



AGENDA

DAN SLATER
Mayor

ARIANNA BARRIOS
Mayor pro tem, District 1

JON DUMITRU
Councilmember, District 2

KATHY TAVOULARIS
Councilmember, District 3

DENIS BILODEAU
Councilmember, District 4

ANA GUTIERREZ
Councilmember, District 5

JOHN GYLLENHAMMER
Councilmember, District 6

City Council February 27, 2024

Tom Kisela
City Manager

Mike Vigliotta
City Attorney

Pamela Coleman
City Clerk

5:00 PM Closed Session
6:00 PM Regular Session

City Council Chamber
300 E. Chapman Avenue
Orange, CA 92866

The City of Orange City Council welcomes you to this meeting and encourages your participation. Regular City Council meetings are held on the second and fourth Tuesday of each month at 6:00 p.m.

Agenda Information

The agenda contains a brief general description of each item to be considered. The City Council may take legislative action deemed appropriate with respect to the item and is not limited to the recommended action indicated in staff reports or the agenda. The agenda and supporting documentation is available after 4:00 p.m. on the Thursday prior to the Council meeting on the City's website at www.cityoforange.org, at the City Clerk's Office located at 300 E. Chapman Avenue, and at the Main Public Library located at 407 E. Chapman Avenue. Written materials relating to an item on the agenda that are provided to the City Council after agenda packet distribution and within 72 hours before Council is to consider the item will be made available for public inspection in the City Clerk's Office during normal business hours; at the City Council meeting; and made available on the City's website.

Public Participation

Regular meetings are televised live on Spectrum Cable Channel 3 and AT&T U-verse Channel 99, and streamed live and on-demand on the City's website at www.cityoforange.org.

Pursuant to Government Code Section 54954.3, members of the public may address the City Council on any agenda item before or during Council's consideration of the item, and on any other matters within the City Council's jurisdiction by using any of the following methods:

1) In-Person

To speak on an item on the agenda, complete a speaker card indicating your name, address, and identify the agenda item number or subject matter you wish to address. The card should be given to the City Clerk prior to the start of the meeting. General comments are received during the "Public Comments" section at the beginning of the Regular Session. No action may be taken on off-agenda items unless authorized by law. Public Comments are limited to three (3) minutes per speaker unless a different time limit is announced. It is requested that you state your name for the record, then proceed to address the City Council. All speakers shall observe civility, decorum, and good behavior.

(Continued on page 2)

2) Written Public Comments via eComment

Members of the public can submit their written comments electronically for City Council consideration by using the eComment feature on the Agenda page of the City's website at www.cityoforange.org. To ensure distribution to the City Council prior to consideration of the agenda, we encourage the public to submit written comments by 3:00 p.m. the day of the meeting. All written comments will be provided to the Council for consideration and posted on the City's website after the meeting.

3) Public Comments via recorded voicemail message

Finally, the public can record their comments by calling (714) 744-2234 no later than 5:00 p.m. the day of the meeting. Recorded messages will not be played at the meeting, but will be provided to the Council.

In accordance with Ordinance No. 10-01, any person making personal, impertinent, slanderous or profane remarks or who becomes boisterous while addressing the Council shall be called to order by the Mayor. If such conduct continues, the Mayor may order the person barred from addressing the City Council further during that meeting, unless permission to continue is granted by a majority vote of the Council.

Please contact the City Clerk's Office at (714) 744-5500 with any questions.

ADA Requirements: In compliance with the Americans with Disabilities Act, if you need accommodations to participate in this meeting, please contact the City Clerk's office at (714) 744-5500. Notification at least 48 hours in advance of meeting will enable the City to make arrangements to assure accessibility to this meeting.

REMINDER: Please silence all electronic devices while City Council is in session.

5:00 PM CLOSED SESSION**1. CALL TO ORDER****1.1 ROLL CALL****2. PUBLIC COMMENTS ON CLOSED SESSION ITEMS**

At this time, members of the public may address the Council on Closed Session items only. Public Comments are limited to three (3) minutes per speaker.

3. RECESS TO CLOSED SESSION**a. CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION**

Pursuant to Government Code Section 54956.9(a) & (d)(1) – Two cases

1) Name of Case: Donna Christine Collins v. City of Orange et. al.
Orange County Superior Court Case No. 30-2023-01324345

2) Name of Case: Mignon Mitchell, et. al. v. City of Orange
Orange County Superior Court Case No. 30-2024-01378669

b. CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Significant exposure to litigation pursuant to Government Code section 54956.9(d)(2)
(One potential case)

The City of Orange has received a litigation threat from a non-profit, Californians for Homeownership, regarding the City's housing element which was determined to be in substantial compliance with state law by the California Department of Housing and Community Development (HCD). A record of the statement threatening litigation is available for public inspection at the Office of the City Clerk located at 300 E. Chapman Avenue, Orange, CA 92866.

4. CLOSED SESSION REPORT**5. ADJOURNMENT**

The City Council will adjourn to the 6:00 p.m. Regular Session in the Council Chamber.

6:00 PM REGULAR SESSION**1. OPENING/CALL TO ORDER****1.1 INVOCATION**

Pastor Orlando Barela, Household of Faith Family Church

1.2 PLEDGE OF ALLEGIANCE

Councilmember Ana Gutierrez

1.3 ROLL CALL**1.4 PRESENTATIONS/ANNOUNCEMENTS**

Memorial Adjournment in honor of Gloria Boice

1.5 REPORT ON CLOSED SESSION ACTIONS**2. PUBLIC COMMENTS**

At this time, members of the public may address the Council on matters not listed on the agenda within the subject matter jurisdiction of the City Council, provided that NO action may be taken on off-agenda items unless authorized by law. Public Comments are limited to three (3) minutes per speaker.

3. CONSENT CALENDAR

All items on the Consent Calendar are considered routine and are enacted by one motion approving the recommended action listed on the Agenda. Any member of the City Council, staff, or the public may request an item be removed from the Consent Calendar for discussion or separate action. Unless otherwise specified in the request to remove an item from the Consent Calendar, all items removed shall be considered immediately following action on the remaining items on the Consent Calendar.

3.1. Waive reading in full of all ordinances on the Agenda.**Recommended Action:**

Approve.

Attachments: [Staff Report](#)

3.2. Agreement with Chapman University for production and broadcasting of local cable programming.**Recommended Action:**

Approve the agreement with Chapman University in the amount of \$540,000 for a three-year term to produce and broadcast local cable programming, with two, one-year extension options at the same rate; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Agreement with Chapman University](#)

3.3. Agreement with Kosmont & Associates, Inc. for economic development advisory services.

Recommended Action:

1. Approve the agreement with Kosmont & Associates, Inc. in the amount of \$50,000 for economic development advisory services; and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Authorize the following budget transfer:
From: 952.9810.56020.20247 NW & SW Merged 2003 Taxable Bonds SAORA Capital \$50,000
To: 952.9810.51670.20541 NW & SW Merged 2003 Taxable Bonds West Katella District \$50,000

Attachments: [Staff Report](#)
 [Agreement with Kosmont & Associates, Inc.](#)

3.4. Sewer Facility Transfer Agreement and Memorandum of Understanding between the City of Orange and Orange County Sanitation District in conjunction with the District's 2-49 Taft Branch Improvements.

Recommended Action:

1. Approve the Sewer Transfer Agreement with Orange County Sanitation District and authorize the Mayor and City Clerk to execute on behalf of the City of Orange.
2. Approve the Memorandum of Understanding with Orange County Sanitation District and authorize the Mayor and City Clerk to execute on behalf of the City of Orange.

Attachments: [Staff Report](#)
 [Sewer Transfer Map](#)
 [Sewer Transfer Agreement](#)
 [Memorandum of Understanding](#)

3.5. Rejection of all bids received for the Landscape Renovation at White Oak Ridge Between Newport Blvd. and Trails End Ln.; and authorization to re-advertise for bids.

Recommended Action:

Reject all bids received for Landscape Renovation at White Oak Ridge Between Newport Blvd. and Trails End Ln., Bid No. 23-24.20; and direct staff to re-advertise for bids.

Attachments: [Staff Report](#)
 [Letter](#)

3.6. Award of Contract to CEM Construction Corporation for the Annual Pipeline Renewal Project; Bid No. 23-24.25.

Recommended Action:

Approve the contract with CEM Construction Corporation in the total amount of \$2,802,547, representing an original bid amount of \$2,547,770, plus a 10% contingency of \$254,777, for the Annual Pipeline Renewal project; and authorize the Mayor and City Clerk to execute on behalf of the City.

Attachments: [Staff Report](#)
 [Location Map](#)
 [Contract with CEM Construction Corporation](#)
 [Bid Abstract](#)

3.7. Final Acceptance of Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024; and authorization to file Notice of Completion.

Recommended Action:

Accept Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024 as complete, and authorize staff to file Notice of Completion with the County Recorder.

Attachments: [Staff Report](#)
 [Notice of Completion and Acceptance](#)

3.8. Final Acceptance of Chapman and Hewes Intersection Signing and Striping Modifications; and authorization to file Notice of Completion.

Recommended Action:

Accept Chapman and Hewes Intersection Signing and Striping Modifications as complete, and authorize staff to file Notice of Completion with the County Recorder.

Attachments: [Notice of Completion](#)

3.9. Final Acceptance of Sourcewell Contract #CA-R8-GB01-123021-HCC, Gas Line Replacement at El Modena Library; and authorization to file Notice of Completion.

Recommended Action:

Accept Sourcewell Contract #CA-R8-GB01-123021-HCC, Gas Line Replacement at El Modena Library (SP-4273), as complete and authorize staff to file Notice of Completion with the County Recorder.

Attachments: [Staff Report](#)
 [Notice of Completion and Acceptance](#)

3.10. Final Acceptance of Annual Concrete Replacement at Various Locations, Fiscal Year 2022-2023; and authorization to file Notice of Completion.

Recommended Action:

Accept Annual Concrete Replacement at Various Locations, Fiscal Year 2022-2023 as complete, and authorize staff to file Notice of Completion with the County Recorder.

Attachments: [Notice of Completion](#)
 [Staff Report](#)

3.11. Declare the unimproved right-of-way located at 515 Fletcher Avenue, east of Glassell Street, as surplus to the City’s needs and authorize the disposal of the property. Resolution No. 11526.

Recommended Action:

Adopt Resolution No. 11526. A Resolution of the City Council of the City of Orange finding that certain City-owned real property located at 515 Fletcher Avenue east of Glassell Street in the City of Orange is exempt surplus land pursuant to Government Code Section 54221 and finding that the foregoing action is exempt from review under the California Environmental Quality Act.

Attachments: [Resolution No. 11526](#)
 [Staff Report](#)

END OF CONSENT CALENDAR

4. REPORTS FROM MAYOR SLATER

4.1. Ficus Trees on Chapman Avenue Discussion

5. REPORTS FROM COUNCILMEMBERS

An opportunity for Councilmembers to make a brief announcement, report, or request. No action(s) will be taken pursuant to Government Code Section 54954.2(a)(3).

5.1. Sale of Taft Branch Library (Tavoularis)

6. AB 1234 REPORTS

This is the time for all AB 1234 reports required pursuant to Government Code Section 53232.3(d) on meetings and conferences attended at the City's expense.

