession stands.
20. Applicant using concession stands shall complete the following on a weekly basis:
 - a. Floors, walls and ceiling shall be cleaned removing stains, grease, and dirt.
 - b. Cupboards and counters shall be cleaned and organized.
 - c. Deep fryers, stoves and hood including ovens, grills, hood filters and all surfaces shall be cleaned with a degreaser. Hood filter may either be steam cleaned or cleaned with a high pressure hose.
 - d. Refrigerator and freezers shall be cleaned.
21. Any violation of the aforementioned terms and provisions shall constitute grounds for the immediate revocation of concession privileges.
22. Repairs and damages to the facility or City owned equipment shall be reported immediately to the Facility Supervisor. Applicants shall be responsible to pay 40 percent of replacement cost for city owned equipment.

23. Any modifications to park concession stands must be approved in advance by City Administration. Applicant shall contact the Director of Parks & Recreation regarding any desired projects, changes, or additions prior to securing supplies, equipment, volunteers, or before any work is begun. Applicant may be responsible for permits and the cost of all expenses. Failure to do so shall require the organization to pay all cost for corrections or to restore the facility back to the original condition.

M. USE OF SWIMMING POOL, TENNIS COURTS, BATTING CAGES, GYMNASIUMS, AND BALL FIELDS

Swimming pool, tennis courts, batting cages, gymnasiums, and ball fields may be reserved in accordance to this Resolution. All posted rules and regulations are to be adhered to. Additional regulations for the use of athletic facilities are as follows:

1. Applicant shall conduct athletic activities and events only on facilities as indicated on the Permit.
2. Outdoor athletic activities must conclude by 9:00 p.m. Monday through Saturday and 8:00 p.m. on Sunday.
3. Outdoor athletic events shall not begin before 8:00 a.m.
4. In the event of inclement weather or if the facility, in the judgment of the City should not be used, the event shall be canceled. Applicant shall contact the City on the day of the event if there is a question as to the use of the facility due to inclement weather or emergency.
5. Ball field lights shall be automatically scheduled to go on a minimum of fifteen minutes (15) before the start of an activity or (30) minutes before sunset. Lights shall stay on no less than fifteen (15) minutes following the conclusion of an activity.
6. Upon arrival and before each use, Applicant shall survey the area to ensure it is in proper playing condition. If the area is not in proper playing condition, Applicant shall notify City immediately prior to using the area for determination whether Applicant may use the area.
7. Upon conclusion of each use, Applicant shall store all equipment properly, return City owned equipment to staff as appropriate, ensure that area is litter free.
8. Applicant shall be responsible for the conduct and supervision of all participants, spectators, coaches, managers, etc.
9. Graffiti, vandalism and/or disruptive behavior shall be documented and reported to the

Sheriff's Department immediately.

10. The City shall reserve the right to cancel or modify reservations and to require payment or deduct costs from a deposit for damages, security concerns, additional staffing needs, clean up, or late departures.
11. Any modifications to park facilities, grounds, backstops, etc., must be approved in advance by City Administration. Applicant shall contact the Director of Parks & Recreation regarding any projects, changes, or additions to facilities prior to securing supplies, equipment, volunteers, or before any work is begun. Applicant may be responsible for all permits and cost. Failure to do so shall require the organization to pay all cost for permits and corrections or to restore the facility back to the original condition.

N. OPEN SPACE AND PICNIC FACILITIES

1. When not reserved open space and picnic facilities shall be made available to the public on a first-come, first-serve basis.
2. Open space and picnic facilities may be reserved for local non-profit civic and community organizations for special events as approved by the Director of Parks and Recreation following the procedures and subject to fees.
3. Designated Picnic Cabanas may be reserved by local non-profit civic and community organizations and private groups. Reservations shall be for all day use and are subject to a reservation fee. (Refer to FEE SCHEDULE)

O. RESPONSIBILITY OF APPLICANT

1. The Applicant shall be solely responsible for the conduct and/or actions of event guests, invitees, licensees, participants, volunteers, spectators, caterers, performers, and any other person that may enter the premises as a result of conducting such event.
2. Events for minors (seventeen (17) years of age and under) shall be supervised by one responsible adult (twenty-one (21) years of age or older) for every twenty (20) minors, at all times while using recreational facilities.
3. City staff has the authority to terminate an event in the interest of public safety. Refunds shall not be made if the event is terminated early due to the conduct and/or actions of the applicant, guests, participants, volunteers, spectators, caterers, performers, etc.
4. Applicants, and each of them, agree to indemnify, defend, save and hold harmless City, its elected and appointed officers, employees, and agents from and against any and all liability, expense (including defense costs and legal fees), and claims for damages of any nature whatsoever, including, but not limited to, bodily injury, death, personal injury, or

property damage arising from or connected with such Applicant's, and its members', agents', licensees, guests, and invitees', operations on and use of any City facility and the attraction caused by their operations on and use of the facility which attracts third parties and members of the general public to the City facility, including any Worker's Compensation suit, liability, or expense, arising from or connected with services performed on behalf of such Applicant by any person pursuant to the grant of use.

5. Applicant shall be present throughout the entire reservation and until the conclusion of the event.
6. Applicant is responsible for all communications and special requests.

I. RECREATIONAL FACILITY CAPACITIES ARE AS FOLLOWS:

Facility	Assembly	Dining
Council Chambers	124	0
Senior Center Auditorium	402	187
Pico Park Community Center Auditorium	625	291
Rivera Park Community Center Auditorium	426	199
Smith Park Community Center Auditorium	337	156
Rio Hondo Park Community Center Auditorium	100	60

Facility	Capacity
Swimming Pool	300
Basketball Gyms	500

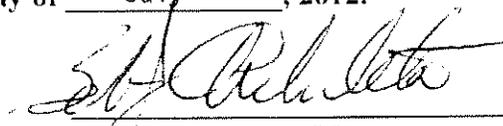
J. FEE SCHEDULES

Fee schedule is attached as Exhibit A.

SECTION 6. The City Council hereby declares that it would have passed this Resolution sentence by sentence, paragraph by paragraph, and section by section, and does hereby declare that the provisions of this Resolution are severable and, if for any reason any sentence, paragraph, or section of this Resolution shall be held invalid, such decision will not affect the validity of the remaining parts of this Resolution.

SECTION 7. The City Clerk shall certify to the adoption of this Resolution and thereupon be in full force and effect.

ADOPTED AND APPROVED this 10th day of July, 2012.



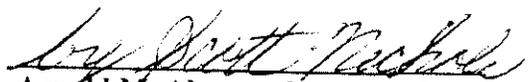
Bob J. Archuleta, Mayor

ATTEST:

APPROVED AS TO FORM:



Anna M. Jerome, Assistant City Clerk



Arnold M. Alvarez-Glasman, City Attorney

AYES: Armenta, Camacho, Salcido, Tercero, Archuleta
NOES: None
ABSENT: None
ABSTAIN: None

**DEPARTMENT OF PARKS AND RECREATION
FEE SCHEDULE PER RESOLUTION _____
ADOPTED JULY 10, 2012**

PROGRAM	CURRENT FEE	PROPOSED FEE
Day Camps		
Summer Camp	\$79 per week	\$99 per week
		\$10 resident discount
Holiday and Spring Break Camp	\$79	\$89
		\$10 resident discount
Trips & Tours		
	Various	Various
Admin Fee	\$10	\$10
Walking Crew		
Weekly Fee	\$39	\$39
All Day camp	\$5	\$5
All Day camp non-walking crew	\$15	\$15
One Day Fee	\$19	\$19
Late Pick up	\$10 for every 15 min.	\$10 for every 15 min.
Late Payment	\$5	\$5
Tiny Tots		
Monthly Fee - 2 days per week	\$45	\$60
		\$10 resident discount
Monthly Fee - 3 days per week	\$55	\$70
		\$10 resident discount
Contract Classes (Fee negotiated with class instructor)		
Instructor pay split:		
15 or less students	65% instructor 35% city	60% instructor 40% city
16 - 25 students	70% instructor 30% city	60% instructor 40% city
26 or more students	75% instructor 25% city	60% instructor 40% city
resident discount		\$5 per class
admin fee	\$10 included in fee	\$10 per transaction
Youth Sports Programs		
Basketball	\$40	\$55
		\$10 resident discount
Kids Sports & Lil Athletes	\$35	\$50
		\$10 resident discount
Batting Cages		
15 pitches	\$1	\$1

PROGRAM	CURRENT FEE	PROPOSED FEE
Swimming/Diving Lessons		
Children	\$42	\$52
		\$10 resident discount
Adults	\$47	\$57
		\$10 resident discount
Semi Private Lessons	\$18	\$33
		\$10 resident discount
Recreational Swimming		
Admission Fee	\$2	\$2
Lap swim	\$3	\$3
Swim pass - 20 swims	\$15	\$15
Slap Swim Pass - 10 swims	\$25	\$25
Jr. Lifeguard	\$70 per session	\$110
		\$10 resident discount
Summer Swim Team	\$50	\$60
		\$10 resident discount
Community Gardens		
Adult annual fee	\$90	\$95
	\$15 resident discount	\$15 resident discount
Senior annual fee	\$90	\$90
	\$30 resident discount	\$30 resident discount
Reach Annual Registration		
Annual fee	\$20	\$40
CYSO Registration Fee*		
Seasonal Fee	N/A	\$15 per player
	N/A	\$10 resident discount
MISC		
Discount Registration Period	10%	cancel
Automatic Renewel Discount	\$5	cancel
Discount for online registration	N/A	10%
City Manager may authorize seasonal discounts and promotional pricing for Recreation programs		

FACILITY	CURRENT FEE	FEE
Facility Rentals		
Pico Park & Senior Center Auditorium*	\$150 per hour	\$200 per hour
Smith Park Auditorium*	\$120 per hour	\$170 per hour
Rio Hondo Park Auditorium*	\$80 per hour	\$170 per hour
Rivera Park Auditorium*	\$120 per hour	\$200 per hour
Basketball Gymnasium*	\$75 per hour	\$100 per hour
*Resident Discount	N/A	\$50 per hour
Pico & Rivera Park Patio	\$25 per hour	\$25 per hour
City Council Chambers	\$125 per hour	\$125 per hour
Community Center Meeting Rooms**	\$40 per hour	\$40 per hour
**Resident Discount	N/A	\$15 per hour
Additional Rates & Fees		
Event Rental with Alcohol	N/A	\$50 additional per hour
Event Rental Saturday Premium	N/A	\$50 additional per hour
Quinceaneras & Sweet 16 Events	N/A	\$50 additional per hour
Event Maintenance/Cleanup Fee	N/A	\$100
Quinceaneras & Sweet 16 Maintenance/Cleanup Fee	N/A	\$200
Event Room Set up & Breakdown	N/A	\$75
Event Staffing Fee	N/A	\$36 per hour
Event Additional Decoration time	N/A	\$50 per hour
Additional Staff supervision	\$18 per hour	\$18 per hour
Security Guards	Reimburse Actual Cost	Reimburse Actual Cost
Liability Insurance	Reimburse Actual Cost	Reimburse Actual Cost
Refundable Damage Deposit	Reimburse Actual Cost	Reimburse Actual Cost
Cancellation Fee - 10 days in advance	N/A	10% of rental fees
Cancellation Fee - less than 10 days in advance	\$25	25% of rental fees
Picnic Cabanas (daily fee)		
Rio Hondo capacity 75	N/A	\$100
Rio Hondo capacity 175	N/A	\$175
Rio Hondo capacity 350	N/A	\$350
Smith Park capacity 25	N/A	\$30
Smith Park capacity 75	N/A	\$100
Smith Park capacity 150	N/A	\$200
Rio Vista Park capacity 50	N/A	\$75
Rivera Park capacity 25	N/A	\$30
Rivera Park capacity 50	N/A	\$75
Rivera Park capacity 75	N/A	\$100
Rivera Park capacity 100	N/A	\$125
Resident discount for cabanas with capacity of 75 or more	N/A	\$25
Pool Rental		
all reservations	\$1.50 per swimmer	\$1.50 per swimmer
up to 50 Swimmers	\$150 per hour	\$150 per hour
Resident Discount	N/A	\$25 per hour
Additional lifeguard requirement per increment of 50 swimmers	\$20.00 per hour	\$20 per hour
Lifeguards	\$20 per hour	\$20 per hour
Batting Cages		
	\$60 per hour	\$60 per hour
Resident Discount	N/A	\$10 per hour