7. ADMINISTRATIVE REPORTS

7.1. Agreement with Tyler Technologies Inc. for the upgrade of the City's enterprise resource planning system.

Recommended Action:

1. Approve the agreement with Tyler Technologies Inc. in the total amount of \$2,021,392, representing the original proposed amount of \$1,837,629, plus a 10% contingency of \$183,763; and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Authorize the appropriation of \$1,295,000 from the unreserved fund balance to:
790.1601.56033.20391 Computer Replacement Fund - Financial System Replacement \$910,000
600.1222.56510.20391 Water Fund - Financial System Replacement \$385,000

Attachments: [Staff Report](#)
[Agreement with Tyler Technologies, Inc.](#)

7.2. Approval of plans and specifications for the demolition of the Old Fire Station Headquarters as part of the Grand Street Parking Lot Project; authorization to advertise for bids; and finding of CEQA exemption.

Recommended Action:

1. Approve plans and specifications and authorize advertising for Bid No. 23-24.30 (SP-4282).
2. Find the proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15332 (Class 32 - In-Fill Development Projects).

Attachments: [Staff Report](#)
[Parking Lot Layout](#)

7.3. Presentation from Fairbank, Maslin, Maullin, Metz & Associates on the results from a citywide survey that studied the feasibility of potential revenue measures and identified budget/service priorities.

Recommended Action:

1. Receive and file a presentation from Fairbank, Maslin, Maullin, Metz & Associates on the results of a citywide survey that studied the feasibility of potential revenue measures and identified budget/service priorities.
2. Discuss the results from the citywide survey and provide direction to City staff.

Attachments: [Staff Report](#)

8. REPORTS FROM CITY MANAGER

9. LEGAL AFFAIRS

- 9.1. Investment and Audit Committee's separation and related changes to Orange Municipal Code Title 2. Resolution No. 11522 and Ordinance Nos. 01-24, 02-24, and 03-24.

Recommended Action:

1. Introduce and conduct First Reading of Ordinance No. 01-24. An Ordinance of the City Council of the City of Orange amending section 2.26.010 of the Orange Municipal Code Related to the Duties of the City Treasurer.
2. Introduce and conduct First Reading of Ordinance No. 02-24. An Ordinance of the City Council of the City of Orange adding Chapter 2.50 to Title 2 of the Orange Municipal Code (Administration and Personnel) establishing the Audit Advisory Committee.
3. Introduce and conduct First Reading of Ordinance No. 03-24. An Ordinance of the City Council of the City of Orange adding Chapter 2.51 to Title 2 of the Orange Municipal Code (Administration and Personnel) establishing the Investment Advisory Committee.
4. Adopt Resolution No. 11522. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11387.

Attachments:

[Staff Report](#)

[Ordinance No. 01-24](#)

[Ordinance No. 01-24 - REDLINED](#)

[Ordinance No. 02-24](#)

[Ordinance No. 03-24](#)

[Resolution No. 11522](#)

[Resolution No. 11387](#)

10. ADJOURNMENT

The City Council will Adjourn in Memory of Gloria Boice.

The next Regular City Council meeting will be held on Tuesday, March 12, 2024, at 6:00 p.m., in the Council Chamber, with Closed Session beginning at 5:00 p.m., if necessary.

I, Pamela Coleman, CMC, City Clerk for the City of Orange, do hereby declare, under penalty of perjury, that a full and correct copy of this agenda was posted pursuant to Government Code Section 54950 et. seq., at the following locations: Orange Civic Center kiosk and Orange City Clerk's Office at 300 E. Chapman Avenue, Orange Main Public Library at 407 E. Chapman Avenue, Police facility at 1107 N. Batavia Street, and uploaded to the City's website www.cityoforange.org.

Date posted: February 22, 2024



Agenda Item

City Council

Item #: 3.1.

2/27/2024

File #: 24-0100

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Pamela Coleman, City Clerk

1. SUBJECT

Waive reading in full of all ordinances on the Agenda.

2. SUMMARY

This item asks the City Council to waive the reading in full of all ordinances on the agenda (if any) and approve their reading by title only.

State law requires that all ordinances be read in full either at the time of the introduction or at the time of passage, unless a motion waiving further reading is adopted by a majority of the City Council (Gov. Code § 36934).

3. RECOMMENDED ACTION

Approve.

4. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.1.

2/27/2024

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THRU: Tom Kisela, City Manager

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3. RECOMMENDED ACTION

Approve.

4. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 3.2.

2/27/2024

File #: 24-0064

TO: Honorable Mayor and Members of the City Council
THRU: Tom Kisela, City Manager
FROM: Pamela Coleman, City Clerk, Director of City Clerk Services

1. SUBJECT

Agreement with Chapman University for production and broadcasting of local cable programming.

2. SUMMARY

This agreement provides for the continued public-private partnership between the City of Orange and Chapman University for the provision of local cable television programming, and to produce the broadcasting of local programs that impact and promote the community.

3. RECOMMENDED ACTION

Approve the agreement with Chapman University in the amount of \$540,000 for a three-year term to produce and broadcast local cable programming, with two, one-year extension options at the same rate; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The expense for this agreement is \$540,000 and will be funded through:
130.000.51700.20067 PEG Program Public Education and Government

5. STRATEGIC PLAN GOALS

Goal 3: Enhance and promote quality of life in the community
e: Develop and strengthen collaborative partnerships to enhance and promote quality of life programs, projects, and services.

Goal 4: Provide outstanding public service
C: Enhance technology to improve public accessibility to information and services.

6. DISCUSSION AND BACKGROUND

Effective January 1, 2007, the Digital Infrastructure Competition Act (DIVCA) authorized cable television operators to obtain a state franchise, replacing local franchise agreements. Cable companies were no longer under obligation to provide local programming. Additionally, DIVCA requires video operators to fund broadcast efforts through purchase and maintenance of production equipment and the acquisition of capital assets with the use of PEG (Public Education and Government) funds. PEG funds may only be used to purchase equipment and for maintenance of

equipment. Funding commitment for this agreement is achieved with restricted PEG funds acquired through cable company fees.

The City has enjoyed a partnership with Chapman for cable programming since 2011, providing locally originated programming to the community while offering learning opportunities in broadcasting to Chapman students. Chapman provides the support for Channel 6 programming at no cost to the City.

Key provisions of this agreement include:

- The initial term of this agreement is for a three-year period with two (2) one-year term extension options
- A \$45,000 per quarter grant will be provided to Chapman and will be used for the purchase and maintenance of production broadcast equipment. The \$45,000 quarterly grant breaks down to \$25,000 for production equipment and \$20,000 for capital acquisition
- Chapman must submit an annual report to the City Manager's office no later than September 1 of each year detailing equipment purchases utilizing the grant funds; any capital asset purchases over \$100,000 must be mutually agreed upon between the City and Chapman
- Broadcast services provided by Chapman students include all City Council and Planning Commission meetings, the annual 3rd of July event, Treats in the Streets and the Tree Lighting ceremony.

Finally, the agreement allows for five additional events per year to be produced by the Chapman team at City's discretion.

Staff recommends approval of the three-year agreement with Chapman University for production and local broadcasting of City and community events.

7. ATTACHMENTS

- Agreement with Chapman University



Agenda Item

City Council

Item #: 3.2.

2/27/2024

File #: 24-0064

TO: Honorable Mayor and Members of the City Council
THRU: Tom Kisela, City Manager
FROM: Pamela Coleman, City Clerk, Director of City Clerk Services

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Staff recommends approval of the three-year agreement with Chapman University for production and local broadcasting of City and community events.

7. ATTACHMENTS

- Agreement with Chapman University

**AGREEMENT FOR THE PRODUCTION
OF LOCAL CABLE PROGRAMMING**

THIS AGREEMENT FOR THE PRODUCTION OF LOCAL CABLE PROGRAMMING (the "Agreement") is made at Orange, California, as of _ _ , 2024 (herein referred to as the "Effective Date") by and among the CITY OF ORANGE, a municipal corporation ("City") and CHAPMAN UNIVERSITY, a California nonprofit 501(c)(3) (the "Contractor"), with its principal office for purposes of this Agreement at One University Drive, in the City of Orange, State of California, with reference to the following:

The City desires to have the Contractor produce local origination programming for the City's Local Access Channel 6 and Government Access Channel 3 to provide the broadcasting of local origination programs that promote the community and keep the residents of the City informed on matters of significance to the community.

NOW, THEREFORE, the City and Contractor agree as follows:

1. Scope of Work. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to the reasonable satisfaction of City, the services set forth in Exhibit A, which are attached hereto and incorporated herein by this reference. All services provided shall conform to all federal, state and local laws, rules and regulations. The terms and conditions set forth in this Agreement shall control over any terms and conditions in Exhibit A to the contrary.

Channel 6 shall be operated and programmed by Contractor subject to the terms and conditions set forth in this Agreement. Contractor shall provide to the reasonable satisfaction of City the production and broadcasting services set forth in Exhibit A, which is attached hereto and incorporated herein by this reference (hereafter referred to as the "Broadcast Services"). Contractor represents that it is experienced in performing the Broadcast Services and will perform them in a manner consistent with those further defined in Exhibit B.

All Broadcast Services provided shall conform to all applicable federal, state and local laws, rules and regulations. The terms and conditions set forth in this Agreement shall control over any terms and conditions in Exhibit A to the contrary.

2. Compensation and Fees. City shall provide Contractor with a grant in the amount of TWENTY-FIVE THOUSAND DOLLARS and 00/100 (\$25,000.00) per quarter to be used for purchase and maintenance of production and broadcast equipment and distribution of local-origination programming for Channel 6. In addition, the City shall provide a grant in the amount of TWENTY THOUSAND DOLLARS and 00/100 (\$20,000.00) per quarter for the establishment of a "Capital Acquisition Fund" to acquire capital assets, such as Mobile Video Production equipment which allow for mobile production capabilities. This grant amount must be kept in a separate account by Contractor. Furthermore, the City and Contractor must mutually agree on the purchase of any capital asset with a value of over ONE HUNDRED THOUSAND DOLLARS and 00/100 (\$100,000.00) that will be used for the production of local programs. These Grants will be paid in accordance with the schedule in Exhibit C. The parties acknowledge that payment by the

City of the grant funds shall be contingent upon the City receiving sufficient public, educational and government fees ("PEG Fees") that are paid by cable television providers to the City under their state franchises, which the City will not pay and Contractor shall not seek funding from any other City source. If the PEG Fees are insufficient to meet the grant obligations of the City, then Contractor may terminate this Agreement, or in agreement with the City amend this Agreement, without waiting the 60-day period. Contractor shall produce an annual report to the City by September 1st each year which provides documentation for the equipment purchased through the equipment grant.

Except as provided herein, Contractor shall have the exclusive right to program and operate Channel 6. The City has the right to pre-empt or substitute Channel 6 programs on an as needed basis. The City agrees to assign a City liaison to act as a direct liaison with Contractor as it pertains to the operation of Channel 6.

3. Reserved.

4. Change Orders. No payment for extra services caused by a change in the scope or complexity of work, or for any other reason, shall be made unless and until such extra services and a price therefor have been previously authorized in writing and approved by the City as an amendment to this Agreement. The amendment shall set forth the changes of work, extension of time for preparation and adjustment of the fee to be paid by City to Contractor.