FACILITY		FEE
Sports Fields		
Baseball/Softball Fields	\$25 per hour	\$25 per hour
Smith Park Football/Soccer Stadium	N/A	\$100 per hour
Rio Hondo Park Soccer Field	\$45 per hour	\$45 per hour
Resident Discount	N/A	\$10 per hour
Field Preparation	\$40 per field	\$40 per field
Staff Supervision		
	\$18 per hour	\$18 per hour
Ball Field Lights***		
	\$10 per hour	N/A
Pico Park Ball Field		\$15 per hour
Pico Park Football Main Field		\$12 per hour
Pico Park Football Side Field		\$4 per hour
Pico Park Cheer Area		\$4 per hour
Rio Hondo Park Ball Field		\$15 per hour
Rio Hondo Park Soccer Field		\$10 per hour
Rio Vista Park Softball Field		\$5 per hour
Rivera Park Baseball Field		\$6 per hour
Rivera Park Majors Baseball Field		\$10 per hour
Rivera Park Cheer Area		\$3 per hour
Smith Park Baseball Field		\$6 per hour
Smith Park Softball Field		\$10 per hour
Smith Park Soccer Field		\$7 per hour
Smith Park Mini Soccer Field		\$3 per hour
Smith Park Stadium		\$10 per hour
Meller School Fields		\$4 per hour
Streamland Park Baseball Field		\$5 per hour
***effective January 1, 2013. CYSO to receive equal percentage discount for resident registration over 70%		



To: Mayor and City Council

From: City Manager

Meeting Date: September 23, 2014

Subject: THREE HOT SPOT INTERSECTION PROJECTS - ROSEMEAD BOULEVARD AT BEVERLY BOULEVARD (CIP NO. 21276); ROSEMEAD BOULEVARD AT SLAUSON AVENUE (CIP NO. 21277); ROSEMEAD BOULEVARD AT WHITTIER BOULEVARD AND ROSEMEAD BOULEVARD AT WASHINGTON BOULEVARD, (CIP NO. 21278) — AWARD PROFESSIONAL SERVICE AGREEMENTS FOR ENGINEERING SERVICES

Recommendations:

Award Professional Services Agreements to the following consultants to provide engineering design services:

- 1) URS Corporation Americas for the Rosemead Boulevard at Beverly Boulevard Improvements Project (CIP No. 21276) for an amount not-to-exceed \$569,516.20.
- 2) Willdan Engineering for the Rosemead Boulevard at Slauson Avenue Improvements Project (CIP No. 21277) for an amount not-to-exceed \$184,522; and Rosemead Boulevard at Whittier Boulevard and Rosemead Boulevard at Washington Boulevard Improvements Project (CIP No. 21278) for an amount not-to-exceed \$78,776.
- 3) Authorize the Mayor to execute the recommended contracts in a form approved by the City Attorney.

Fiscal Impact: \$569,516.20 for CIP No. 21276 (Measure R funds)
\$184, 522.00 for CIP No. 21277 (Measure R funds)
\$ 78,776.00 for CIP No. 21278 (Measure R funds)
\$832,814.20 Total

THREE HOT SPOT INTERSECTION PROJECTS - ROSEMEAD BOULEVARD AT BEVERLY BOULEVARD (CIP NO. 21276); ROSEMEAD BOULEVARD AT SLAUSON AVENUE (CIP NO. 21277); ROSEMEAD BOULEVARD AT WHITTIER BOULEVARD AND ROSEMEAD BOULEVARD AT WASHINGTON BOULEVARD (CIP NO. 21278) – AWARD PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES

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Discussion:

The City of Pico Rivera is a member of the SR-91/I-605/I-405 Corridor Cities. The mission of this group is to reduce congestion along an approximate 19-mile stretch of the I-605, SR-91 and I-405. The committee created the Hot Spots Program to focus on reducing congestion in local jurisdictions at regional roadway intersections located within the limits of the corridor.

On May 27, 2014, Council approved the Memorandum of Understanding (MOU) for each of three Hot Spot Intersection Improvement Projects with METRO for the use of \$6,450,000 in METRO's Measure R funds from the SR-91/I-605/I-405 Hot Spots Program. Two intersections, Rosemead Boulevard at Whittier Boulevard and Rosemead Boulevard at Washington Boulevard, were combined into one project since improvements at both intersections are relatively minor.

Proposed improvements vary at each of the four intersections, but may include the following: increased left-turn storage, additional left-turn lanes, additional through travel lanes, dedicated right-turn pockets, reconstruction of existing medians to accommodate additional travel lanes, and associated traffic signal modifications.

On May 22, 2014, a Request for Proposals (RFP) was advertised and released to nineteen (19) qualified engineering firms. Design services requested include project management, preliminary engineering, environmental document preparation, geotechnical investigations, surveying, right-of-way engineering, drainage, design and preparation of plans, specifications and estimates (PS&E), quality assurance/quality control, agency and utility coordination and construction support.

On June 26, 2014, eight (8) proposals were received before the deadline. The proposals were scored and the top five consultants were invited to interview on August 7, 2014. The panel was comprised of a Section Head from Los Angeles County Public Works - Traffic and Lighting Division, a project manager from ACE and the City's Director of Public Works/City Engineer. This qualification-based selection weighed a number of factors as outlined in the RFP, including project manager and team qualifications, experience on similar projects, understanding of technical issues, and experience with State and Federal policies and procedures.

THREE HOT SPOT INTERSECTION PROJECTS - ROSEMEAD BOULEVARD AT BEVERLY BOULEVARD (CIP NO. 21276); ROSEMEAD BOULEVARD AT SLAUSON AVENUE (CIP NO. 21277); ROSEMEAD BOULEVARD AT WHITTIER BOULEVARD AND ROSEMEAD BOULEVARD AT WASHINGTON BOULEVARD (CIP NO. 21278) – AWARD PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES

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Based on the ranking criteria, URS Corporation Americas and Willdan Engineering were unanimously selected by the panel as the top two highest qualified firms. The panel selected URS Corporation Americas for the Rosemead Boulevard at Beverly Boulevard Improvements Project (CIP No. 21276). Willdan Engineering was selected for the Rosemead Boulevard at Slauson Avenue Improvements Project (CIP No. 21277) as well as the Rosemead Boulevard at Whittier Boulevard and Rosemead Boulevard at Washington Boulevard Improvements Project (CIP No. 21278).

URS Corporation Americas and Willdan Engineering provide the following benefits to the projects:

- **Previous experiences with the City of Pico Rivera** - URS Corporation Americas is currently the design firm for the Durfee Avenue Grade Separation managed by ACE. Previously, URS Corporation Americas provided construction management and inspection services for the parks renovation projects. Willdan Engineering has provided as-needed engineering services to the Department of Public Works for the past eight (8) years. Further, Willdan Engineering was the prime consultant on the Rosemead Boulevard Rehabilitation and the Traffic Signal Safety Improvements (HSIP) Projects, that are nearing design completion.
- **Experienced Project Manager** - URS Corporation Americas project managers has over 20 years of public and private sector experience, the Project Manager is a Registered Civil Engineer and has delivered over 100 municipal projects. Willdan Engineering's project manager has over 30 years of public and private sector experience, is a Registered Civil Engineer and has delivered over 150 municipal projects
- **Superb knowledge of project issues** - URS Corporation Americas provided very comprehensive design alternatives during their interview and traffic modeling for the SR-91/I-605/I-405 Congestion Hot Spots Arterial Intersection Improvements Projects and identified solutions to known right-of-way and traffic issues. Willdan Engineering touched on a wide range of key project factors such as community acceptance of the projects, resolution to median openings, and traffic operations along the Rosemead Boulevard corridor.

Based on the above, URS Corporation Americas and Willdan Engineering are capable of delivering a high quality and cost effective design. High quality designs eliminate costly change orders during construction. The scope of work submitted by the two consultants is provided as exhibits to their respective Professional Services Agreements. The sealed fee proposals were

COUNCIL AGENDA REPORT – MTG. OF 9/23/14

THREE HOT SPOT INTERSECTION PROJECTS - ROSEMEAD BOULEVARD AT BEVERLY BOULEVARD (CIP NO. 21276); ROSEMEAD BOULEVARD AT SLAUSON AVENUE (CIP NO. 21277); ROSEMEAD BOULEVARD AT WHITTIER BOULEVARD AND ROSEMEAD BOULEVARD AT WASHINGTON BOULEVARD (CIP NO. 21278) – AWARD PROFESSIONAL SERVICES AGREEMENT FOR ENGINEERING SERVICES

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opened following qualification based selection in accordance with state and federal laws and the fees were subsequently negotiated. Fees shown in the exhibits to the enclosed professional services agreements are the negotiated fees and reflect all services required in the Request for Proposal and as revised through the negotiation process.

URS Corporation Americas submitted a competitive proposal; their negotiated fee is \$569,516.20. Willdan Engineering submitted a competitive proposal; their negotiated fee is \$263,298. Design services are fully funded with Measure R funds.

The projects are scheduled to begin design in September 2014.



René Bobadilla

RB:JE:JL:lg

Enc.

- 1) Professional Services Agreement for URS Corporation Americas
- 2) Professional Services Agreement for Willdan Engineering

AGREEMENT NO. _____
PROFESSIONAL SERVICES AGREEMENT
BETWEEN THE CITY OF PICO RIVERA AND
URS CORPORATION, INC.
dba URS Corporation Americas

1. IDENTIFICATION

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of Pico Rivera, a California municipal corporation ("City") and URS Corporation, a Nevada Corporation dba URS Corporation Americas ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as a "Party" and collectively referred to as "Parties."

2. RECITALS

2.1 City has determined that it requires professional services necessary for the delivery of a Capital Improvement Program project. The Consultant will provide services to provide design services for the SR-91/I-605/I-405 Congestion Hot Spots Arterial Intersection Improvements Project at Rosemead Boulevard and Beverly Boulevard, CIP No. 21276, or as set forth in the Consultant's August 25, 2014 proposal to City attached hereto as Exhibit "A".

2.2 Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

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

3. DEFINITIONS

3.1 "Scope of Services": Such professional services as are set forth in the Consultant's August 25, 2014 proposal to City attached hereto as Exhibit "A" and incorporated herein by this reference.

3.2 "Approved Fee Schedule": Such compensation rates as are set forth in the Consultant's August 25, 2014 proposal to City attached hereto as Exhibit "B".

3.3 "Commencement Date": September 10, 2014

3.4 "Expiration Date": December 31, 2016

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date unless extended by written agreement of the Parties or terminated in accordance with Section 21 below.

5. CONSULTANT'S SERVICES

5.1 Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the sum of Five Hundred Sixty Nine Thousand Five Hundred Sixteen Dollars (\$569,516.20) unless specifically approved in advance, in writing, by City.

5.2 Consultant shall perform all work to the highest professional standards of Consultant's profession and in a manner reasonably satisfactory to City.

6. COMPENSATION

6.1 City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule.

6.2 Consultant shall submit to City an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within ten (10) business days of receipt of each invoice, City shall notify Consultant in writing of any disputed amounts included on the invoice. Within thirty (30) calendar days of receipt of each invoice, City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other authorized deductions from payments made to Consultant.

6.3 Payments for any services requested in writing by City and not included in the Scope of Services shall be made to Consultant by City on a time-and-materials basis using Consultant's standard fee schedule. Consultant shall be entitled to increase the fees in this fee schedule at such time as it increases its fees for its clients generally; provided, however, in no event shall Consultant be entitled to increase fees for services rendered before the thirtieth (30th) day after Consultant notifies City in writing of an increase in that fee schedule. Fees for such additional services shall be paid within sixty (60) days of the date Consultant issues an invoice to City for such services.