5. Licenses. Contractor represents that it and any subcontractors it may engage possess any and all licenses which are required under state or federal law to perform the work contemplated by this Agreement and that Contractor and subcontractors, if any, shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Agreement.

6. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Agreement. City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment, which may be required for furnishing services pursuant to this Agreement. Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that Contractor and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of the City, and that they shall not be entitled to any of the benefits or rights afforded employees of the City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

7. **Contractor Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

8. **Designated Persons.** Only those persons designated in Exhibit "A", if any, shall perform work provided for under this Agreement provided that it is understood by the parties that clerical and other nonprofessional work may be performed by other employees of Contractor.

9. **Assignment or Subcontracting.** No assignment or subcontracting by Contractor of any part of this Agreement or of funds to be received under this Agreement shall be of any force or effect unless the assignment has had the prior written approval of City. City may terminate this Agreement rather than accept any proposed assignment or subcontracting. Such assignment or subcontracting may be approved by the City Manager or his designee.

10. **Term and Extension(s).**

a. The initial term of this Agreement shall be for three (3) years commencing April 1, 2024 and ending March 31, 2027, provided however, that the parties may mutually agree to extend the term of this agreement for the following extensions and upon the following terms, unless otherwise amended in writing by the Parties or terminated in accordance with the provisions of Section 19:

- First Extension (the "First Extension Term" commencing April 1, 2027 and terminating March 31, 2028.
- Second Extension (the "Second Extension Term") commencing April 1, 2028 and terminating March 31, 2029.

b. The City Manager is hereby authorized on behalf of the City to give written notice to Contractor of City's intention to exercise each Extension (if at all) no later than thirty (30) days prior to the Expiration Date of the then-current term; provided, however, that City's notice of its intention to extend the term of this Agreement for each Extension shall be expressly conditioned upon and subject to the approval by the City Council. Notwithstanding the foregoing, the Agreement shall not be extended unless the Contractor also agrees to the extension.

c. Any extension, if properly exercised, shall be memorialized in the form of an amendment to this Agreement.

11. **Time Is of the Essence.** Time is of the essence in this Agreement. The parties shall do all things necessary and incidental to the prosecution of the work under this Agreement.

12. **Reserved.**

13. **Delays and Extensions of Time.** Contractor's sole remedy for delays outside its control, other than those delays that are caused by the City, shall be an extension of time. No

matter what the cause of the delay, Contractor must document any delay and request an extension of time in writing at the time of the delay to the satisfaction of City. Any extensions granted shall be limited to the length of the delay outside Contractor's control. If Contractor believes that delays caused by the City will cause it to incur additional costs, it must specify, in writing, why the delay has caused additional costs to be incurred and the exact amount of such cost at the time the delay occurs. No additional costs can be paid that exceed the not to exceed amount absent a written amendment to this Agreement.

14. Reserved.

15. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or mental or physical disability. Contractor shall ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, or mental or physical disability. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard for race, color, religion, sex, national origin, or mental or physical disability.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

16. Conflicts of Interest. Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a contractor to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code.

17. Indemnity.

a. To the fullest extent permitted by law, Contractor agrees to indemnify, defend and hold the City, its City Council and each member thereof, and the officers, employees and representatives of the City (herein referred to collectively as the "Indemnitees") entirely harmless from all liability arising out of:

(1) Any and all claims under worker's compensation acts and other employee benefit acts with respect to Contractor's employees or Contractor's contractor's

employees arising out of Contractor's work under this Agreement; and

(2) Any claim, loss, injury to or death of persons or damage to property caused by any act, neglect, default, or omission other than a professional act or omission of the Contractor, or person, firm or corporation employed by the Contractor, either directly or by independent contract, including all damages due to loss or theft sustained by any person, firm or corporation including the Indemnitees, or any of them, arising out of, or in any way connected with the work or services which are the subject of this Agreement, including injury or damage either on or off City's property; but not for any loss, injury, death or damage caused by the active negligence or willful misconduct of City. The Contractor, at Contractor's own expense, cost and risk, shall indemnify any and all claims, actions, suits or other proceedings that may be brought or instituted against the Indemnitees on any such claim or liability covered by this subparagraph, and shall pay or satisfy any judgment that may be rendered against the Indemnitees, or any of them, in any action, suit or other proceedings as a result of coverage under this subparagraph.

b. Except for the Indemnitees, the indemnifications provided in this Agreement shall not be construed to extend any third party indemnification rights of any kind to any person or entity which is not a signatory to this Agreement.

c. The indemnitees set forth in this section shall survive any closing, rescission, or termination of this Agreement, and shall continue to be binding and in full force and effect in perpetuity with respect to Consultant and his successors.

18. Insurance.

a. Contractor shall carry workers compensation insurance as required by law for the protection of its employees during the progress of the work. Contractor understands that it is an independent contractor and not entitled to any worker's compensation benefits under any City program.

b. Contractor shall maintain during the life of this Agreement, comprehensive general liability insurance or commercial general liability insurance written on an occurrence basis providing for a combined single limit of \$2 million for bodily injury, death and property damage.

c. Contractor shall maintain during the life of this Agreement, automotive liability insurance on a comprehensive form covering all owned, non-owned and hired automobiles providing for a combined single limit of \$1,000,000 for bodily injury, death and property damage.

d. Each policy of general liability and automotive liability shall provide that City, its officers, agents, and employees are declared to be additional insureds under the terms of the policy, but only with respect to the work performed by Contractor under this Agreement. A policy endorsement to that effect shall be provided to the City along with the certificate of insurance, which endorsement shall be on Insurance Services Office, Inc. Form CG 20 10 10 01.

In lieu of an endorsement, the City will accept a copy of the policy(ies) which evidences that the City is an additional insured as a contracting party.

e. The insurance policies maintained by Contractor shall be primary insurance and no insurance held or owned by City shall be called upon to cover any loss under the policy. Contractor will determine its own needs in procurement of insurance to cover liabilities other than as stated above.

f. Before Contractor performs any work or prepares or delivers any materials, Contractor shall furnish certificates of insurance and endorsements, as required by City, evidencing the aforementioned general liability and automotive insurance coverages on forms acceptable to City. Contractor agrees that the insurance in force will not be canceled or allowed to lapse without at least ten (10) days prior written notice to City.

g. Except for professional liability insurance coverage that may be required by this Agreement, all insurance maintained by Contractor shall be issued by companies admitted to conduct the pertinent line of insurance business in the State of California and having a rating of Grade A or better and Class VII or better by the latest edition of Best's Key Rating Guide.

h. Contractor shall immediately notify the City if any required insurance lapses or is otherwise modified and cease performance of this Agreement unless otherwise directed by the City. In such a case, the City may procure insurance or self insure the risk and charge Contractor for such costs and any and all damages resulting therefrom, by way of set-off from any sums owed Contractor.

i. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to the City, on behalf of any insurer providing insurance to either the Contractor or to the City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer of said Contractor may acquire against the City by virtue of the payment of any loss under such insurance.

j. Contractor shall include all subcontractors, if any, as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to the City for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein.

19. Termination. The City, acting through its City Manager or designee, or Chapman, acting through its Executive Vice President and Chief Operating Officer, reserve the right to terminate this Agreement for any reason by providing a 60-day written notice of intent to terminate. Any grant funds due and owing under this Agreement shall be prorated to the date of the termination. Neither party shall be liable to the other party for any claim of lost profits, damages, attorneys' fees, or costs of any kind whatsoever, due to termination of clause. The City shall not be liable for any claim of lost profits.

20. Maintenance and Inspection of Records. In accordance with generally accepted accounting principles, Contractor and its subcontractors shall maintain reasonably full and complete books, documents, papers, accounting records, and other information (collectively, the “records”) pertaining to the costs of and completion of services performed under this Agreement. The City and any of their authorized representatives shall have access to and the right to audit and reproduce any of Contractor's records regarding the services provided under this Agreement. Contractor shall maintain all such records for a period of at least three (3) years after termination or completion of this Agreement. Contractor agrees to make available all such records for inspection or audit at its offices during normal business hours and upon reasonable notice from the City, and copies thereof shall be furnished if requested.

21. Compliance with all Laws/Immigration Laws.

a. Contractor shall be knowledgeable of and comply with all local, state and federal laws which may apply to the performance of this Agreement.

b. Contractor represents and warrants that Contractor:

(1) Has complied and shall at all times during the term of this Agreement comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Agreement who is ineligible to work in the United States or under the terms of this Agreement; and

(3) Has properly maintained, and shall at all times during the term of this Agreement properly maintain, all related employment documentation records including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor’s employees; and

(4) Has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

c. Contractor shall require all subcontractors under this Agreement to make the same representations and warranties as set forth in Section b.

d. Contractor shall, upon request of the City, provide a list of all employees working under this Agreement and shall provide, to the reasonable satisfaction of the City, verification that all such employees are eligible to work in the United States. All costs associated with such verification shall be borne by the Contractor. Once such request has been made,

Contractor may not change employees working under this Agreement without written notice to the City, accompanied by the verification required herein for such employees.

e. Contractor shall require all subcontractors under this Agreement to make the same verification as set forth in Section d.

f. Any Contractor or subcontractor who knowingly employs an employee providing work under this Agreement who is not authorized to work in the United States, and/or fails to follow federal laws to determine the status of such employee shall constitute a material breach of this Agreement and may be cause for immediate termination of this Agreement by the City.

g. The Contractor agrees to indemnify and hold the City, its officials, and employees harmless for, of and from any loss, including but not limited to fines, penalties and corrective measures, the City may sustain by reason of the Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Agreement.

22. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California and Contractor agrees to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in Orange County, California.

23. Integration. This Agreement constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by both parties. Any work performed which is inconsistent with or in violation of the provisions of this Agreement shall not be compensated.

24. Notice. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally or by first class mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices may be sent by either e-mail or U.S. Mail. Notices shall be deemed received upon receipt of same or within 3 days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

“CITY”

Chapman University
One University Drive
Orange, CA 92866
Attn.: Harold W. Hewitt Jr. COO

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591
Attn.: City Manager

Telephone No.: 714-997-6717
E-Mail Address: hhewitt@chapman.edu


Telephone No.: 714-744-2203
E-Mail Address: cminfo@cityoforange.org

25. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

“CONTRACTOR”

CHAPMAN UNIVERSITY

By: 
Printed Name: Harold W. Hewitt, Jr.
Title: Executive VP/COO

“CITY”

CITY OF ORANGE, a municipal corporation

By: _____
Daniel R. Slater, Mayor

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Nathalie Adourian
Senior Assistant City Attorney

√

EXHIBIT "A"

BROADCAST SERVICES

1. Upon execution of this Agreement, Chapman University ("Chapman") shall, at a minimum, produce, direct and broadcast local origination programming as outlined in this Exhibit A in the required statutorily defined standard of National Television System Committee (NTSC) standard definition, but may in its sole discretion, provide such programming in higher definition when available.

1.1 Except for City Council meetings and Planning Commission meetings, Chapman shall provide the City with digital copies of the productions on Exhibit A within 30 days after the original program occurs and is videotaped by Chapman.

1.2 Chapman acknowledges that "programming and broadcasting of local origination programming" as used in this Agreement shall mean all aspects of the production including but not limited to staffing, writing, pre-production, post-production, directing, coordination and broadcasting of said local cable programming including, but not limited to, day to day channel programming and broadcasting.