7. BUSINESS LICENSE

Consultant shall obtain a City business license prior to commencing performance under this Agreement.

8. COMPLIANCE WITH LAWS

Consultant shall keep informed of State, Federal and Local laws, ordinances, codes and regulations that in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all times comply with such laws, ordinances, codes and regulations. Without limiting the generality of the foregoing, if Consultant is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of California pursuant to sections 2105 and 17451 of the California Corporations Code. The City, its officers and employees shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

9. CONFLICT OF INTEREST

Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute; and (ii) City has not consented in writing prior to Consultant's performance of such work.

10. PERSONNEL

Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant's services under this Agreement, but City reserves the right, for good cause, to require Consultant to exclude any employee from performing services on City's premises. Dave Eames shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.

11. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products") developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

12. INDEPENDENT CONTRACTOR

Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not at any time represent that it is, or that any of its agents or employees are, in any manner employees of City.

13. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data and any copies thereof shall be returned to City upon the termination or expiration of this Agreement.

14. INDEMNIFICATION

14.1 The Parties agree that City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the fullest protection possible under the law to City. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to indemnify and protect City as set forth herein.

14.2 To the full extent permitted by law, Consultant shall indemnify, hold harmless and defend City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers from and against any and all claims, demands, lawsuits, causes of action, losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from or arising out of any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.

14.3 City shall have the right to offset against the amount of any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant's failure to pay City promptly any indemnification arising under this Section 14 and related to Consultant's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

14.4 The obligations of Consultant under this Section 14 will not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

14.5 Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 14 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers from and against any and all claims, demands, lawsuits, causes of action, losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from or arising out of any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.

14.6 City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

14.7 **PERS ELIGIBILITY INDEMNITY.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

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

15. **INSURANCE**

15.1 During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

15.1.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence / Two Million Dollars (\$2,000,000) in the annual aggregate, including products and Completed operations hazard, contractual insurance, broad form property damage, independent Consultants, personal injury.

15.1.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of Two Million Dollars (\$2,000,000) per claimant and Two Million dollars (\$2,000,000) per incident.

15.1.3 Worker's Compensation insurance as required by the laws of the State of California.

15.1.4 Professional Liability insurance against errors and omissions in the performance of the work under this Agreement with coverage limits of not less than Two Million Dollars (\$2,000,000).

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

15.3 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.

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

15.5 At all times during the term of this Agreement, Consultant shall maintain on file with City's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and, for the general liability and automobile liability policies, naming the City as an additional insured. Consultant shall, prior to commencement of work under this Agreement, file with City's Risk Manager such certificate(s).

15.6 Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall provide such proof to City at least two weeks prior to the expiration of the coverages.

15.7 The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

15.8 The general liability and automobile policies of insurance provided by Consultant shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

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

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

15.11 Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless and defend under Section 14 of this Agreement.

16. MUTUAL COOPERATION

16.1 City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

16.2 In the event any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require.

17. RECORDS AND INSPECTIONS

Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

18. PERMITS AND APPROVALS

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, encroachment permits and building and safety permits and inspections.

19. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the Parties may, from time to time, designate in writing).

If to City:

René Bobadilla, City Manager
City of Pico Rivera
PO Box 1016
6615 Passons Blvd.
Pico Rivera, CA 90660-1016
Facsimile: (562) 801-4765

If to Consultant:

Richard A. Hart, P.E., Vice President
URS Corporation, Inc.
2020 East First Street, Suite 400
Santa Ana, CA 92705-4032
Office: (714) 648-2891

With a courtesy copy to:

Arnold M. Alvarez-Glasman, City Attorney
13181 Crossroads Parkway North
Suite 400 - West Tower
City of Industry, CA 91746
Facsimile: (562) 692-2244

20. SURVIVING COVENANTS

The Parties agree that the covenants contained in Sections 13, 14 and Paragraph 16.2 of Section 16, of this Agreement shall survive the expiration or termination of this Agreement.

21. TERMINATION

21.1. City shall have the right to terminate this Agreement for any reason on five (5) calendar days' written notice to Consultant. Consultant shall have the right to terminate this Agreement for any reason on sixty (60) calendar days' written notice to City. The effective date of termination shall be upon the date specified in the notice of termination. Consultant agrees that in the event of such termination, City's obligation to pay Consultant shall be limited to payment only for those services satisfactorily rendered prior to the effective date of termination. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

21.2 If City terminates this Agreement due to no fault or failure of performance by Consultant, then Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement.

22. ASSIGNMENT

Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any Party other than Consultant.

23. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

23.1 In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

23.2 Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

23.3 Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.

24. CAPTIONS

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

25. NON-WAIVER

25.1 The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

25.2 Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

26. COURT COSTS

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any Party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such Party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the Party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be Los Angeles County, California.

27. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

28. GOVERNING LAW

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

29. ENTIRE AGREEMENT

All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the Parties.

Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and Consultant.

TO EFFECTUATE THIS AGREEMENT, the Parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

ATTEST:

City of Pico Rivera

Anna M. Jerome, City Clerk

Brent A. Tercero, Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

Consultant - URS Corporation, Inc.

Arnold M. Alvarez-Glasman, City Attorney

By: _____
Richard A. Hart, P.E., Vice President

Its: _____

Date: _____

Date: _____

SCOPE OF WORK

CIP Project No. 21276 (Beverly Blvd. / Rosemead Blvd. Intersection Improvements)

1.0 PROJECT MANAGEMENT

1.1 Kick-Off Meeting

URS will coordinate and participate in a project kick-off meeting with City staff. This meeting is intended to identify and discuss project goals, opportunities and constraints, information needs, roles and responsibilities, and expectations. At this meeting, URS anticipates to receive relevant project information and documents available from City staff for use in preparation of the environmental document.

1.2 Project Coordination

The URS project manager will maintain regular communication with City designated project manager to update City staff on progress. Most communication will be performed via email or phone communication. Key Issues will be reviewed with City staff on a regular basis. URS will maintain awareness of critical schedule items and communicate to City staff when potential schedule delays are identified URS will support the City staff's preparation of City Council

1.3 Project Meetings

URS will hold regular Project Development Team (PDT) meetings at City Hall on a monthly basis or as determined necessary to maintain communication regarding critical development issues. Six (6) monthly meeting are assumed in this scope. Meeting agendas will be prepared and distributed ahead of each meeting for review. Following each PDT meeting, minutes will be prepared detailing relevant discussion items and provided with 7 days for attendees to review.

1.4 Project Schedule

Within 30 days of NTP, the URS team will deliver a critical path schedule of project development through project advertisement. The schedule will outline critical and non-critical path items necessary to complete the design of the project including plan review. Following determination of utility impacts, utility relocation schedule information will also be added to the critical path schedule. Monthly updates will be provided

Deliverables:

- Meeting Agendas and Minutes
- Project Schedule (Microsoft Project format)
- Presentation materials for City staff

2.0 PA/ED PHASE

California Environmental Quality Act (CEQA) Documents

Because of our background knowledge of this project, we anticipate that improvements for Project No. 1 (Rosemead Boulevard/Beverly Boulevard) will require additional environmental analysis due to right-of-way acquisitions and local street access modifications identified in the preliminary design. Our environmental staff will work closely with the design team to inform the development of the preliminary design, including options to minimize or to avoid significant adverse impacts. Particular attention shall be devoted to potential concerns associated with utility relocation issues and right of way impacts. An Initial Study (IS) Checklist will be prepared to assess potential impacts and will be utilized to determine if a Negative Declaration (ND) is the appropriate environmental document, or if mitigation measures will be needed to support the preparation of a Mitigated Negative Declaration (MND).

2.1 Administrative Draft IS Checklist

URS will prepare an Administrative Draft IS Checklist that fulfils the disclosure responsibilities of the City pursuant to CEQA. We will use the City's established template, if available, or utilize Appendix G of the State CEQA Guidelines formatted to the specifications of the City. We anticipate the following environmental issues will be given particular emphasis in the IS Checklist:

- Air Quality: It is anticipated that the project will not have significant air quality impacts, and that compliance with standard regulatory procedures will likely mitigate any potential air quality impacts.
- Noise: Residential uses exist in the vicinity of the proposed project and may be impacted by noise caused by additional traffic and during project construction.
- Transportation/Traffic: Proposed additional travel lanes and alignment modifications may impact the circulation system and level of service standards in the area.

The preparation of technical studies are proposed for the above identified topical areas to further analyse potential impacts and identify appropriate mitigation measures, if necessary. Technical studies are discussed separately below.

The Administrative Draft IS will include:

- Project description as approved by City;
- The location of the project site, shown on a map;
- A preliminary finding that the proposed project will not have a significant effect on the environment and the appropriate environmental document identified (ND or MND);
- Applicable mitigation measures as recommended in technical reports and other research and analysis obtained and prepared for the project.

Deliverables:

- One (1) electronic copy of the administrative draft IS Checklist for City staff review and comment.
- One (1) electronic copy of the final IS Checklist

Assumptions

- It is anticipated that due to the nature of the project, there will be no impacts or that the potential for significant impacts can be fully mitigated.
- The electronic version of the document provided to the City will be utilized for internal distribution and review/comment.

- City staff will collect all departmental comments during the cycle of review and will submit them to URS in one transmission.
- One (1) cycle of review with the City is assumed. URS will revise the document, as necessary, to reflect comments from City staff.

2.2 Preparation of Negative Declaration (ND)/Mitigated Negative Declaration (MND)

Draft ND/MND

Upon City staff review and approval of the IS Checklist, URS will prepare an ND or MND for public review and comment. Upon review and approval of the draft ND/MND, URS will prepare the document for public review and circulation.

URS will also prepare a Notice of Intent (NOI) to adopt an ND/MND for the City's use and distribution to begin the required public review and comment period for the environmental document. It is anticipated that the project will not require review and comment by State Agencies, therefore the ND/MND will not require transmittal to the State Clearinghouse and a 20-day public review period will be sufficient to satisfy Section 15105 of the CEQA Guidelines

Deliverables:

- One (1) electronic administrative draft copy of the ND/MND for City staff review and comment.
- One (1) electronic copy of the final IS/MND for City use and distribution.
- One (1) electronic copy the NOI for the City's use in publishing, distribution and posting with the County Clerk.

2.3 Mitigation Monitoring and Reporting Program (MMRP)

Should mitigation measures be required to reduce project impacts to less than significant, URS will prepare the Mitigation Monitoring & Reporting Program (MMRP) for the proposed project in compliance with Public Resources Code Section 21081.6. The MMRP will be prepared in table format and will include the list of measures; timeframe for compliance for each measure; party responsible for mitigation measure implementation; and reporting agency.

Deliverables:

- One (1) electronic copy of the MMRP for staff use.

2.4 Notice of Determination

URS will prepare the Notice of Determination (NOD) for City staff review and approval within five (5) working days of adoption of the Final IS/MND. We assume the City will be responsible for filing the NOD with the Los Angeles County Clerk, and submitting the California Department of Fish and Wildlife (CDFW) required fee when filing the NOD with the County Clerk, and will provide proof that the documents have been received and all payments have been processed.

2.5 Public Hearings

URS Staff will be available to attend up to two (2) public hearings to assist City staff with addressing any comments received by the public or the Planning Commission/City Council. We request the City provide URS with at least 48 hours advance notice for attendance/participation at public hearings.

2.6 Responses to Comments

If the City determines that comments received during the mandatory public review period require formal responses, URS will be available to accommodate this request. Upon close of the public review period, City staff will compile and distribute one (1) complete set of all comments received. Draft responses will be prepared by URS and submitted electronically to the City for review and comment. Upon receipt of City staff's collective comments on the draft, URS will prepare a final version for City staff's use and distribution.