1.3 Except for those permitting exclusions set forth in Section 21 of the Agreement, Chapman shall obtain all licenses, permits and certificates, and insurance required for operation and production of local access channel for content produced by Chapman.

1.4 Chapman shall provide City with an annual accounting of all funds received by Chapman for video production and programming of Channel 6 as provided for in Section 2.

1.5 Chapman shall furnish all equipment and supplies and shall bear all other costs and expenses reasonably necessary to carry out the purpose of this Agreement from the grant funds provided in Section 2.

1.6 Chapman shall pay for all costs incurred for production of the local origination programming as outlined in this Exhibit A and may at its discretion contract this service out with the City's approval.

1.7 Chapman, on an as needed basis, shall assist the City in the review and recommendation of needed audio visual equipment necessary for the production and live broadcasting of the City related programming from the City's studio (Council Chambers). The cost of this equipment will be paid for by the City using designated funding from the PEG Fees.

1.8 Chapman shall have video production qualified faculty, staff, alumni or other qualified designees oversee the production of all local origination programming that is produced, directed, edited by students to ensure compliance of all of the provisions of this agreement.

1.9 Chapman shall designate a qualified individual to serve as the Local Production Manager for any and all inquiries with the operations of Channel 6.

1.10 Chapman shall use its best efforts to ensure that students assigned to productions for Channel 3 will be committed for two consecutive semesters. Students used to cover events listed in "Exhibit A" maybe assigned on an ad hoc basis.

1.11 Chapman shall follow Digital Infrastructure Competition Act guidelines for local origination, programming channels when allowing for recognition of program sponsors.

1.12 Chapman may develop a channel "image" for use to identify Channel 6 to the community; provided the City reviews the channel "image"

1.13 Annual Local and Community Programming that will be produced by Chapman per this agreement:

- State of the City
- Rotary Plaza Car Show
- One Concert in the Park
- Annual 3rd of July event
- International Street Fair
- Treats in the Street
- Veterans Day Event
- Tree lighting Ceremony
- All City Council Meetings
- Bi-monthly City Planning Commission Meetings
- The City may request up to five additional events for filming per year. Chapman will make every effort to fulfill these requests with consideration given to available resources.

EXHIBIT "B"

Chapman University ("Chapman") shall produce and broadcast programs of the highest possible standard of excellence on Local Access Channel 6 and Government Access Channel 3 and for this purpose to observe the following regulations in the preparation, writing and broadcasting of its programs.

I. **CONTROVERSIAL ISSUES.** Any discussion of controversial issues of public importance shall be reasonably balanced with the presentation of contrasting viewpoints in the course of overall programming; no attacks on the honesty, integrity, or like personal qualities of any person or group or persons shall be made during the discussion of controversial issues or public importance; and during the course of political campaigns, programs are not to be used as a forum for editorializing about individual candidates. If such events occur, Chapman may require that responsive programming be aired.

II. **NO PLUGOLA OR PAYOLA.** The following business activities or "plugs", relating to the payment, acceptance of payment, agreement to pay or agreement to accept payment of money or other consideration is prohibited: (a) taking money, gifts or other compensation from any person for the purpose of playing any record or records on the air; (b) taking money, gifts or other compensation from any person for the purpose of refraining from playing any record or records on the air; (c) taking money, gifts or other compensation from any person for the purpose of promoting any business, charity or other venture without first informing Chapman's Production Manager and meeting all Federal Communications Commission ("FCC") broadcast rules and requirements for such activity, and (d) promoting any business venture which is unconnected with Chapman on the air without first informing the Production Manager and meeting all FCC rules and requirements for such activity.

III. **PROGRAMMING PROHIBITIONS.** Chapman shall not broadcast any of the following programs or announcements:

- A. **False Claims:** False or unwarranted claims for any product or service.
- B. **Unfair Limitation:** Infringements of another party's rights through plagiarism or unfair imitation of either program idea or copy, or any other unfair competition.
- C. **Commercial Programming:** Any programs or announcements which solicit, directly or indirectly, money or other consideration in exchange for goods or services of any kind; any programs which solicit, directly or indirectly, money or other assets, tangible or intangible, without consideration or promise of future consideration, by any person or persons, association, organization or other group of any kind; or any program which endorses, directly or indirectly, any product or service which is

offered in exchange for consideration, or any promise of future consideration, of any kind, the proceeds of which inure to the benefit of any commercial enterprise.

D. Political Programming: Any program or announcement that would violate any federal, state or local law imposing any restriction on a nonprofit organization or government agency's participation or intervention, directly or indirectly, in any political campaign on behalf of or in opposition to any candidate for public office.

E. Commercial Disparagement: Any disparagement of competitors or competitive goods.

F. Indecency: Any programs or announcements that are slanderous, obscene, profane, vulgar, repulsive or offensive, either in theme or in treatment. No programming that would be considered harmful matter to minors as that term is defined in Penal Code Section 313 shall be aired between the hours of 6 a.m. and 10 p.m.

G. Fraud: Any program or announcement which is intended to defraud the view or designed to obtain money by false or fraudulent premises, representation or promises.

H. Price Disclosures: Any price mentions except as permitted by Chapman's policies current at the time.

I. Unauthenticated Testimonials: Any testimonials which cannot be authenticated.

J. Descriptions of Bodily Functions: Any programming which describes, in a patently offensive manner, internal bodily functions or symptomatic results of internal disturbances, reference or to matters which are not considered acceptable topics in social groups.

IV. RELIGIOUS PROGRAMMING RESTRICTIONS. Any programming broadcast by Chapman is subject to the following restrictions:

A. Respectful of Faiths: The subject of religion and references to particular faiths, tenets, and customers shall be treated with respect at all times.

B. No Denominational Attacks: Programs shall not be used as a medium for attack on any faith, denomination, sect or upon any individual or organization.

V. NO ILLEGAL ANNOUNCEMENTS. No announcements or promotion prohibited by federal or state law, or regulation of any lottery or game, shall be made over the Station. Any game, contest, or promotion relating to or to be presented over Channels 3 or 6 must be fully stated and explained in advance to Chapman, which reserves the right in its sole discretion to reject any game, contest, promotion.

VI MISCELLANEOUS.

- A. Waiver: Chapman may waive any of the foregoing regulations in specific instances if, in its opinion, good broadcasting in the public interest is served.

- B. Prior Consent: In any case where questions of policy or interpretation arise, station employees or volunteers should submit the same to Chapman for decision before making any commitments in connection therewith.

EXHIBIT C

Schedule of Equipment Grant Payments

	Production	Capital Acquisition
July 31,	\$25,000	\$20,000
October 31,	\$25,000	\$20,000
January 31,	\$25,000	\$20,000
April 30,	\$25,000	\$20,000
Over the term of the contract.		
Total	\$500,000	\$400,000



Agenda Item

City Council

Item #: 3.3.

2/27/2024

File #: 24-0088

TO: Honorable Mayor and Members of the City Council

FROM: Tom Kisela, City Manager

1. SUBJECT

Agreement with Kosmont & Associates, Inc. for economic development advisory services.

2. SUMMARY

Agreement with Kosmont & Associates, Inc. to analyze the feasibility of proposed development in the West Katella Avenue area and on an as-needed basis.

3. RECOMMENDED ACTION

1. Approve the agreement with Kosmont & Associates, Inc. in the amount of \$50,000 for economic development advisory services; and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Authorize the following budget transfer:
From: 952.9810.56020.20247 NW & SW Merged 2003 Taxable Bonds SAORA Capital \$50,000
To: 952.9810.51670.20541 NW & SW Merged 2003 Taxable Bonds West Katella District \$50,000

4. FISCAL IMPACT

The estimated expenditure for this agreement is \$50,000 and will be funded through:

952.9810.51670.20541 NW & SW Merged 2003 Taxable Bonds West Katella District \$50,000

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

- b: Analyze future fiscal needs and potential revenue opportunities.

6. DISCUSSION AND BACKGROUND

The West Katella Avenue area is bounded by the Santa Ana River on the west, the water channel on the south, Batavia Street on the east, and the properties on the northside of Katella Avenue on the north. Although the area is surrounded by industrial development on three sides, its close proximity to the Honda Center, Anaheim Regional Transportation Intermodal Center (ARTIC), and Santa Ana River create the potential to develop a visitor serving entertainment and hospitality district. Recognizing this development potential, several years ago the City Council re-zoned many of the properties in the area with an urban mixed-use zoning that provides flexibility for property owners to develop a mix of commercial, hospitality, and residential uses in response to market conditions.

Just across the Santa Ana River in Anaheim, planning has begun on the OC Vibe project which will include the Honda Center and surrounding properties. This multi-billion-dollar development will be

phased over several years and is currently slated to include multiple entertainment venues, restaurants, office spaces, public parks and trails, 1,500 housing units, and two hotels. The City of Anaheim is working with several partners including the City of Orange to develop the OC River Walk along the Santa Ana River between Ball Road and Orangewood Avenue. This project would transform the Santa Ana River into a regional destination for recreation and entertainment and include a pedestrian bridge across the river from OC Vibe to West Katella Avenue in Orange.

The City of Orange Economic Development Strategy includes creating a district that is complimentary to OC Vibe and OC River Walk in the West Katella Avenue area. Unlike OC Vibe, where one developer controls all of the properties in the development, the West Katella Avenue area is made up of dozens of properties with various property owners. Creating a vibrant, cohesive district will necessitate working closely with property owners and other stakeholders in a multi-step approach:

- 1. Visioning Process** to develop a design concept and framework for the area.
- 2. Development Feasibility Analysis** to provide an analysis of what types of development are economically feasible in the area.
- 3. Place Branding** to develop a brand and marketing for the area.
- 4. Place Making** to develop signage, street trees, and other aesthetic elements for the area.

The proposed agreement with Kosmont & Associates, Inc. (Kosmont) would provide for economic development advisory services to determine the feasibility of development proposed for the West Katella Avenue area. As the City works with property owners and stakeholders to articulate a vision for the area, Kosmont will provide the feasibility analysis to ensure that envisioned development is possible given market conditions.

City staff solicited proposals from economic development advisory firms for this effort and are recommending the selection of Kosmont due to the strength of their proposal, relevant experience, and relationships with stakeholders and the development community. If approved by City Council, the services will be provided in tandem with the visioning process for the area and will take between four and six months to complete.

7. ATTACHMENT

- Agreement with Kosmont & Associates, Inc.



Agenda Item

City Council

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7. ATTACHMENT

- Agreement with Kosmont & Associates, Inc.

PROFESSIONAL SERVICES AGREEMENT
[Economic Development Advisory Services]

THIS PROFESSIONAL SERVICES AGREEMENT (the “Agreement”) is made at Orange, California, on this ____ day of _____, 2024 (the “Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and KOSMONT & ASSOCIATES, INC., a California corporation (“Contractor”), who agree as follows:

1. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide to the reasonable satisfaction of City the services set forth in Exhibit “A,” which is attached hereto and incorporated herein by reference. As a material inducement to City to enter into this Agreement, Contractor represents and warrants that it has thoroughly investigated and considered the scope of services and fully understands the difficulties and restrictions in performing the work. The services which are the subject of this Agreement are not in the usual course of City’s business and City relies on Contractor’s representation that it is independently engaged in the business of providing such services and is experienced in performing the work. Contractor shall perform all services in a manner reasonably satisfactory to City and in a manner in conformance with the standards of quality normally observed by an entity providing such services to a municipal agency. All services provided shall conform to all federal, state and local laws, rules and regulations and to the best professional standards and practices. The terms and conditions set forth in this Agreement shall control over any terms and conditions in Exhibit "A" to the contrary.

2. Compensation and Fees.

a. Contractor's total compensation for all services performed under this Agreement, shall not exceed FIFTY THOUSAND DOLLARS and 00/100 (\$50,000.00) without the prior written authorization of City.

b. The above compensation shall include all costs, including, but not limited to, all clerical, administrative, overhead, insurance, reproduction, telephone, travel, auto rental, subsistence and all related expenses.

3. Payment.

a. As scheduled services are completed, Contractor shall submit to City an invoice for the services completed, authorized expenses and authorized extra work actually performed or incurred.

b. All such invoices shall state the basis for the amount invoiced, including services completed, the number of hours spent and any extra work performed.

c. Payment shall constitute payment in full for all services, authorized costs and authorized extra work covered by that invoice.

4. **Change Orders.** No payment for extra services caused by a change in the scope or complexity of work, or for any other reason, shall be made unless and until such extra services and a price therefor have been previously authorized in writing and approved by City as an amendment to this Agreement. City's Project Manager is authorized to approve a reduction in the services to be performed and compensation therefor. All amendments shall set forth the changes of work, extension of time, and/or adjustment of the compensation to be paid by City to Contractor and shall be signed by the City's Project Manager, City Manager or City Council, as applicable.

5. **Licenses.** Contractor represents that it and any subcontractors it may engage, possess any and all licenses which are required under state or federal law to perform the work contemplated by this Agreement and that Contractor and its subcontractors shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Agreement.

6. **Independent Contractor.** At all times during the term of this Agreement, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Agreement. City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Agreement. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Agreement. Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that it and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

7. **Contractor Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

8. **Designated Persons.** Only those qualified persons authorized by City's Project Manager, or as designated in Exhibit "A," shall perform work provided for under this Agreement. It is understood by the parties that clerical and other nonprofessional work may be performed by persons other than those designated.

9. **Assignment or Subcontracting.** No assignment or subcontracting by Contractor of any part of this Agreement or of funds to be received under this Agreement shall be of any force or effect unless the assignment has the prior written approval of City. City may terminate this Agreement rather than accept any proposed assignment or subcontracting. Such assignment or subcontracting may be approved by the City Manager or his/her designee.

10. Time of Completion. Except as otherwise specified in Exhibit “A,” Contractor shall commence the work provided for in this Agreement within five (5) days of the Effective Date of this Agreement and diligently prosecute completion of the work.

11. Time Is of the Essence. Time is of the essence in this Agreement. Contractor shall do all things necessary and incidental to the prosecution of Contractor's work.

12. Reserved.

13. Delays and Extensions of Time. Contractor's sole remedy for delays outside its control, other than those delays caused by City, shall be an extension of time. No matter what the cause of the delay, Contractor must document any delay and request an extension of time in writing at the time of the delay to the satisfaction of City. Any extensions granted shall be limited to the length of the delay outside Contractor’s control. If Contractor believes that delays caused by City will cause it to incur additional costs, it must specify, in writing, why the delay has caused additional costs to be incurred and the exact amount of such cost at the time the delay occurs. No additional costs can be paid that exceed the not to exceed amount stated in Section 2.a, above, absent a written amendment to this Agreement.

14. Products of Contractor. The documents, studies, evaluations, assessments, reports, plans, citations, materials, manuals, technical data, logs, files, designs and other products produced or provided by Contractor for this Agreement shall become the property of City upon receipt. Contractor shall deliver all such products to City prior to payment for same. City may use, reuse or otherwise utilize such products without restriction.

15. Equal Employment Opportunity. During the performance of this Agreement, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Contractor shall ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

16. Conflicts of Interest. Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a consultant to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code. Contractor further agrees that it shall not be eligible to work as the design/build firm for the project that is the subject of this Agreement.

17. Indemnity.

a. To the fullest extent permitted by law, Contractor agrees to indemnify, defend and hold City, its City Council and each member thereof, and the officers, officials, agents and employees of City (collectively the “Indemnitees”) entirely harmless from all liability arising out of:

(1) Any and all claims under workers’ compensation acts and other employee benefit acts with respect to Contractor’s employees or Contractor’s subcontractor’s employees arising out of Contractor’s work under this Agreement, including any and all claims under any law pertaining to Contractor or its employees’ status as an independent contractor and any and all claims under Labor Code section 1720 related to the payment of prevailing wages for public works projects; and

(2) Any claim, loss, injury to or death of persons or damage to property caused by any act, neglect, default, or omission other than a professional act or omission of Contractor, or person, firm or corporation employed by Contractor, either directly or by independent contract, including all damages due to loss or theft sustained by any person, firm or corporation including the Indemnitees, or any of them, arising out of, or in any way connected with the work or services which are the subject of this Agreement, including injury or damage either on or off City’s property; but not for any loss, injury, death or damage caused by the active negligence or willful misconduct of City. Contractor, at its own expense, cost and risk, shall indemnify any and all claims, actions, suits or other proceedings that may be brought or instituted against the Indemnitees on any such claim or liability covered by this subparagraph, and shall pay or satisfy any judgment that may be rendered against the Indemnitees, or any of them, in any action, suit or other proceedings as a result of coverage under this subparagraph.

b. To the fullest extent permitted by law, and as limited by California Civil Code 2782.8, Contractor agrees to indemnify and hold Indemnitees harmless from all liability arising out of any claim, loss, injury to or death of persons or damage to property to the extent caused by its negligent professional act or omission in the performance of professional services pursuant to this Agreement.

c. Except for the Indemnitees, the indemnifications provided in this Agreement shall not be construed to extend any third party indemnification rights of any kind to any person or entity which is not a signatory to this Agreement.

d. The indemnities set forth in this section shall survive any closing, rescission, or termination of this Agreement, and shall continue to be binding and in full force for a period not to exceed four (4) years.

18. Insurance.

a. Contractor shall carry workers' compensation insurance as required by law for the protection of its employees during the progress of the work. Contractor understands that it is an independent contractor and not entitled to any workers' compensation benefits under any City program.

b. Contractor shall maintain during the life of this Agreement the following minimum amount of comprehensive general liability insurance or commercial general liability insurance: the greater of (1) One Million Dollars (\$1,000,000) per occurrence; or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage and be written on an occurrence basis.

c. Contractor shall maintain during the life of this Agreement, the following minimum amount of automotive liability insurance: the greater of (1) a combined single limit of One Million Dollars (\$1,000,000); or (2) all the insurance coverage and/or limits carried by or available to Contractor. Said insurance shall cover bodily injury, death and property damage for all owned, non-owned and hired vehicles and be written on an occurrence basis.

d. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to City. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor under this Agreement.

e. Each policy of general liability and automotive liability shall provide that City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, but only with respect to the work performed by Contractor under this Agreement. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required by Subsection 18.b and c, above, shall apply to City as an additional insured. Any umbrella liability insurance that is provided as part of the general or automobile liability minimums set forth herein shall be maintained for the duration of the Agreement.

f. Contractor shall maintain during the life of this Agreement professional liability insurance covering errors and omissions arising out of the performance of this Agreement with a minimum limit of One Million Dollars (\$1,000,000) per claim. Contractor agrees to keep

such policy in force and effect for at least five (5) years from the date of completion of this Agreement.

g. The insurance policies maintained by Contractor shall be primary insurance and no insurance held or owned by City shall be called upon to cover any loss under the policy. Contractor will determine its own needs in procurement of insurance to cover liabilities other than as stated above.

h. Before Contractor performs any work or prepares or delivers any materials, Contractor shall furnish certificates of insurance and endorsements, as required by City, evidencing the aforementioned minimum insurance coverages on forms acceptable to City, which shall provide that the insurance in force will not be canceled or allowed to lapse without at least ten (10) days' prior written notice to City.

i. Except for professional liability insurance coverage that may be required by this Agreement, all insurance maintained by Contractor shall be issued by companies admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A or better and Class VII or better by the latest edition of Best Key Rating Guide. In the case of professional liability insurance coverage, such coverage shall be issued by companies either licensed or admitted to conduct business in California so long as such insurer possesses the aforementioned Best rating.

j. Contractor shall immediately notify City if any required insurance lapses or is otherwise modified and cease performance of this Agreement unless otherwise directed by City. In such a case, City may procure insurance or self-insure the risk and charge Contractor for such costs and any and all damages resulting therefrom, by way of set-off from any sums owed Contractor.

k. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer may acquire against City by virtue of the payment of any loss under such insurance.

l. Contractor shall include all subcontractors, if any, as insureds under its policies or shall furnish separate certificates and endorsements for each subcontractor to City for review and approval. All coverages for subcontractors shall be subject to all of the requirements stated herein.

19. Termination. City may for any reason terminate this Agreement by giving Contractor not less than five (5) days' written notice of intent to terminate. Upon receipt of such notice, Contractor shall immediately cease work, unless the notice from City provides otherwise. Upon the termination of this Agreement, City shall pay Contractor for services satisfactorily provided and all allowable reimbursements incurred to the date of termination in compliance with

this Agreement, unless termination by City shall be for cause, in which event City may withhold any disputed compensation. City shall not be liable for any claim of lost profits.

20. Maintenance and Inspection of Records. In accordance with generally accepted accounting principles, Contractor and its subcontractors shall maintain reasonably full and complete books, documents, papers, accounting records, and other information (collectively, the “records”) pertaining to the costs of and completion of services performed under this Agreement. City and its authorized representatives shall have access to and the right to audit and reproduce any of Contractor's records regarding the services provided under this Agreement. Contractor shall maintain all such records for a period of at least three (3) years after termination or completion of this Agreement. Contractor agrees to make available all such records for inspection or audit at its offices during normal business hours and upon three (3) days’ notice from City, and copies thereof shall be furnished if requested.

21. Compliance with all Laws/Immigration Laws.

a. Contractor shall be knowledgeable of and comply with all local, state and federal laws which may apply to the performance of this Agreement.

b. If the work provided for in this Agreement constitutes a “public works,” as that term is defined in Section 1720 of the California Labor Code, for which prevailing wages must be paid, to the extent Contractor’s employees will perform any work that falls within any of the classifications for which the Department of Labor Relations of the State of California promulgates prevailing wage determinations, Contractor hereby agrees that it, and any subcontractor under it, shall pay not less than the specified prevailing rates of wages to all such workers. The general prevailing wage determinations for crafts can be located on the website of the Department of Industrial Relations (www.dir.ca.gov/DLSR). Additionally, to perform work under this Contract, Contractor must meet all State registration requirements and criteria, including project compliance monitoring.

c. Contractor represents and warrants that it:

(1) Has complied and shall at all times during the term of this Agreement comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Agreement who is ineligible to work in the United States or under the terms of this Agreement; and

(3) Has properly maintained, and shall at all times during the term of this Agreement properly maintain, all related employment documentation records including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor’s employees; and

(4) Has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

d. Contractor shall require all subcontractors or subconsultants to make the same representations and warranties as set forth in Subsection 21.c.

e. Contractor shall, upon request of City, provide a list of all employees working under this Agreement and shall provide, to the reasonable satisfaction of City, verification that all such employees are eligible to work in the United States. All costs associated with such verification shall be borne by Contractor. Once such request has been made, Contractor may not change employees working under this Agreement without written notice to City, accompanied by the verification required herein for such employees.

f. Contractor shall require all subcontractors or sub-consultants to make the same verification as set forth in Subsection 21.e.

g. If Contractor or subcontractor knowingly employs an employee providing work under this Agreement who is not authorized to work in the United States, and/or fails to follow federal laws to determine the status of such employee, that shall constitute a material breach of this Agreement and may be cause for immediate termination of this Agreement by City.

h. Contractor agrees to indemnify and hold City, its officers, officials, agents and employees harmless for, of and from any loss, including but not limited to fines, penalties and corrective measures City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Agreement.

22. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California and Contractor agrees to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in Orange County, California.

23. Integration. This Agreement constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the work to be performed under this Agreement shall be of any force or effect unless it is in writing and signed by both parties. Any work performed which is inconsistent with or in violation of the provisions of this Agreement shall not be compensated.

24. Notice. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally, by e-mail, or by first class U.S. mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within three (3) days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

Kosmont & Associates, Inc.
1601 N. Sepulveda Blvd., #382
Manhattan Beach, CA 90266
Attn.: Ken K. Hira

Telephone: (949) 226-0288
E-Mail: kosmont@kosmont.com

“CITY”

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591
Attn.: City Manager

Telephone: (714) 744-2222
E-Mail: cminfo@cityoforange.org

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

“CONTRACTOR”

“CITY”

KOSMONT & ASSOCIATES, INC.,
a California corporation

CITY OF ORANGE, a municipal corporation

*By: _____
Printed Name: Ken K. Hira
Title: President

By: _____
Daniel R. Slater, Mayor

*By: _____
Printed Name: _____
Title: _____

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Nathalie Adourian
Senior Assistant City Attorney

***NOTE:**
-- City requires the following signature(s) on behalf of the Contractor:
-- (1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR
-- The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to City.

√

EXHIBIT “A”

SCOPE OF SERVICES

[Beneath this sheet.]



January 30, 2024

Aaron Schulze
Economic Development Manager
City of Orange
300 E Chapman Avenue
Orange, CA 92866

Re: Proposal for Economic Development Advisory Services

Dear Mr. Schulze:

Kosmont & Associates, Inc. doing business as Kosmont Companies (“Consultant” or “Kosmont”) is pleased to present this proposal to the City of Orange (“City” or “Client”) for Economic Development Advisory Services. This proposal serves as an Agreement when executed and returned by Client to Kosmont.

I. BACKGROUND AND OBJECTIVE

Kosmont understands that the City is initiating a visioning process with a third-party urban design and planning consultant and the property owners within a potential “resort district” along West Katella Avenue in the City. In this context, the City has expressed interest in assistance from Kosmont in the form of economic analysis to ground the visioning process in development feasibility.

Additionally, the City has expressed interest in other economic development advisory services from Kosmont on an as-needed basis. Kosmont proposes the following Scope of Services accordingly.

II. SCOPE OF SERVICES

Approach to Tasks: The prospective assignment and consulting services that Kosmont will provide will be of a relatively limited scope and duration, and advisory in nature. Kosmont will be making recommendations only, which advise the Client and jurisdictions, including their elected officials, appointed officials, and staff, which they can accept or reject by. None of Kosmont's staff will act in a capacity as an elected official, nor appointed official, nor as staff, nor as serving in a “designated” position.

Task 1: Development Feasibility Analysis

Kosmont will participate virtually in a coordination meeting with City staff and the City's urban design and planning consultant to kick off the assignment. Kosmont will participate in up to two (2) in-person visioning workshops or briefings with property owners to be scheduled by City staff and the City's urban design and planning consultant. Kosmont will be available to participate in up to three (3) additional briefings in a virtual format. Kosmont will participate in the workshops / briefings and provide commentary from a market, economic, and financial feasibility perspective.

Based on concept planning and/or other visioning materials prepared by the City's urban design and planning consultant, Kosmont will prepare economic analysis to illustrate key development feasibility considerations for the benefit of property owners and the community within the potential resort district. Feasibility analysis will be summarized in Microsoft PowerPoint format.

Task 2: As-Needed Economic Development Advisory Services

At the City's request and subject to budget authorization/availability, Kosmont will be available to perform additional economic development services as follows:

- Marketing / outreach to retailers, businesses, developers, hotels, and private investment for potential opportunity sites
- Developer request for qualifications / proposals (RFQ/P) preparation / distribution, as may be appropriate
- Pro forma evaluation / financial feasibility analysis for potential projects
- Project fiscal impact and economic benefit analysis
- Developer negotiation assistance, financial sources-and-uses analysis, public-private transaction structuring
- Assistance with formulation and implementation of City-owned asset strategies
- Pursuit and execution of potential economic incentives, funding sources, and/or financing structures in the context of potential public-private transactions, such as D.O.R.[®], site specific tax revenue pledges, and/or other tools
- Presentations to City Council, Planning Commission, and/or other bodies as appropriate
- Other economic development tasks as needed.

III. SCHEDULE AND REQUIRED DATA

Consultant is prepared to commence work upon receipt of an executed Agreement. Kosmont will participate in up to two (2) in-person visioning workshops or briefings with property owners as they are scheduled. Kosmont's economic analysis will be based on input received during the workshops and visioning materials produced by the City's urban design and planning consultant.

IV. COMPENSATION

Compensation for Task 1 is estimated at \$25,000 for professional services (hourly) fees to be billed to the City at Consultant's billing rates as shown on Attachment A.



Additional work in accordance with Task 2 would require authorization by the City, time and budget for which would be outlined by Kosmont for City consideration in advance. Budget may be increased by City request at any point in time.

Consultant anticipates a single consolidated round of Client comments and revisions on draft work product before Kosmont provides a final version of work product.

For the convenience of Kosmont's clients, we offer a secure credit card payment service. The credit card payment link is: <https://kosmont.paidyet.com> and there are two ways to make a secure credit card payment:

1. Fill in the "**Make a Payment**" form when you go to the link (<https://kosmont.paidyet.com>), or
2. Call Kosmont Companies' accounting desk (Ms. Reny Sultan; (424) 297-1072) to make a credit card payment

Consultant is prepared to commence work upon receipt of executed Agreement.

DISCLOSURE: Compensation for possible future transaction-based services or brokerage services.

The following is being provided solely as an advance disclosure of possible real estate brokerage and finance services and potential compensation for such services. This disclosure is not intended to commit the Client.

When assignments involve real estate/property brokerage services, such transaction-based services are typically provided by Kosmont Real Estate Services, Inc. dba Kosmont Realty ("KR") is licensed by the State of California Department of Real Estate (License# 02058445). Compensation to KR is typically paid through commissions for property sale transactions, lease transactions and success/broker fees. KR also provides Broker Opinions of Value ("BOV") services on a fixed fee basis.

When assignments involve public finance services on behalf of a public agency, such municipal advisory services are provided by Kosmont Financial Services (KFS). KFS is an independent Registered Municipal Advisor with the Securities and Exchange Commission and the Municipal Securities Rulemaking Board.

SEC registration does not constitute an endorsement of the firm by the Commission or state securities regulators.

V. OTHER PROVISIONS

A. Termination. Client or Consultant shall have the right to terminate this Agreement at any time upon written notification to the other party. Payment for fees accrued through the date of termination shall be remitted in full.

B. Arbitration. Any controversy or claim arising out of or in relation to this Agreement, or the making, performance, interpretation or breach thereof, shall be settled by arbitration at JAMS in

Los Angeles, California. Each of the parties to such arbitration proceeding shall be entitled to take up to five depositions with document requests. The provisions of Section 1283.05 (except subdivision (e) thereof) of the California Code of Civil Procedure are incorporated by reference herein, except to the extent they conflict with this Agreement, in which case this Agreement is controlling. If the matter is heard by only one arbitrator, such arbitrator shall be a member of the State Bar of California or a retired judge. If the matter is heard by an arbitration panel, at least one member of such panel shall be a member of the State Bar of California or a retired judge. The arbitrator or arbitrators shall decide all questions of law, and all mixed questions of law and fact, in accordance with the substantive law of the State of California to the end that all rights and defenses which either party may have asserted in a court of competent jurisdiction shall be fully available to such party in the arbitration proceeding contemplated hereby. The arbitrator and arbitrators shall set forth and deliver their findings of fact and conclusions of law with the delivery of the arbitration award. Judgment upon the award rendered shall be final and non-appealable and may be entered in any court having jurisdiction.

C. Attorneys' Fees. In the event of any legal action, arbitration, or proceeding arising out of an alleged breach of this Agreement, the party prevailing in such legal action, arbitration, or proceeding shall be entitled to recover reasonable attorneys' fees, expenses and costs, as well as all actual attorneys' fees, expenses and cost incurred in enforcing any judgment entered.

D. Authority. Each of the parties executing this Agreement warrants that persons duly authorized to bind each such party to its terms execute this Agreement.

E. Further Actions. The parties agree to execute such additional documents and take such further actions as may be necessary to carry out the provisions and intent of this Agreement.

F. Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party without the prior written consent of the other party.

G. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and assigns.

H. Entire Agreement; Amendments and Waivers. This Agreement contains the entire agreement between the parties relating to the transactions contemplated hereby and any and all prior discussions, negotiations, commitments and understanding, whether written or oral, related hereto are superseded hereby. No addition or modification of any term or provision of this Agreement shall be effective unless set forth in writing signed by both parties. No waiver of any of the provisions of this Agreement shall be deemed to constitute a waiver of any other provision hereof (whether or not similar), nor shall such waiver constitute a continuing waiver of such provisions unless otherwise expressly provided. Each party to this Agreement has participated in its drafting and, therefore, ambiguities in this Agreement will not be construed against any party to this Agreement.

I. Severability. If any term or provision of this Agreement shall be deemed invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and in force to the fullest extent permitted by law.

J. Notices. All notices, requests, demands and other communications which may be required under this Agreement shall be in writing and shall be deemed to have been received when transmitted; if personally delivered, if transmitted by telecopier, electronic or digital transmission method, upon transmission; if sent by next day delivery to a domestic address by a recognized overnight delivery service (e.g., Federal Express), the day after it is sent; and if sent by certified or registered mail, return receipt requested, upon receipt. In each case, notice shall be sent to the principal place of business of the respective party. Either party may change its address by giving written notice thereof to the other in accordance with the provisions of this paragraph.

K. Titles and Captions. Titles and captions contained in this Agreement are inserted only as a matter of convenience and for reference and in no way define, limit, extend or describe the scope of this Agreement or the intent of any provision herein.

L. Governing Law. The statutory, administrative and judicial law of the State of California (without reference to choice of law provisions of California law) shall govern the execution and performance of this Agreement.

M. Confidentiality. Each of the parties agrees not to disclose this Agreement or any information concerning this Agreement to any persons or entities, other than to their attorneys and accountants, or as otherwise may be required by law.

N. Counterparts. This Agreement may be executed in one or more counterparts, each of which constitutes an original, and all of which together constitute one and the same instrument. The signature of any person on a telecopy of this Agreement, or any notice, action or consent taken pursuant to this Agreement shall have the same full force and effect as such person's original signature.