2.7 Technical Studies

Task Description

Technical studies are proposed to verify the project will have no environmental impacts and/or identify appropriate mitigation measures to bring potential impacts to a less than significant level. The following studies will be prepared:

2.7.1 Air Quality

URS will prepare an air quality analysis for construction and operational activities associated with the proposed intersection improvements. An Air Quality Technical Study will be developed to satisfy the disclosure requirements of CEQA. The air quality analysis will be based on the current methodology of the South Coast Air Quality Management District (SCAQMD) for projects within the South Coast Air Basin (SoCAB).

The air quality analysis will provide an estimate of short-term air pollutant emissions using the CalEEMod computer model. Modelling will be based on the construction schedule and preliminary construction equipment provided by the City or contractor. Air pollutant emissions will be compared to the SCAQMD's regional thresholds of significance to determine the significance of project related construction emissions.

In addition, SCAQMD also requires that project-related construction emissions be evaluated against the localized significance thresholds (LSTs). LSTs are used to determine whether sensitive uses near the project site are exposed to air pollution that exceeds the ambient air quality standards (AAQS). Mitigation measures that reduce construction impacts will be identified, as necessary. Given that the site has been previously graded, the analysis will provide a qualitative assessment to reach any appropriate conclusion.

2.7.2 Global Climate Change

URS will prepare a global climate change impact analysis for construction and operational activities associated with the project. Greenhouse gas (GHG) emissions modeling and a climate change evaluation will be included as part of the Air Quality Technical Study. Mitigation measures that reduce project-related GHG emissions will be identified, as necessary.

2.7.3 Noise Analysis

URS will prepare a noise impact analysis for construction and operational activities associated with the project. A Noise Analysis Technical Study will be developed to satisfy the disclosure requirements of CEQA. The study will include the following components: *Baseline Environmental Setting, Construction Impact Analysis, and Operational Impact Analysis*.

The changes in the projected noise exposure level due to the expected increases in traffic will be calculated, and any impacts to noise-sensitive land uses in the project area associated with those noise level increases will be identified. If project related impacts exceed any thresholds, mitigation measures to reduce the impacts to a less than significant level will be identified and included.

2.7.4 Traffic Analysis

URS will prepare a Traffic Impact Analysis as outlined in the Preliminary Engineering Task to satisfy the disclosure requirements of CEQA and also support the final design recommendations. URS will collect traffic counts and perform LOS and Queue analysis at four intersections (CIP 21276, 21277, 21278). URS will then analyse and document the results of the traffic impact analysis in a Traffic Analysis Report technical memorandum for City staff to review. For the purposes of this scope of work, URS will evaluate and present draft and final intersection improvement recommendations at each study location.

2.7.5 Phase 1 Study

If the City determines that property is required for the selected improvements and there is a potential for contamination on property identified for acquisition, URS can provide services to develop a Phase 1 study and perform field testing for addition fee.

3.0 AGENCY AND UTILITY COORDINATION

3.1 Utility Coordination

Overhead power and communication lines have been identified for relocation at the Beverly Blvd. / Rosemead Blvd. intersection. Several utility owners occupy each pole and will require separate notification and coordination. There are also a number of underground facilities. To the extent that they are impacted by the Project, the surface features of these facilities will be surveyed to verify their location and assist in determining if they can either be protected in place or require relocation. Manholes, vents, and valve cans will also be field surveyed to accurately access if they are impacted by the proposed design improvements. Although highly unlikely, some of the utility owners may have prior rights and require replacement easements or amended common use agreements. The preparation of utility agreements is not included as a part of this scope of work. Based on preliminary research several utility owners may have facilities within the project or its surrounding area. The exact locations of the following facilities have not been verified.

Table 4: Utility Owners and Affected Facilities

Utility Owner	Facility
Verizon OH & UG	Tele & Fiber
AT&T UG	Tele & Fiber
Time Warner OH & UG	Cable
Crown Castle	Fiber
Sunesys	Fiber
MCI OH & UG	Fiber
Edison Distribution OH & UG	Electric
Edison Transmission OH	Electric
Edison Communication OH	Cable
So. Cal. Gas Transmission	30"
So. Cal. Gas Distribution	Pipeline
City of Pico Rivera Water	Pipeline
Metropolitan Water District	Pipeline
Pico Water District	Pipeline
Crimson Pipeline Oil	Pipeline

Utility Owner	Facility
Exxon Mobil Pipeline Oil	Pipeline
Chevron Oil	Pipeline

Upon receiving a NTP, our team will begin to coordinate with the utility owners and their designers, as needed, to discuss project design, potential conflicts, relocation alternatives, and resolution to conflicts. We will initially perform research and prepare a draft utility base file. Utility Verification letters will be prepared for all identified utilities within the project limits. Affected utilities will be surveyed for positive location in the project design files. Utility impacts will be reviewed in concert with the proposed improvement design concepts.

Once conflicts have been identified with the approved design concept, URS will issue Relocation Claim letters to the owners of all utilities that are in conflict with proposed improvements. URS will then determine liability for each utility company that is impacted by the project and communicate information to City staff.

URS will coordinate with affected owners in the development of a scope of work from the utility companies for relocation, estimated start and completion dates, and proposed cost to perform and complete the job. A Notice to Owner (NTO) letter will be issued to relocate affected utilities. Finally, we will work with the City and utility owner to ensure the utility owner's Relocation Plan is compatible with permit requirements and utility agreements are accurately and properly prepared. URS will provide project information to the City in support of the City's obtaining permits, licenses, replacement easements, and/or the preparation of utility agreements for utility relocations.

Deliverables:

- Project Introduction Letters to Owners
- Copies of Utility As-Built Plans provided by owners
- Utility Verification Letters
- Utility Owner Matrix
- Utility Pothole Location Map and Data Report
- Relocation Claim Letters
- Utility Relocation plans (prepared by the utility owner)
- Notice to Owner to relocate utilities

4.0 PRELIMINARY ENGINEERING

Task Description

This task includes the preparation of a concept plans for City staff to design alternatives and select a preferred design for PS&E development.

Upon receiving a Notice to Proceed, the URS team will initially meet with City staff to review the Study Arterial Concept Plans and traffic model information to confirm the basic traffic data that will be utilized in determining the scope of the proposed intersection improvements. City will review and approve the locations for the traffic counts. After acquiring necessary encroachment permits, the URS team will perform traffic counts and field survey to record the existing conditions. Limits of the field survey will coincide with the limits of Exhibit 1. A design model will be created of the existing Beverly Blvd. / Rosemead Blvd. street

intersection to serve as a basis for designing improvement concepts. URS will review all provided reference documents and add relevant reference information to the design base files as needed for determination of the project impacts. All base maps prepared using the collected data will be provided to City staff for reference at the end of the project.

URS understands the City wishes to include a concrete pavement section at all four legs of the Beverly Blvd. / Rosemead Blvd. intersection. URS will perform shallow boring soil sampling at the Beverly Blvd. / Rosemead Blvd. intersection for purposes of designing a concrete pavement section at this location. URS will take field samples, perform laboratory testing, and summarise the design recommendations in a Design Memo.

Two design concepts will then be prepared for review and consideration by City staff. One of the two concepts to be developed for City review is shown in Exhibit 1. As indicated in Exhibit 1, moving the north curb on Beverly Boulevard will require relocation of the overhead transmission and communications lines. This scope of work includes one round of City comments on each design concept. Once concepts are reviewed and the preferred concept has been selected by City staff, the URS team will coordinate reviews by affected utility owners. Adjustments will also be made to the existing drainage inlets including the installation of City approved BMPs. The existing Metro bus stop located on Beverly Boulevard will require relocation to the west side of Rosemead Boulevard to provide room for the required street widening. This scope of work assumes the incorporation of a standard bus stop design located on the west and south legs of the intersection. The southbound bus stop located on Rosemead Blvd. and south of Beverly Blvd. will also require relocation under the referenced design concept.

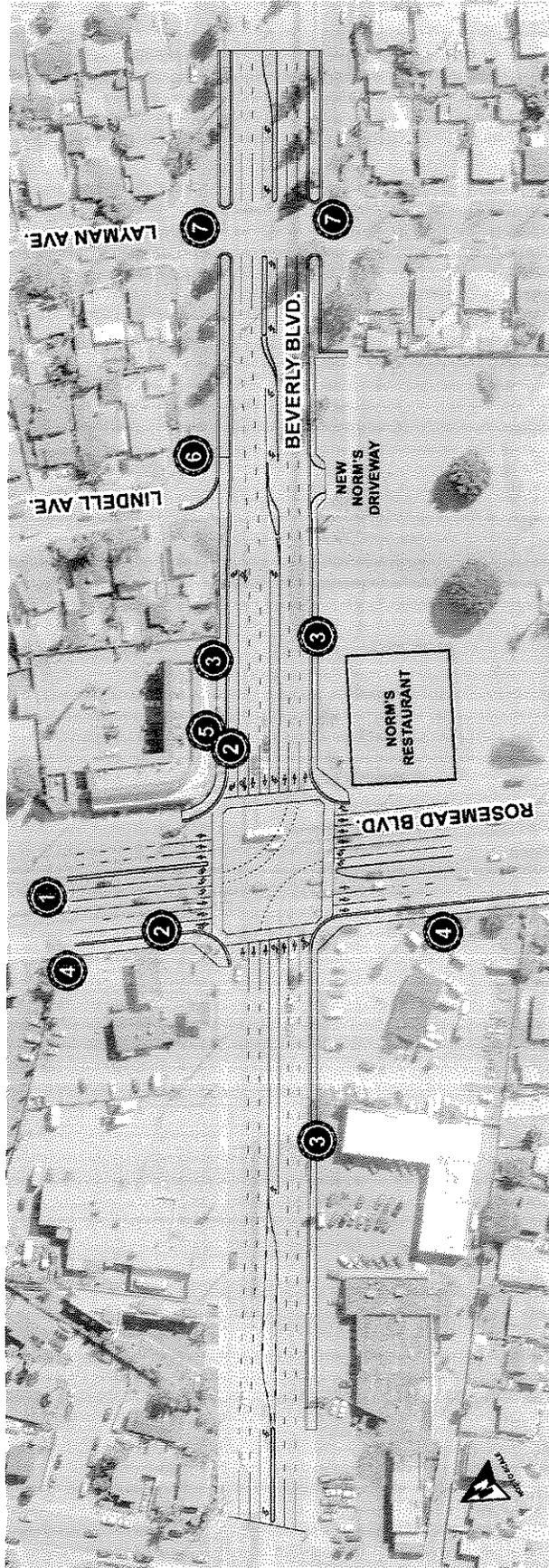
The Exhibit 1 indicates a proposed new connection to Beverly Boulevard located at Layman Avenue. By moving the Beverly Boulevard entrance connection east to Layman Avenue, the existing neighbourhood connection is re-established one block to the east. Moving the neighbourhood connection further east on Beverly Boulevard also eliminates conflicting movements at the Rosemead Boulevard intersection.

Preliminary project costs and timelines will be developed and provided to City staff with the development of the draft 65% design plans.

Deliverables:

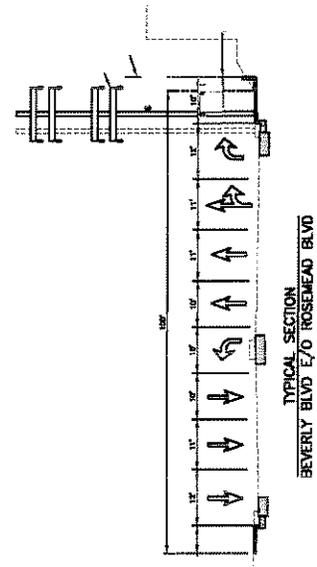
- Reference files including as-Built plans
- Survey data, Field Notes, CAD base files
- Traffic Count data (Section 2.7.4)
- Draft and Final Traffic Report (Section 2.7.4)
- Field Condition Assessment Memo
- Design Review Field Notes
- Design Concept Exhibits (2)
- Draft and Final Geotechnical Design Memo

Exhibit 1: Alternative Design Concept at Beverly Boulevard/Rosemead Boulevard



ALTERNATIVE DESIGN CONCEPT
 BEVERLY BLVD./ROSEMEAD BLVD.
 605 HOT SPOTS - INTERSECTION #16

- ① TRIPLE LEFT TURN POCKET
- ② SHARED THROUGH/RIGHT TURN LANE
- ③ WIDEN STREET 3'-4'
- ④ WIDEN STREET 10'
- ⑤ RELOCATE EXISTING BUS STOP
- ⑥ CLOSE EXITTING ACCESS
- ⑦ OPEN NEW ACCESS



4.1 NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PROGRAM COMPLIANCE

During the Preliminary Engineering stage, URS will prepare a NPDES Compliance Memorandum to document the applicability of relevant stormwater regulations and the approach to compliance for the each intersection project.

During design, URS will determine if each intersection project requires coverage under the NPDES General Permit for Storm Water Discharges Associated with Construction and Land Disturbance Activities Order No. 2009-0009-DWQ (CGP). Coverage under the CGP is not required if the disturbed acreage is less than one (1) acre. Also, if the disturbed area is less than five (5) acres, a small construction rainfall erosivity waiver may apply. URS will assist the City of Pico Rivera in filing a Notice of Intent (NOI) along with all required Permit Registration Documents (PRDs).

URS assumes that the construction contractor will be responsible for preparing a SWPPP as a part of the construction project. The City of Pico Rivera will be responsible for implementation, inspections, updates, reporting, and filing of the Notice of Termination (NOT).

For the post-project condition at each intersection, URS will determine which aspects of the Waste Discharge Requirements for Municipal Separate Storm Sewer System (MS4) Discharges Order No. R4-2012-0175 (MS4 Permit) apply based on the Lower San Gabriel River Watershed Management Group's Watershed Management Plan. This includes a review of the City's Green Streets Policy and the City's Low Impact Development (LID) Ordinance.

A NPDES Memorandum will be submitted to the City of Pico Rivera as a draft for review and comment, and a final version will be prepared incorporating one round of comments. The NPDES Memorandum will also be beneficial to the City in the event of an audit by the Los Angeles Regional Water Quality Control Board (LA RWQCB).

Deliverables:

- Draft and Final NPDES Compliance Memorandum
- Support City in filing NOI and PRDs uploaded to SMARTS

5.0 FINAL ENGINEERING (PS&E)

Based on the approved design alternative for each intersection, URS will prepare the necessary PS&E documents associated with the selected intersection concept. The intersection improvements identified in the Exhibit 1I Concept Plans include the following:

Table 6: Identified Improvements / Modifications per Exhibit 1 Concept Plan

	Beverly Boulevard Concept
SB Left Turn Lane	Triple Left
SB Thru Lanes	Add 1 Combined Thru / Right
NB Thru Lanes	Add 1 Lane
NB Left Turn Lanes	Add 1 Left Turn Lane
WB Left Turn Lane	No Change

	Beverly Boulevard Concept
WB Thru lane	Add 1 Combined Thru / Right
WB Right Turn Lane	Add 1 Lane
Median Work	Revise Medians
Sidewalk Removal	Modify Sidewalks
R/W Acquisition	NW Corner + NE Quadrant (future)
Utility Relocations	OH Elec. & Communications, Water Vents, Drainage Inlets
Signing and Striping	√
Landscaping	Median
Signal Modification	√
Restricted Parking	Rosemead SB

Early in the design development, the URS team will meet with City staff to review traffic signal equipment requirements, pavement requirements, and any median landscape treatment. Design concepts for items like landscaping and BMPs (e.g., bioretention planter inlets) will be reviewed and incorporated into the design concept as applicable. As part of our plan development we will utilize the latest edition of the Standard Plans for Public Work Construction and Caltrans standard plans where applicable. URS anticipates creating the following sheets for the Beverly Blvd. Rosemead Blvd. design package.

Table 7: Anticipated Plan Sheets per Intersection Location

	Beverly Blvd.
Title Sheet (No Scale)	1
Street Plan and Profile (1"=20' H; 1"=4' V)	5
Typical Sections and Construction Details	2
Drainage and BMP Details	2
Construction Phasing (1"=40')	4
Signing and Striping (1"=40')	2
Traffic Signal Modification (1"=20')	1
Landscape and Irrigation (1"=40')	1

Deliverables:

- Project design files including base files (AutoCAD format) for each submittal
- Six sets of full size plans at 65% and 95% completion milestones

- One full size Mylar plan set at 100%
- Electronic files of final design plans

6.0 COST ESTIMATES

Project cost estimates will include construction bid items for inclusion into the construction bid documents. Upon concept approval by the City, project cost estimates will be prepared for the 65%, 95%, and 100% design level submittals.

Deliverables:

- Cost estimate at concept, 65%, 95%, and 100% completion milestones
- Electronic files of cost estimates

7.0 SPECIFICATIONS

Technical provisions will be prepared according to City requirements for inclusion into the bid documents. URS understands that the City will utilize the 2012 Standard Specifications for Public Works Construction or 'Greenbook' for development of the Project technical special provisions.

Deliverables:

- Special Provisions at 65%, 95% completion milestones
- Electronic files of 100% Special Provisions

8.0 PROJECT ADVERTISEMENT SERVICES

The URS team will coordinate with City staff in addressing RFI request from contractors during the bid period. URS will assist the City by providing bid support during the advertisement and also assist the City in the evaluation of construction bids.

Deliverables:

- Tabulated Responses to RFIs
- Bid addendums, as necessary

9.0 CONSTRUCTION SUPPORT SERVICES

URS understands that the City does not require regular construction inspection as a part of these scopes of services. URS will attend a pre-construction meeting to discuss the project with the contractor and work with the City's construction manager to review RFIs and provide written responses to RFIs as directed by the City staff. URS will also review and approve shop drawings as requested by the City.

Deliverables:

- Responses to RFIs
- Documentation of Approved Shop Drawings

10.0 PREPARE RECORD DRAWINGS

With 60 days and upon completion and acceptance of the construction improvements, URS will provide Record Drawings for review by the City. URS will then provide electronic files of the final Record drawings to the City.

Deliverables:

- Final Record Drawings
- Electronic files of Record Drawings

11.0 RIGHT OF WAY ACQUISITION SERVICES

URS understands that the City may choose to acquire two private parcels associated with the Beverly Blvd. intersection improvements. The URS team is prepared to provide the following services to the City:

- Title Searches
- Property Evaluation
- Property Appraisals
- Property Acquisition
- Relocation Assistance

Upon receiving NTP, the URS team will develop a Project Plan detailing all aspects of the right of way program to ensure that all acquisition tasks are properly identified and completed according to all applicable regulations. An ancillary task to the Project Plan will be the creation of the project's acquisition schedule that will incorporate all relevant project development milestones including advertisement of the project's construction contractor. Concurrent with these activities, the URS team will secure and review preliminary title reports for each impacted parcels and coordinate the preparation of legal descriptions and plat maps as necessary for right of way acquisition.

This proposal scope assumes that acquisition/relocation activities will only be required at the northeast corner of the Rosemead Blvd. and Beverly Blvd. intersection, where 1 commercial property and 1 residential property will be acquired in full (APN 8121003011 (mini-mall) & APN 8121003010 (residence)). This will result in the displacement of 1 residential occupant and up to 9 commercial occupants. This assumes that 3 currently vacant commercial units will remain vacant. If alternative intersection designs are selected by the City and affect different parcels, additional right of way services may be required.

Once legal descriptions and plat maps are finalized and delivered to acquisition staff, appraisal activities will be initiated to value each full acquisition required for the construction of project improvements. As these reports are finalized, the City will review the findings and establish the Determination of Just Compensation for each property owner offer package. The URS team will subsequently draft the offer packages and all applicable acquisition agreements, submit them to the City for final approval, and negotiate owner settlements. Once an amenable agreement is reached, a Purchase and Sale Agreement will be executed for each respective ownership and an escrow account will be established to facilitate payment and any required title clearance activities. Where voluntary agreements are not possible, The URS team will coordinate with the City's legal counsel in eminent domain proceedings and provide all relevant property and negotiations details to support the condemnation task. Concurrent with these activities, the URS team's relocation staff will work to prepare a relocation plan for City review and approval and coordinate with the City and each occupant to provide proper relocation assistance.

URS is assuming 40 hours of project management time for this scope task.

Deliverables:

- Monthly ROW Status Reports
- Copies of all ROW Correspondence
- Two (2) Title Reports
- Two (2) Narrative Appraisal Reports
- Minutes of Property Owner Negotiation Meetings
- Relocation Plan
- Documentation regarding Tenant Rights for Nine (9) Tenants Interests (Beverly Blvd. corner property)
- Copies of Escrow Instructions and Correspondence
- Relevant correspondence from relocation assistance services (450 hours included in scope)
- Legal descriptions and plat maps for two (2) parcels identified at NE quadrant of Beverly Blvd./ Rosemead Blvd. intersection

Optional Tasks: Right of Way Services (Not included in fee)

- Specialty Appraisal Reports-furniture, fixtures, and equipment
- Goodwill Appraisal Services of up to (9) Goodwill Appraisal Reports
- In appraising the loss of goodwill, if any, appraisal procedures will include:
 - In depth management interviews;
 - Site and area inspections;
 - Coordination with real estate and fixtures and equipment appraisers;
 - Extensive review and analysis of historical and prospective financial data;
 - Review of relevant documents such as contracts and leases.
 - Perform industry, economic, and market research to select and employ relevant valuation methodology.
 - Study the impact of relocation on the business' patronage and/or costs, if any.

End of Scope of Work

CITY OF PICO RIVERA
URS Fee Proposal for Engineering Services for the SR-191/I-604/I-405 Congestion
Hot Spots Arterial Intersection Improvements at Rosemead Boulevard and Beverly Boulevard, CIP No. 21276

Task No.	Description	Fee
1-4	Project Approval and Environmental Documentation (PA&ED)	\$ 220,502.28
5-8	Plans, Specifications and Estimates (PS&E) and Project Administration	\$ 112,369.02
9-10	Construction Support	\$ 38,313.90
11	Right-of-Way Services	\$ 143,331.00
12	Survey	<u>\$ 55,000.00</u>
	TOTAL	\$ 569,516.20

AGREEMENT NO. _____
**PROFESSIONAL SERVICES AGREEMENT
 BETWEEN THE CITY OF PICO RIVERA AND
 WILLDAN ENGINEERING**

1. IDENTIFICATION

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is entered into by and between the City of Pico Rivera, a California municipal corporation ("City") and Willdan Engineering, a California Corporation ("Consultant"). City and Consultant are sometimes hereinafter individually referred to as a "Party" and collectively referred to as "Parties."

2. RECITALS

2.1 City has determined that it requires professional services necessary for the delivery of a Capital Improvement Program projects. The Consultant will provide services to provide design services for the SR-91/I-605/I-405 Congestion Hot Spots Arterial Intersection Improvements Project at Rosemead Boulevard and Slauson Avenue, CIP No. 21277, Rosemead Boulevard at Whittier Boulevard, CIP 21278, and Rosemead Boulevard at Washington Boulevard, CIP 21278, or as set forth in the Consultant's June 26, 2014 proposal to City attached hereto as Exhibit "A".

2.2 Consultant represents that it is fully qualified to perform such professional services by virtue of its experience and the training, education and expertise of its principals and employees. Consultant further represents that it is willing to accept responsibility for performing such services in accordance with the terms and conditions set forth in this Agreement.

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

3. DEFINITIONS

3.1 "Scope of Services": Such professional services as are set forth in the Consultant's June 26, 2014 proposal to City attached hereto as Exhibit "A" and incorporated herein by this reference.

3.2 "Approved Fee Schedule": Such compensation rates as are set forth in the Consultant's June 26, 2014 proposal to City attached hereto as Exhibit "B".

3.3 "Commencement Date": September 10, 2014

3.4 "Expiration Date": December 31, 2015

4. TERM

The term of this Agreement shall commence at 12:00 a.m. on the Commencement Date and shall expire at 11:59 p.m. on the Expiration Date unless extended by written agreement of the Parties or terminated in accordance with Section 21 below.