O. Disclaimer. Consultant's financial analysis activities and work product, which may include but is not limited to pro forma analysis and tax projections, are projections only. Actual results may differ materially from those expressed in the analysis performed by Consultant due to the integrity of data received, market conditions, economic events and conditions, and a variety of factors that could materially affect the data and conclusions. Client's reliance on Consultant's analysis must consider the foregoing.

Consultant services outlined and described herein are advisory services only. Any decisions or actions taken or not taken by Client and affiliates, are deemed to be based on Client's understanding and by execution of this Agreement, acknowledgement that Consultant's services are advisory only and as such, cannot be relied on as to the results, performance and conclusions of any investment or project that Client may or may not undertake as related to the services provided including any verbal or written communications by and between the Client and Consultant.

Client acknowledges that Consultant's use of work product is limited to the purposes contemplated within this Agreement. Consultant makes no representation of the work product's application to, or suitability for use in, circumstances not contemplated by the scope of work under this Agreement.



P. Limitation of Damages. In the event Consultant is found liable for any violation of duty, whether in tort or in contract, damages shall be limited to the amount Consultant has received from Client.

Q. Force Majeure. Consultant shall not be liable for failure or delay in performance of its obligations under this Agreement arising out of or caused, directly or indirectly, by significant circumstances beyond its reasonable control, including, without limitation: epidemic; acts of God; earthquakes; fires; floods; wars; civil or military disturbances; acts of terrorism; sabotage; strikes; riots; wide-spread power failures and wide-spread internet failure. Contractual performance and deadline(s) shall be extended for a period equal to the time lost by reason of the delay.

R. Expiration of Proposal for Services. If this Agreement is not fully executed by the parties within thirty (30) days from the date of this letter, this proposal shall expire.

S. Not an agreement for Legal Services or Legal Advice. This Agreement does not constitute an agreement for the performance of legal services or the provision of legal advice, or legal opinion. Client should seek independent legal counsel on matters for which Client is seeking legal advice.



VI. ACCEPTANCE AND AUTHORIZATION

If this Agreement is acceptable to Client, please execute two copies of the Agreement and return both originals to Kosmont Companies. Upon receipt of both signed contracts, we will return one fully executed original for your files. Kosmont will commence work upon receipt of executed Agreement.

Read, understood, and agreed to this

____ Day of _____ 2024

City of Orange

Kosmont & Associates, Inc.
doing business as "Kosmont Companies"

By: _____
(Signature)

By: _____
(Signature)

Name: _____
(Print Name)

Name: Ken K. Hira

Its: _____
(Title)

Its: President



ATTACHMENT A

**Kosmont Companies
2024 Public Agency Fee Schedule**

Professional Services

Chairman & CEO	\$475.00/hour
President	\$395.00/hour
Sr. Vice President/Sr. Advisor/Sr. Managing Director	\$370.00/hour
Vice President/Project Advisor	\$250.00/hour
Senior Project Analyst	\$195.00/hour
Project Analyst/Project Research	\$175.00/hour
Assistant Project Analyst/Assistant Project Manager	\$150.00/hour
Project Promotion/Graphics/GIS Mapping Services	\$ 95.00/hour
Clerical Support	\$ 80.00/hour

Additional Expenses

In addition to professional services (labor fees):

- 1) An administrative fee for in-house copy, fax, phone, postage costs, digital/technological support and related administrative expenses will be charged, which will be computed at four percent (4.0 %) of monthly Kosmont Companies professional service fees incurred; plus
- 2) Out-of-pocket expenditures, such as travel and mileage, professional printing, and delivery charges for messenger and overnight packages will be charged at cost.
- 3) Project/Market data sources for support of evaluation and analysis e.g., ESRI, Placer.ai, CoStar/STR, IMPLAN, ParcelQuest and other based on quoted project cost.
- 4) If Kosmont retains Third Party Vendor(s) for Client (with Client's advance approval), fees and cost will be billed to Client at 1.1X (times) fees and costs.
- 5) Consultant's attendance or participation at any public meeting, whether such participation is in person, digital, video and/or telephonic (e.g., *City Council, Planning Commission, Public Agency Board, other*) requested by Client and are beyond those specifically identified in the Scope of Work will be billed at the professional services (hourly) fees as shown on this Attachment A.

• **Charges for Court/Deposition/Expert Witness-Related Appearances**

Court-related (non-preparation) activities, such as court appearances, depositions, mediation, arbitration, dispute resolution and other expert witness activities, will be charged at a court rate of 1.5 times scheduled rates, with a 4-hour minimum.

Rates shall remain in effect until December 31, 2024.



Agenda Item

City Council

Item #: 3.4.

2/27/2024

File #: 23-0540

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Sewer Facility Transfer Agreement and Memorandum of Understanding between the City of Orange and Orange County Sanitation District in conjunction with the District's 2-49 Taft Branch Improvements.

2. SUMMARY

The City of Orange and the Orange County Sanitation District desire to formalize the transfer of certain sewer facilities between each agency in conjunction with the District's 2-49 Taft Branch Improvements through a Sewer Transfer Agreement. The Memorandum of Understanding between the agencies defines the District's obligations for the sewer improvements.

3. RECOMMENDED ACTION

1. Approve the Sewer Transfer Agreement with Orange County Sanitation District and authorize the Mayor and City Clerk to execute on behalf of the City of Orange.
2. Approve the Memorandum of Understanding with Orange County Sanitation District and authorize the Mayor and City Clerk to execute on behalf of the City of Orange.

4. FISCAL IMPACT

None

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community.

- b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service.

- b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

Orange County Sanitation District (OCSan) maintains sewage treatment plants and a network of regional lines throughout its service area of 479 square miles in central and northwest Orange County. Through this network of regional sewer lines, OCSan collects sewage from local agencies and transports it to its treatment plants. These regional lines are typically pipes of 10" diameter and larger.

The City of Orange (City) is the local sewer agency which maintains all the local sewer systems and is responsible for collecting sewage from individual properties. These local systems, with sewer pipes of mostly 6" or 8" in diameter, collect sewage from individual properties by way of sewer lateral lines. These systems convey local sewage to the regional lines maintained by OCSan downstream.

OCSan is committed to protecting public health and the environment by proactively replacing and maintaining its infrastructure through its Capital Improvement Program (CIP). One of the strategies is to increase the pipe diameter which increases the flow capacity of the pipe and accommodates peak weather flow.

OCSan's Taft Branch Sewer Improvement Project (2-49) is one of the projects implemented under its CIP. The project will replace and relocate a portion of the Taft Ave. sewer in the City of Orange. The project will upsize almost two miles of pipe along Taft Ave. from Glassell St. northbound on Sacramento St., to Brentford Ave., to Breckenridge St. and to Meats Ave. where it joins its existing sewer facilities.

The existing OCSan sewer mainline, built in the 1960s, ranges between 12"-15" diameter pipes and will be upsized to 18"-21" pipes. A segment of the sewer mainline that currently runs along Meats Ave. and Tustin St. will be relocated to Sacramento St. The relocation is to minimize traffic impacts and construction inconveniences inherent with major construction activities along major arterials.

Under the Sewer Transfer Agreement, OCSan will transfer to the City 2,689 feet of existing 12"-18" diameter sewer mainline and 14 manholes. In addition, OCSan will construct and transfer 475 feet of new sewer pipes and eight manholes. Conversely, the City will transfer to OCSan a total of 2,389 feet of 12" diameter sewer pipes and nine manholes. Both agencies have conducted condition assessments of their respective sewer facilities. These facilities have been found to be acceptable in their current condition. Upon completion of the transfer, each agency will be responsible for the operation and maintenance of the facilities acquired. OCSan transfers real property (sewer facilities) to local agencies through a Sewer Transfer Agreement.

The Memorandum of Understanding defines each agency's obligations for the 2-49 sewer improvements. OCSan is responsible for the costs of environmental compliance, design, and construction. Furthermore, OCSan has also agreed to pay for acquisition of video detection systems at four intersections impacted by construction, while the City will be responsible for the installation as part of the City's operation and maintenance activities. These intersections are (1) Taft Ave. and Shaffer St.; (2) Taft Ave. and Cambridge St.; (3) Taft Ave. and Tustin St.; (4) Taft Ave. and Tustin St./Briardale Ave. The video detection system, an upgrade to the existing loop detectors, will allow for the immediate restoration of traffic signal actuation and synchronization for efficient traffic flow through the Taft Ave. corridor.

The City and OCSan collaborated extensively on the traffic control plans for the project. Construction will start downstream at Glassell St. and Taft Ave., and will work in stages to the upstream end near Meats Ave. and Santiago Blvd. Generally, along arterials, two lanes in each direction will be maintained during the non-working construction hours from 7:00pm-7:00am. Travel lanes will be reduced to one lane in each direction during working hours. Nighttime work will be allowed along commercial areas to expedite construction completion. On residential streets of Sacramento St., Brentford Ave., and Breckenridge St., full road closure by block will be necessary due to limited street widths but will always provide local and emergency access. Nighttime work will not be allowed in residential areas.

OCSan has conducted community outreach to introduce the project and will have a robust outreach program in place prior to and during construction. These include designating a community liaison, construction hotline, notifications/alerts, website updates, email and text alerts, social media posts, meeting and presentations, project information signs, and City coordination.

Construction is scheduled to start in the summer of 2024 and expected to be completed within 1.5 years.

7. ATTACHMENTS

- Sewer Transfer Map
- Sewer Transfer Agreement
- Memorandum of Understanding



Agenda Item

City Council

Item #: 3.4.

2/27/2024

File #: 23-0540

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The City and OCSan collaborated extensively on the traffic control plans for the project. Construction will start downstream at Glassell St. and Taft Ave., and will work in stages to the upstream end near Meats Ave. and Santiago Blvd. Generally, along arterials, two lanes in each direction will be maintained during the non-working construction hours from 7:00pm-7:00am. Travel lanes will be reduced to one lane in each direction during working hours. Nighttime work will be allowed along commercial areas to expedite construction completion. On residential streets of Sacramento St., Brentford Ave., and Breckenridge St., full road closure by block will be necessary due to limited street widths but will always provide local and emergency access. Nighttime work will not be allowed in residential areas.

OCSan has conducted community outreach to introduce the project and will have a robust outreach program in place prior to and during construction. These include designating a community liaison, construction hotline, notifications/alerts, website updates, email and text alerts, social media posts, meeting and presentations, project information signs, and City coordination.

Construction is scheduled to start in the summer of 2024 and expected to be completed within 1.5 years.

7. ATTACHMENTS

- Sewer Transfer Map
- Sewer Transfer Agreement
- Memorandum of Understanding



— Original Alignment

× Abandon

— Transfer to City of Orange

— Proposed Alignment

— Transfer to OC San

RECORDING REQUESTED
BY AND RETURN TO:

ORANGE COUNTY SANITATION DISTRICT
P. O. Box 8127
Fountain Valley, CA 92728
Attn: Clerk of the Board

(Space Above This Line for Recorder's Use)

Exempt from recording fee – California Government Code Section 6103 and 27383

**SEWER TRANSFER AGREEMENT
BETWEEN
ORANGE COUNTY SANITATION DISTRICT
AND THE
CITY OF ORANGE**

THIS AGREEMENT for the transfer of certain sewers and appurtenant facilities (hereafter, "Agreement") is made and entered into this _____ day of _____, 2024 by and between Orange County Sanitation District, a special district and public corporation, ("OCSAN") and the City of Orange, a municipal corporation ("CITY). OCSAN and CITY together are referred to as the "PARTIES."