5. CONSULTANT'S SERVICES

5.1 Consultant shall perform the services identified in the Scope of Services. City shall have the right to request, in writing, changes in the Scope of Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement. In no event shall the total compensation and costs payable to Consultant under this Agreement exceed the sum of One Hundred Eighty Four Thousand Five Hundred Twenty Two Dollars (\$184,522) for the Rosemead Boulevard and Slauson Avenue, CIP No. 21277 project, and the sum of Seventy Eight Thousand Seven Hundred Seventy Six Dollars (\$78,776) for the Rosemead Boulevard at Whittier Boulevard, CIP 21278, and Rosemead Boulevard at Washington Boulevard, CIP 21278 project, unless specifically approved in advance, in writing, by City.

5.2 Consultant shall perform all work to the highest professional standards of Consultant's profession and in a manner reasonably satisfactory to City.

6. COMPENSATION

6.1 City agrees to compensate Consultant for the services provided under this Agreement, and Consultant agrees to accept in full satisfaction for such services, payment in accordance with the Approved Fee Schedule.

6.2 Consultant shall submit to City an invoice, on a monthly basis or less frequently, for the services performed pursuant to this Agreement. Each invoice shall itemize the services rendered during the billing period and the amount due. Within ten (10) business days of receipt of each invoice, City shall notify Consultant in writing of any disputed amounts included on the invoice. Within thirty (30) calendar days of receipt of each invoice, City shall pay all undisputed amounts included on the invoice. City shall not withhold applicable taxes or other authorized deductions from payments made to Consultant.

6.3 Payments for any services requested in writing by City and not included in the Scope of Services shall be made to Consultant by City on a time-and-materials basis using Consultant's standard fee schedule. Consultant shall be entitled to increase the fees in this fee schedule at such time as it increases its fees for its clients generally; provided, however, in no event shall Consultant be entitled to increase fees for services rendered before the thirtieth (30th) day after Consultant notifies City in writing of an increase in that fee schedule. Fees for such additional services shall be paid within sixty (60) days of the date Consultant issues an invoice to City for such services.

7. BUSINESS LICENSE

Consultant shall obtain a City business license prior to commencing performance under this Agreement.

8. COMPLIANCE WITH LAWS

Consultant shall keep informed of State, Federal and Local laws, ordinances, codes and regulations that in any manner affect those employed by it or in any way affect the performance of its services pursuant to this Agreement. The Consultant shall at all times comply with such laws, ordinances, codes and regulations. Without limiting the generality of the foregoing, if Consultant is an out-of-state corporation or LLC, it must be qualified or registered to do business in the State of California pursuant to sections 2105 and 17451 of the California Corporations Code. The City, its officers and employees shall not be liable at law or in equity occasioned by failure of Consultant to comply with this Section.

9. CONFLICT OF INTEREST

Consultant covenants that it presently has no interest and shall not acquire any interest, direct or indirect, which may be affected by the services to be performed by Consultant under this Agreement, or which would conflict in any manner with the performance of its services hereunder. During the term of this Agreement, Consultant shall not perform any work for another person or entity for whom Consultant was not working at the Commencement Date if both (i) such work would require Consultant to abstain from a decision under this Agreement pursuant to a conflict of interest statute; and (ii) City has not consented in writing prior to Consultant's performance of such work.

10. PERSONNEL

Consultant represents that it has, or will secure at its own expense, all personnel required to perform the services identified in the Scope of Services. All such services shall be performed by Consultant or under its supervision, and all personnel engaged in the work shall be qualified to perform such services. Consultant reserves the right to determine the assignment of its own employees to the performance of Consultant's services under this Agreement, but City reserves the right, for good cause, to require Consultant to exclude any employee from performing services on City's premises. Peter Miessner shall be Consultant's project administrator and shall have direct responsibility for management of Consultant's performance under this Agreement. No change shall be made in Consultant's project administrator without City's prior written consent.

11. OWNERSHIP OF WRITTEN PRODUCTS

All reports, documents or other written material ("written products") developed by Consultant in the performance of this Agreement shall be and remain the property of City without restriction or limitation upon its use or dissemination by City. Consultant may take and retain copies of such written products as desired, but no such written products shall be the subject of a copyright application by Consultant.

12. INDEPENDENT CONTRACTOR

Consultant is, and shall at all times remain as to City, a wholly independent contractor. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise to act on behalf of City as an agent. Neither City nor any of its officers, employees or agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not at any time represent that it is, or that any of its agents or employees are, in any manner employees of City.

13. CONFIDENTIALITY

All data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without prior written consent by City. City shall grant such consent if disclosure is legally required. Upon request, all City data and any copies thereof shall be returned to City upon the termination or expiration of this Agreement.

14. INDEMNIFICATION

14.1 The Parties agree that City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers should, to the extent permitted by law, be fully protected from any loss, injury, damage, claim, lawsuit, cost, expense, attorneys' fees, litigation costs, or any other cost arising out of or in any way related to the performance of this Agreement. Accordingly, the provisions of this indemnity provision are intended by the Parties to be interpreted and construed to provide the fullest protection possible under the law to City. Consultant acknowledges that City would not enter into this Agreement in the absence of Consultant's commitment to indemnify and protect City as set forth herein.

14.2 To the full extent permitted by law, Consultant shall indemnify, hold harmless and defend City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers from and against any and all claims, demands, lawsuits, causes of action, losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from or arising out of any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant or any of its officers, employees, servants, agents, or subcontractors in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.

14.3 City shall have the right to offset against the amount of any compensation due Consultant under this Agreement any amount due City from Consultant as a result of Consultant's failure to pay City promptly any indemnification arising under this Section 14 and related to Consultant's failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers' compensation laws.

14.4 The obligations of Consultant under this Section 14 will not be limited by the provisions of any workers' compensation act or similar act. Consultant expressly waives its statutory immunity under such statutes or laws as to City, its officers, agents, employees and volunteers.

14.5 Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 14 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. In the event Consultant fails to obtain such indemnity obligations from others as required herein, Consultant agrees to be fully responsible and indemnify, hold harmless and defend City, its officers, agents, elected and appointed officials, employees, affiliated public agencies and volunteers from and against any and all claims, demands, lawsuits, causes of action, losses, costs or expenses for any damage due to death or injury to any person and injury to any property resulting from or arising out of any alleged intentional, reckless, negligent, or otherwise wrongful acts, errors or omissions of Consultant's subcontractors or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement. Such costs and expenses shall include reasonable attorneys' fees incurred by counsel of City's choice.

14.6 City does not, and shall not, waive any rights that it may possess against Consultant because of the acceptance by City, or the deposit with City, of any insurance policy or certificate required pursuant to this Agreement. This hold harmless and indemnification provision shall apply regardless of whether or not any insurance policies are determined to be applicable to the claim, demand, damage, liability, loss, cost or expense.

14.7 **PERS ELIGIBILITY INDEMNITY.** In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

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

15. **INSURANCE**

15.1 During the term of this Agreement, Consultant shall carry, maintain, and keep in full force and effect insurance against claims for death or injuries to persons or damages to property that may arise from or in connection with Consultant's performance of this Agreement. Such insurance shall be of the types and in the amounts as set forth below:

- 15.1.1 Comprehensive General Liability Insurance with coverage limits of not less than One Million Dollars (\$1,000,000) per occurrence / Two Million Dollars (\$2,000,000) in the annual aggregate, including products and Completed operations hazard, contractual insurance, broad form property damage, independent Consultants, personal injury.
- 15.1.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of Two Million Dollars (\$2,000,000) per claimant and Two Million dollars (\$2,000,000) per incident.
- 15.1.3 Worker's Compensation insurance as required by the laws of the State of California.
- 15.1.4 Professional Liability insurance against errors and omissions in the performance of the work under this Agreement with coverage limits of not less than Two Million Dollars (\$2,000,000).

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

15.3 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California and with a rating of at least A:VII in the latest edition of Best's Insurance Guide.

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

15.5 At all times during the term of this Agreement, Consultant shall maintain on file with City's Risk Manager a certificate or certificates of insurance showing that the aforesaid policies are in effect in the required amounts and, for the general liability and automobile liability policies, naming the City as an additional insured. Consultant shall, prior to commencement of work under this Agreement, file with City's Risk Manager such certificate(s).

15.6 Consultant shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Consultant shall provide such proof to City at least two weeks prior to the expiration of the coverages.

15.7 The general liability and automobile policies of insurance required by this Agreement shall contain an endorsement naming City, its officers, employees, agents and volunteers as additional insureds. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty days' prior written notice to City. Consultant agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

15.8 The general liability and automobile policies of insurance provided by Consultant shall be primary to any coverage available to City. Any insurance or self-insurance maintained by City, its officers, employees, agents or volunteers, shall be in excess of Consultant's insurance and shall not contribute with it.

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

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

15.11 Procurement of insurance by Consultant shall not be construed as a limitation of Consultant's liability or as full performance of Consultant's duties to indemnify, hold harmless and defend under Section 14 of this Agreement.

16. MUTUAL COOPERATION

16.1 City shall provide Consultant with all pertinent data, documents and other requested information as is reasonably available for the proper performance of Consultant's services under this Agreement.

16.2 In the event any claim or action is brought against City relating to Consultant's performance in connection with this Agreement, Consultant shall render any reasonable assistance that City may require.

17. RECORDS AND INSPECTIONS

Consultant shall maintain full and accurate records with respect to all matters covered under this Agreement for a period of three years after the expiration or termination of this Agreement. City shall have the right to access and examine such records, without charge, during normal business hours. City shall further have the right to audit such records, to make transcripts therefrom and to inspect all program data, documents, proceedings, and activities.

18. PERMITS AND APPROVALS

Consultant shall obtain, at its sole cost and expense, all permits and regulatory approvals necessary in the performance of this Agreement. This includes, but shall not be limited to, encroachment permits and building and safety permits and inspections.

19. NOTICES

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Consultant's and City's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the Parties may, from time to time, designate in writing).

If to City:

René Bobadilla, City Manager
City of Pico Rivera
PO Box 1016
6615 Passons Blvd.
Pico Rivera, CA 90660-1016
Facsimile: (562) 801-4765

If to Consultant:

William C. Pagett, Sr. Vice President
Willdan Engineering
13191 Crossroads Parkway North, Suite 405
Industry, CA 91746-3443
Facsimile: (562) 695-2120
Office: (562) 908-6200

With a courtesy copy to:

Arnold M. Alvarez-Glasman, City Attorney
13181 Crossroads Parkway North
Suite 400 - West Tower
City of Industry, CA 91746
Facsimile: (562) 692-2244

20. SURVIVING COVENANTS

The Parties agree that the covenants contained in Sections 13, 14 and Paragraph 16.2 of Section 16, of this Agreement shall survive the expiration or termination of this Agreement.

21. TERMINATION

21.1. City shall have the right to terminate this Agreement for any reason on five (5) calendar days' written notice to Consultant. Consultant shall have the right to terminate this Agreement for any

reason on sixty (60) calendar days' written notice to City. The effective date of termination shall be upon the date specified in the notice of termination. Consultant agrees that in the event of such termination, City's obligation to pay Consultant shall be limited to payment only for those services satisfactorily rendered prior to the effective date of termination. Consultant agrees to cease all work under this Agreement on or before the effective date of any notice of termination. All City data, documents, objects, materials or other tangible things shall be returned to City upon the termination or expiration of this Agreement.

21.2 If City terminates this Agreement due to no fault or failure of performance by Consultant, then Consultant shall be paid based on the work satisfactorily performed at the time of termination. In no event shall Consultant be entitled to receive more than the amount that would be paid to Consultant for the full performance of the services required by this Agreement.

22. ASSIGNMENT

Consultant shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, without City's prior written consent, and any attempt to do so shall be void and of no effect. City shall not be obligated or liable under this Agreement to any Party other than Consultant.

23. NON-DISCRIMINATION AND EQUAL EMPLOYMENT OPPORTUNITY

23.1 In the performance of this Agreement, Consultant shall not discriminate against any employee, subcontractor, or applicant for employment because of race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation. Consultant will take affirmative action to ensure that subcontractors and applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

23.2 Consultant will, in all solicitations or advertisements for employees placed by or on behalf of Consultant state either that it is an equal opportunity employer or that all qualified applicants will receive consideration for employment without regard to race, color, creed, religion, sex, marital status, national origin, ancestry, age, physical or mental handicap, medical condition or sexual orientation.

23.3 Consultant will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Agreement except contracts or subcontracts for standard commercial supplies or raw materials.

24. CAPTIONS

The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and for convenience in reference to this Agreement. Should there be any conflict between such heading, and the section or paragraph thereof at the head of which it appears, the section or paragraph thereof, as the case may be, and not such heading, shall control and govern in the construction of this Agreement. Masculine or feminine pronouns shall be substituted for the neuter form and vice versa, and the plural shall be substituted for the singular form and vice versa, in any place or places herein in which the context requires such substitution(s).

25. NON-WAIVER

25.1 The waiver by City or Consultant of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. In no event shall the making by City of any payment to Consultant constitute or be construed as a waiver by City of any breach of covenant, or any default which may then exist on the part of Consultant, and the making of any such payment by City shall in no way impair or prejudice any right or remedy available to City with regard to such breach or default. No term, covenant or condition of this Agreement shall be deemed to have been waived by City or Consultant unless in writing.

25.2 Consultant shall not be liable for any failure to perform if Consultant presents acceptable evidence, in City's sole judgment, that such failure was due to causes beyond the control and without the fault or negligence of Consultant.

26. COURT COSTS

Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any Party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such Party of any of all of such other rights, powers or remedies. In the event legal action shall be necessary to enforce any term, covenant or condition herein contained, the Party prevailing in such action, whether reduced to judgment or not, shall be entitled to its reasonable court costs, including accountants' fees, if any, and attorneys' fees expended in such action. The venue for any litigation shall be Los Angeles County, California.

27. SEVERABILITY

If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

28. GOVERNING LAW

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

29. ENTIRE AGREEMENT

All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail. This instrument contains the entire Agreement between City and Consultant with respect to the transactions contemplated herein. No other prior oral or written agreements are binding upon the Parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by City and Consultant.

TO EFFECTUATE THIS AGREEMENT, the Parties have caused their duly authorized representatives to execute this Agreement on the dates set forth below.

ATTEST:

City of Pico Rivera

Anna M. Jerome, City Clerk

Brent A. Tercero, Mayor

Date: _____

Date: _____

APPROVED AS TO FORM:

Consultant - Willdan Engineering

Arnold M. Alvarez-Glasman, City Attorney

By: _____
William C. Pagett, Sr. Vice President

Its: _____

Date: _____

Date: _____

Pico Rivera I605 Hotspots Projects

Project Understanding

The City of Pico Rivera has chosen Willdan Engineering to provide design services for the SR-91/I-605/I-405 Congestion Hot Spots Arterial Intersection Improvements Projects at three locations listed below:

- Rosemead Boulevard/Slauson Avenue (CIP No. 21277),
- Rosemead Boulevard/Whittier Boulevard (CIP No. 21278) and
- Rosemead Boulevard/Washington Boulevard (CIP No. 21278).

The purpose of the SR-91 /I-605/I-405 Congestion Hot Spots Arterial Intersection Improvements Project is to alleviate the current and potential traffic impacts posed by the construction of the future improvements to the I-605 freeway operations (mainline, interchanges and ramps). The intersection improvements are proposed to accommodate traffic volumes projected for the year 2035 and improve the Level-of-Service (LOS) by at least one LOS in most cases.

Due to the Durfee Avenue closure for the ACE/UPRR grade separation, additional traffic is anticipated to be routed to Rosemead Boulevard during construction of the grade separation. It would be highly beneficial for the City to construct both the Beverly intersection as well as the Whittier intersection prior to the start of Durfee Grade Separation construction. Per our discussion with Rachel Kurkos of Alameda Corridor East (ACE), the Durfee grade separation construction is anticipated to start no later than July 2016. Durfee Avenue is also a key route for access to schools. ACE may be providing shuttle buses for students around the Durfee construction.

Both the Rosemead/Beverly intersections and the Rosemead/Whittier intersections will be heavily impacted during the Durfee Avenue Closure. The Rosemead/Slauson intersection is approximately 2 miles south of the Durfee Avenue Grade Separation and may be less impacted by its construction. Rosemead/Washington intersection is striping only and can be easily constructed prior to July 2016.

Per the City's Memorandum of Understanding (MOU) with Metro for these four intersections, the following construction schedules are proposed:

- Rosemead/Beverly: July 2015 to December 2015
- Rosemead/Slauson: December 2014 to March 2015
- Rosemead/Whittier: January 2015 to April 2015
- Rosemead/Washington: January 2015 to April 2015

Based on these schedules, we have the following comments and suggested options.

Rosemead/Slauson: In order to construct the improvements, several driveways will likely need to be modified to meet ADA requirements. Due to widening of the street, there will be less width in the driveway to take up grade to meet the ADA slope requirements. Temporary construction easements (TCE's) for construction on private property will likely be the best alternative. These TCE's, if contested could delay the schedule or cause an alternative design. There appear to be up to 12 properties effected by these driveways. We suggest the City review the MOU schedule and consider if this intersection is critical to the Durfee Avenue Grade Separation Construction. It might make sense to build this intersection after Rosemead/Beverly and Rosemead/Whittier and even during the Grade Separation if traffic impacts aren't a significant issue in this location.

Rosemead/Whittier: This intersection as described above will likely be heavily impacted by Durfee Avenue closure during the construction of the Grade Separation. Construction is mostly median, signal and striping related. Ordering new signal poles and mast arms have long lead times. To speed up construction, the City may wish to consider ordering long lead traffic signal equipment for the contractor if the City wants to complete construction in mid 2015. If this intersection does not need to be completed until mid 2016, there should be enough time to allow the contractor to order signal equipment.

Rosemead/Washington: Striping only. No schedule impacts anticipated.

Preliminary engineering alternatives were evaluated and geometric concepts have been developed by the Gateway Cities Council of Governments, with input from each Gateway City. The scope of work for each intersection includes, but is not limited to, the following:

Rosemead Boulevard and Slauson Avenue:

- Provide additional southbound thru lane on Rosemead Boulevard.
- Increase southbound left-turn storage on Rosemead Boulevard.
- Modify existing median islands on Rosemead Boulevard.
- Provide irrigation and landscape enhancements.

- Provide additional westbound left-turn lane on Slauson Avenue.
- Provide additional northbound thru lane on Rosemead Boulevard.
- Optional Temporary Construction Easement (TCE) preparation and support for up to 12 properties is not included in submitted fee. These TCE's may be needed due to ADA requirements at existing driveways that may need to be reconstructed. The actual number of properties should be determined after topo survey and preliminary design have been prepared and reviewed with the City.

Rosemead Boulevard and Whittier Boulevard:

- Provide additional southbound left-turn lane on Rosemead Boulevard.
- Increase eastbound left-turn storage on Whittier Boulevard.
- Increase westbound left-turn storage on Whittier Boulevard.
- Modify existing median islands on Rosemead Boulevard and Whittier Boulevard.
- Provide irrigation and landscape enhancements on Rosemead Boulevard and Whittier Boulevard.
- Provide exclusive northbound right-turn pocket on Rosemead Boulevard.

Rosemead Boulevard and Washington Boulevard:

- Modify northbound right-turn pocket into northbound shared thru/right-turn lane on Rosemead Boulevard.
- Modify southbound right-turn pocket into southbound shared thru/right-turn lane on Rosemead Boulevard.

The projects will be funded with Measure R funds through the Metropolitan Transportation Authority (Metro) and must meet program funding requirements.

The budget appropriation per project, for design and construction, is as follows:

- Rosemead Boulevard and Slauson Avenue- \$1,770,000
- Rosemead Boulevard and Whittier Boulevard - \$600,000
- Rosemead Boulevard and Washington Boulevard- \$40,000

In general the professional design services include:

- Preliminary engineering
- Surveying
- Construction Support
- Final design, including the preparation of plans, specifications and estimates (PS&E), in accordance with Metro requirements.

The following will outline our project approach and address the scope of work as outlined in the RFP.

Approach to the Work

Willdan’s approach this project delivery process with a leadership style of “deliberate and focused communication” with regard to schedule maintenance and “active listening” with regards to addressing client concerns. Deliberate and focused communication coupled with active listening will improve personal relationships, reduces misunderstanding and conflicts, strengthens cooperation, and fosters understanding. It is proactive, accountable, and professional. We prefer a “Project First” decision making style, where every decision weighs what’s in the best interests of the project goals, the expectations of the clients and the project stakeholders

Willdan’s project management approach will be to monitor and contain costs for this project, meet schedule milestones, and provide for a quality, project bid package. To initiate our Project Management Approach, the following will be implemented:

- **Prepare a Work Plan** that addresses staffing and assignments, scope of work, deliverables, budget, and schedule. The Work Plan provides definitive directions to the project team as agreed to by the City of Pico Rivera.
- **Develop a Schedule** that defines each task needed to meet key milestone dates. Using open dialogue with our team, the City’s project staff, and stakeholders, Willdan will make adjustments, as needed, to meet the project delivery goals.
- **Conduct project team meetings** to facilitate informed discussions and decisions and team consensus on solutions and action items. All team members are kept informed via complete and accurate meeting minutes that highlight decisions, action items, and prompt follow-through.
- **Consistently use project tracking tools**, such as Issues Logs, Decision Logs, monthly progress reports and schedule updates.

Quality Assurance/Quality Control

Each of our Willdan team members understands that a quality product is needed to achieve a successful delivery and client satisfaction. To gain the City’s satisfaction with the project, our engineers will thoroughly review all technical designs, studies, and documents, so that our final product exceeds the City’s expectations.

Our standing Quality Control Plan establishes policies, procedures and protocols that will be implemented to ensure that the work is completed accurately. Our team will respond to project requirements by providing a tracking log as a means to verify and validate environmental and historical compliance throughout design and construction activities from preliminary engineering through final

acceptance after construction. The project specific QC plan emphasizes thorough and traceable documentation and will include, but is not limited to:

- Highlight and include the QC process milestones in project schedules for all deliverables.
- Provide appropriate levels of independent checks.
- Use checklists and/or comment forms to perform discipline, cross-discipline compliance reviews.
- Schedule constructability reviews to insure compatibility and constructability of the plans.

Our proposed scope of services is outlined below in accordance with the City’s RFP.

Scope of Services

We propose to provide the following basic services for the project:

Task 1 Project Management

1. Attend a pre-design (kick-off) meeting with City representatives to review the project in detail, to determine the City’s specific requirements and procedures for design, ongoing review, coordination, and meetings. We have accounted for six (6) meetings with City Staff.
2. Maintain continuous communication with the City of Pico Rivera’s Project Manager, including meetings to review project status at 65%, 95% and 100% completion.
3. Provide agendas of special items for discussion, and minutes listing agreed actions.
4. Provide monthly project schedule with updates. Monitor progress of design team for project delivery on schedule and within budget.
5. Maintain continuous awareness of the status of each task as it proceeds and make provisions to expedite and resolve any difficulties that may impede progress.
6. Proactively initiate communications any time a question or inconsistency arises in the flow of work production.
7. Provide support for City of Pico Rivera and/or City Council presentations, including Power Point presentations, concept plans and drawings and answer questions from committee or council members.

Deliverables:

- Meeting Schedules.
- Meeting Agendas and Minutes.

Task 2 Environmental Documentation

To be provided by City.

Task 3 Agency and Utility Coordination

1. Coordinate with the affected utility companies within the project limits as well as adjacent Agencies, as necessary.
2. Prepare an initial request for utility information such as atlas sheets, mapping, or as-built plans, and notify of the need to install planned facilities in the area of the project.
3. Coordinate with utility companies to implement upgrade of their facilities, as needed.
4. Review utility information to determine the impact of the project on the various utilities, including making contact with each affected utility company to determine profiles of high hazard/high pressure facilities that may interfere with proposed construction.
5. Review utilities that may be affected by or affect the direction of the project.
6. Lead efforts to identify ownership of unknown utility lines.
7. Submit 65%, 95% and 100% plans to the utility companies for review and comment, including notification of date of planned construction start.
8. Maintain a utility contact matrix documenting contacts, issues, etc, with utility companies.

Deliverables:

- Meeting Agendas and Minutes.
- Utility Notification Letters.
- Utility Matrix

Task 4 Preliminary Engineering

4.01 - Design Survey

1. Perform research at Los Angeles County and the City of Pico Rivera for survey information.
2. Set target survey control points. Establish horizontal and vertical coordinates on all control points.
3. Obtain topographic feature locations for a complete and accurate representation of existing conditions within the public right-of-way.

4. Obtain complete record drawings and other documents to show location of all utilities, location and dimensions of all sidewalks and driveways, location of all trees and landscaping which may be affected by the improvements.

Deliverables:

- Electronic copy of aerial/field survey.
- ASCII File of Field Survey
- *Note: Survey monuments, if found at affected intersections, will include preconstruction ties. It is assumed one monument is included per reconstructed curb return as shown on the Metro intersection layouts.*

4.02 - Records Research and Field Reviews

Services required include, but are not limited to, the following:

1. Research and review base data documents including as-built improvement plans, utility information, existing pavement section information, and other available record data.
2. Prepare a Field Condition Assessment Memo. Include the following:
 - a. Perform preliminary field reconnaissance, catalog photographs of typical and special existing conditions.
 - b. Obtain locations of existing curb, gutter, and sidewalk in need of repair.
 - c. Obtain locations of existing pavement to be reconstructed or repaired.
 - d. Verify locations of topographic features in the street area between curbs, including manholes, water valves, traffic striping features, etc.
 - e. Review field conditions for ADA access curb ramps to establish type of ramp required and perimeter construction needed to establish the ramp complete in place.
 - f. Identify special conditions that might create conflicts or change orders during construction. Identify how issues will be resolved.
 - g. Conduct a Design Review field meeting with City staff at 65% and 95% design completion to evaluate design recommendations against existing conditions.

Deliverables:

- Six Copies of a Field Condition Assessment Memo
- Two Design Review Field Meetings

4.03 - Traffic Analysis

To be provided by City. Analysis includes providing necessary turn lane lengths.

4.04 - National Pollution Discharge Elimination System (NPDES) Program Compliance

The project shall comply with NPDES program requirements. Consultant shall prepare an NPDES compliance memo. It shall identify what elements of the program apply to the project, what NPDES Technical Documents are required to be prepared, and make recommendations for cost-effective construction and post construction BMPs, as applicable. The consultant shall be responsible for the preparation of any required technical documents such as the NOI, SWPPP, BMP design, etc if applicable.

Deliverables:

- Six complete sets of draft and final documents referenced in this section.
- NPDES compliance memo.
- NPDES Technical Documents and Design (if applicable)
- *Note: Green Streets/SUSMP compliance, if required, is assumed to consist of modifying catch basins to include insert filters.*

Note: Whittier and Washington Intersections are assumed to not need Post Construction Measures. The Slauson Intersection may need Post Construction Measures but is assumed to consist of catch basin inserts or similar product. Infiltration is assumed to not be necessary.

4.05 - Preliminary Plan Preparation

Plans will conform to the City's standard plans and will be prepared utilizing AutoCAD software. Willdan will provide the following services for preparation of the preliminary plan and construction cost estimates:

1. Review compiled data.
2. Develop base drawings:
 - a. Plot existing data.
 - b. Identify and plot apparent substructures.
 - c. Conduct field verification of survey data.
3. Develop preliminary title (1 sheet) and detail (1 sheet) sheets for the project.
4. Develop preliminary civil plans for proposed street improvements. The plans will be at a horizontal scale of 1"=20'.
5. Prepare preliminary storm drain plan for relocation of existing catch basins due to street widening and/or median island modification.

6. Prepare preliminary traffic signal modification plan at a scale of 1"=20' for the intersections.
7. Prepare preliminary signing and striping plans at a horizontal scale of 1"=40' for the intersections.
8. Prepare preliminary street lighting plans at a horizontal scale of 1"=40'.
9. Prepare a preliminary landscape conceptual plan depicting the proposed and modified landscape areas for medians and parkways within the project limits.
10. Prepare preliminary planting plan modifications.
11. Prepare preliminary irrigation plan modifications.

Task 5 Final Engineering

Plans, specifications, and estimates shall be provided at levels of completion of approximately 65%, 95%, and 100% (Mylar). The City of Pico Rivera will provide review comments at the concept, 65% and 95% design stage. It is expected that 100% plans will be complete and include comments and input from all stakeholders.

Plans shall conform to the City of Pico Rivera standard plans and shall be prepared utilizing the City's AutoCAD format. Copies of AutoCAD files shall accompany each level of plan submittal. All AutoCAD files shall be bind during each submittal. All electronic files shall be the property of the City.

All work identified herein shall be approved by Professional Engineers and Certified Landscape Architects.

Project plans shall include, but are not limited, to the following:

1. Title, typical section, and construction detail sheets.
2. Civil design plans. Plans are to include removals, existing and proposed improvements, utility base mapping, median improvements, etc. Where necessary, the plans shall define limits of repairs to pavement, curb, gutter, sidewalk, ADA upgrades, etc. Civil plans shall include both plan and profile with a horizontal scale of 1"=20' and a vertical scale of 1"=4'.
3. Traffic Signal Plans-Traffic signal plans are to include removals, existing equipment and proposed equipment upgrades.
4. Signing and striping plans at a horizontal scale of 1"=40'. Signing and striping plans will be prepared and meet criteria established in the 2012 MUTCD, latest edition.
5. Landscape and irrigation plans. Plans shall include decorative hard-scape improvements, landscaping, architectural features, layout and features. The plans shall be at a horizontal scale of 1"=20'. Prepare

documentation necessary to comply with the City's Water Efficient Landscape Ordinance.

6. Design elements required to comply with the NPDES program.
7. Submit 65% and 95% completion plans for Cities' review and comments. Revised plans based on City comments.
8. Submit 100% plans (mylars), project specifications, and estimates, including electronic files, in City approved format. AutoCad files shall be the property of the City and they shall be bind.

The Consulting Engineer agrees to consult with the City at such reasonable times and places as may be necessary to accomplish the foregoing. In performing said services the Consulting Engineer shall use whenever possible the standard specifications and forms including Bid Forms, Notice to Bidders, Contract forms and other Public Works Forms prepared and approved by the City of Pico Rivera for Public Works Contracts. All drawings and specifications shall be adequate and sufficient for the City of Pico Rivera to solicit bids for the award of the contract for said work.

Deliverables:

- Six sets of plan submittals at 65% and 95% completion milestones.
- One full-size mylar of 100% drawings.
- Electronic files of final plans.
- *Notes:*
 - Storm Drain Inlet relocations include connector pipe adjustments. Impacts to the main line are not anticipated.
 - Pavement engineering/sections will be taken from adjacent pavement as-builts. If this City has a new traffic index, pavement calculations will be provided based on an assumed "R" value. Paving core samples of existing pavement is assumed outside the Scope of Work.
 - Utility Companies will design and relocate their own facilities. Willdan will coordinate the design of the relocation.
 - Pico Water District has indicated to us they would like to design and construct their own relocations. Willdan will coordinate the design of the relocation.
 - Where feasible from a location and cost basis, median landscaping will be converted from the existing plants to drought low maintenance tolerant plants.
 - Several bus shelters will need to be reconstructed. It is assumed the same style based on standard plans

for the City will be utilized. The light within the shelter is precalculated for standard illumination.

- Whittier and Washington Intersections are considered one project for design and bid purposes. Separate Costs Estimates will be prepared for Metro accounting purposes.

Task 6 Cost Estimates

Prepare quantity calculations and final construction cost estimates in accordance with City requirements to established project budget.

Deliverables:

- Cost estimate at Concept, 65%, 95% and 100% completion milestones.
- Electronic files of 100% cost estimates.

Task 7 Specifications

Prepare Technical Special Provisions per City of Pico Rivera requirements for bidding by the City. City will provide boilerplate specifications. Special provisions shall be prepared in Green-book format latest edition.

Deliverables:

- Special Provisions at the 65% and 95% completion milestones.
- Electronic files of 100% specifications.

Task 8 Project Advertisement Services

Consultant shall provide support during bidding. Work includes but is not limited to the following:

1. Respond to Requests for Information (RFIs) during the project advertisement period and log questions and responses (assume ten).
2. Prepare project addenda at the direction of the City (assume five).

Deliverables:

- Tabulated Response to RFIs
- Addendums, as necessary (assume 5).

Task 9 Construction Support Services

1. Attend the pre-construction meeting, job walk, and job-site meetings over the course of the construction schedule.
2. Provide response to contractor's requests for information (RFI) about the plans and specifications forwarded to the Consultant by the City. This task includes conferring with the City's Construction

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Manager regarding the RFI as appropriate. Regularly scheduled construction observation is specifically excluded from this scope of work. It is assumed that ten RFI's will be responded to.

3. Review and approve shop drawings.

▪ Notes:

- Construction Management/Inspection is not included in our proposal. It can be provided via separate authorization if requested.
- Any redesign if required by contractor/City can be provided by separate authorization.

5. Design for relocation of utilities, if required is not included. Assumes relocations by franchise utility companies are design by respective companies.

6. Landscape and irrigation design is limited to replacing existing planting and relocating existing irrigation. New irrigation systems or new planting palettes/themes are not included in this scope.

Task 10 Prepare Record Drawings (As-Builts)

Within 60 days following the completion and acceptance of the project, furnish City a complete set of revised original tracings showing as-built conditions. Revisions will be solely based on as-built information provided by the City's Construction Manager and the Contractor. Consultant assumes no responsibility for the accuracy of the information provided by the City's Construction Manager and the Contractor.

Deliverables:

- Furnish a complete set of revised original (mylar) record drawings.
- Provide electronic files.

Task 11 – Right-of-Way Acquisition Support (Rosemead/Beverly only) (NAP)

Items to be provided by the City:

- As-built record drawings for the intersections associated with these.
- List of utility companies/agencies serving the City within project limits.
- Current Boiler Plate Specification
- Recent Bid Results from City CIP Projects

Notes and Other Assumptions:

1. City will provide any Geotechnical Services
2. Any items not specifically included are excluded
3. Assumes Gateway/Metro concepts can work per the plans and costs estimates prepared by Metro. Significant changes to those concepts or items left out of concepts will require a change order.
4. Temporary Construction Easements or Right of Way acquisition, if required are not included.

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Willdan Fee Proposal for Engineering Services for the SR-I91/I-604/I-405 Congestion
Hot Spots Arterial Intersection Improvements at Rosemead Boulevard and Slauson Avenue, CIP No. 21277;
Rosemead Boulevard at Whittier Boulevard and Rosemead Boulevard at Washington Boulevard, CIP 21278

Task No.	Description	Fee for Rosemead at Slauson	Fee for Rosemead at Whittier and Washington
1	Project Management	\$ 10,552	\$ 5,294
2	Environmental Documentation	\$ -	\$ -
3	Agency and Utility Coordination	\$ 9,680	\$ 5,207
4	Preliminary Engineering	\$ 46,953	\$ 23,168
5	Final Engineering	\$ 77,874	\$ 24,117
6	Cost Estimate	\$ 4,981	\$ 3,253
7	Specifications	\$ 4,208	\$ 2,877
8	Project Advertisement Services	\$ 7,617	\$ 4,378
9	Construction Support	\$ 15,071	\$ 6,556
10	Prepare Record Drawings	\$ 7,586	\$ 3,926
		<u>\$ 184,522</u>	<u>\$ 78,776</u>