Whereas, OCSAN is a regional operator of sewage collection and sewage treatment facilities, which owns and operates, among other facilities, regional sewage collection facilities, including trunk sewer pipelines as large as 108 inches in diameter.

Whereas, CITY operates a local sewage collection system, which collects sewage from properties within its jurisdiction and then transfers it to OCSAN via connection to OCSAN's regional sewage collection and treatment facilities.

Whereas, OCSAN is engaged in Project No. 2-49 to improve its facilities in the CITY that run west along Meats Avenue from Santiago Blvd. across the 55 Freeway then south along Tustin Street then west along Taft Avenue (the "Taft Branch Improvements"). The Taft Branch Improvements will cause the abandonment of the portion of OCSAN's facilities along Meats Avenue crossing the 55 Freeway and realigning them south along N. Sacramento Street to Taft Avenue.

Whereas, in connection with OCSAN's Taft Branch Improvements, the PARTIES agree to transfer to CITY OCSAN's sewer facilities along Meats west of the 55 Freeway then south on Tustin Street to its first intersection with Taft Avenue as further described below; and to transfer to OCSAN the CITY's sewer facilities along Taft Avenue from Santiago Blvd., west to N. Sacramento Street as further described below.

Whereas, in conjunction with the OCSAN's Taft Branch Improvements, OCSAN will construct new facilities to be transferred to the CITY and will modify existing CITY facilities to convey flow from existing CITY facilities to OCSAN's newly constructed regional facilities as further described below.

Whereas, this Agreement shall document and memorialize the understanding of the PARTIES pertaining to the existing property and that to be constructed by OCSAN and transferred between OCSAN and CITY.

NOW THEREFORE BE IT RESOLVED that the PARTIES agree as follows:

1. OCSAN Grant of Property Rights in Sewer Pipelines to CITY
 - (a) Existing sewer lines/FOG Control Program Transfer Area.
 - (1) Effective Date of Transfer ("Transfer Date"). Effective upon OCSAN's acceptance of the Taft Branch Improvements, the date thereof being established as of the filing with the Orange County Clerk-Recorder a Notice of Completion thereof, OCSAN

does hereby quitclaim, grant, convey and transfer to CITY all existing sewer lines and appurtenant sewer facilities covered by this Agreement owned by OCSAN (collectively, "OCSAN Property"), which OCSAN Property is described and depicted in Exhibit "A" and shown visually in Exhibit B, attached hereto. In the event of an apparent discrepancy between Exhibit "A" and Exhibit "B", Exhibit "A" shall control. This sewer segment shall further be known as the "FOG Control Program Transfer Area."

(2) Transfer of FOG Control Program Responsibility. Upon the effective date of the transfer of the FOG Control Program Transfer Area, CITY accepts ownership and all maintenance responsibilities of the FOG Control Program Transfer Area sewer lines and appurtenant sewer facilities, including all related regulatory activities that include, but is not limited to, Fats, Oils, and Grease (FOG) Wastewater Discharge regulation and monitoring requirements pursuant to the State Water Resources Control Board's Order WQ 2022-0103-DWQ, and its successors. OCSAN's responsibility for FOG Permits and FOG Wastewater Discharge regulation within the FOG Control Program Transfer Area will cease.

(3) FOG Permittees. Thirty (30) days prior to the transfer date of the FOG Control Program Transfer Area, OCSAN will:

- a. Inform all FOG Permittees within the FOG Control Program Transfer Area of the transfer of the sewer lines and transfer of the FOG control program authority and responsibility to CITY; and
- b. Provide the CITY a list of all valid FOG Permittees and known Food Service Establishments located in the FOG Control Program Transfer Area; and
- c. Transfer all FOG Permittee records to the CITY.

(b) Sewer line segments to be constructed by OCSAN and transferred to CITY. Subject to the construction conditions set forth below, OCSAN does hereby quitclaim, grant, convey and transfer to CITY all sewer lines and appurtenant sewer facilities to be constructed by OCSAN pursuant to this Agreement (collectively, "Added Property"), which Added Property is described and depicted in Exhibit "C" and shown visually in Exhibit D, attached hereto. In the event of an apparent discrepancy between Exhibit "C" and Exhibit "D", Exhibit "C" shall control. Upon the effective date of the transfer of the Added Property, CITY accepts ownership and all maintenance responsibilities of the Added Property sewer lines and appurtenant sewer facilities, including all related regulatory activities that include, but is not limited to, Fats, Oils, and Grease (FOG) Wastewater Discharge regulation and monitoring requirements pursuant to the State Water Resources Control Board's Order WQ 2022-0103-DWQ, and its successors.

(1) OCSAN shall construct the Added Property at no cost to CITY, and shall:

- a. Be responsible for the design, construction, costs, and all acts necessary or required in order to complete the construction of the Added Property. OCSAN will remove its name from manhole covers for the existing OCSAN Property transferred to CITY.
- b. Submit the design, plans and specifications for the Added Property work to CITY's City Engineer for review and approval.
- c. Ensure that the Added Property construction is completed in compliance with CITY's approved plans and specifications.

(2) In conjunction with OCSAN's construction of the Added Property, CITY shall:

- a. Cooperate with OCSAN and promptly and expeditiously review and provide approvals or comments regarding the design, plans and specifications for the Added Property to be included in bidding documents prepared for the Added Property in connection with the Taft Branch Improvements, including plans and specifications. CITY shall further issue any permits at no cost to OCSAN or its construction contractor. OCSAN shall not commence the Added Property construction work until the CITY has approved the plans and specifications for the work and issued the required permits therefor. CITY shall not have the right to request additional changes to the project approved for bidding, but CITY shall have the right to approve change orders during construction for changes to the approved plans required by site conditions unknown prior to construction.
- b. At all times, during the progress of construction of the Added Property, have access to the work site for the purpose of inspection thereof.
- c. Promptly notify OCSAN in writing should CITY deem any remedial measures to be reasonably necessary prior to OCSAN's acceptance of any work on the Added Property.
- d. Promptly notify OCSAN of CITY's acceptance/approval or rejection of the Added Property work within thirty (30) days after receiving notice from OCSAN that construction is complete. CITY shall accept and be deemed to accept/approve of the work if CITY fails to provide notice to OCSAN within thirty (30) days of OCSAN's notice of completion of construction to CITY.

(3) Effective Date of Transfer of Added Property. The Added Property shall be deemed transferred as of the date of CITY's acceptance or deemed acceptance pursuant to subdivision (1)(b)(2)(d) above.

2. CITY Grant of Property Rights in Sewer Pipelines to OCSAN

Effective as of the Transfer Date defined in Section (1)(a)(1) above, CITY does hereby quitclaim, grant, convey and transfer to OCSAN all sewer lines and appurtenant sewer facilities covered by this Agreement (collectively, "CITY Property") owned by CITY, which CITY Property is described and depicted in Exhibit "E" and shown visually in Exhibit F, attached hereto. In the event of an apparent discrepancy between Exhibit "E" and Exhibit "F", Exhibit "E" shall control.

3. Warranty of Condition

OCSAN and CITY make no warranty as to the condition and remaining life of the sewer lines to be transferred between the Parties hereby, except that OCSAN shall transfer any warranty applicable to the Added Property upon acceptance by CITY thereof. The PARTIES will further transfer and exchange all plans, reports and/or studies pertaining to the facilities being transferred, which are in the possession of each PARTY pertaining to the existing facilities being transferred hereunder.

4. Responsibility for Operations and Maintenance

A. Upon completion of the transfer of the OCSAN Property, Added Property, and CITY Property, each PARTY shall be responsible for the operation and maintenance of the facilities herein acquired, including compliance with all State and local regulations thereto, which includes the implementation of a sewer system management plan and a Fats, Oil and Grease program. For ease of reference, the existing parcels connected to the sewer facilities being transferred to CITY as OCSAN Property and Added Property, for which CITY will have operations and maintenance responsibility are shown in Exhibit "G", attached hereto.

- B. Along segments where the Parties' sewer mains run parallel in proximity with each other, OCSAN's sewer main facilities are constructed deeper than the City's main sewer facilities. OCSAN shall be liable for any damage to the City's sewer facilities caused by OCSAN during any repair or maintenance of OCSAN's facilities.

5. Risk Transfer and Indemnity

- (a) Risk Transfer. OCSAN and CITY, and each of their elected officials, officers, employees and agents, shall be named as additional insureds in all construction contracts in all commercial general and automobile liability insurance policies relating to the Added Property construction; and each shall be indemnified and be held harmless for any liability arising out of contractors' performance thereunder.
- (b) OCSAN Indemnity. Neither OCSAN, nor any officer, agent, representative, or employee thereof, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by CITY, its officers, employees, agents, contractors, or subcontractors, under or in connection with any work, authority, or jurisdiction delegated to CITY under this Agreement. To the fullest extent permitted by law, CITY shall defend, indemnify and hold harmless OCSAN, including OCSAN's employees, agents, representatives, and officials, from any liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, costs or expenses of any kind whatsoever, whether actual, alleged, or threatened, without restriction or limitation, and incurred in relation to, as a consequence of, arising out of or in any way attributable actually, allegedly or impliedly, to the negligence, recklessness, or willful misconduct of CITY and its officers, employees, agents, contractors, or subcontractors, in the performance of this Agreement. All obligations under this provision are to be paid by CITY as they are incurred by OCSAN.
- (c) City Indemnity. Neither CITY, nor any officer, agent, representative or employee thereof, shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by OCSAN, its officers, employees, agents, contractors, or subcontractors, under or in connection with any work, authority, or jurisdiction delegated to OCSAN under this Agreement. To the fullest extent permitted by law, OCSAN shall defend, indemnify and hold harmless City, including CITY's employees, agents, representatives, and officials, from any liabilities, claims, suits, actions, arbitration proceedings, administrative proceedings, regulatory proceedings, losses, costs or expenses of any kind whatsoever, whether actual, alleged, or threatened, without restriction or limitation, and incurred in relation to, as a consequence of, arising out of or in any way attributable actually, allegedly or impliedly, to the negligence, recklessness, or willful misconduct of OCSAN and its officers, employees, agents, contractors, or subcontractors, in the performance of this Agreement. All obligations under this provision are to be paid by OCSAN as they are incurred by CITY. OCSAN shall require in any agreement with a contractor for the project that the contractor defend, indemnify and hold harmless CITY, including CITY's officers, employees, agents, contractors, and subcontractors, as set forth in this provision.
- (d) Cooperation. In the event any claim or action is brought against the PARTIES relating to the performance rendered under this Agreement, the PARTIES shall render any reasonable assistance and cooperation which each might require.

6. Resolution of Disputes

In the event of any dispute concerning any aspect of this Agreement, the PARTIES' representatives shall work in good faith to resolve any such dispute to each PARTY's satisfaction prior to initiation of any court action, provided, however, that nothing herein shall prevent either PARTY from utilizing all remedies at law or equity in the event such dispute cannot be resolved within thirty (30) days of a

written request by one PARTY to meet and confer with the other to resolve such dispute, or such other period of time as agreed upon in writing.

7. Assignment

The benefits and burdens of this Agreement shall be binding upon and inure to all successors-in-interests and assigns of the Parties.

8. Amendment

Any amendment of this Agreement must be in writing, signed, and acknowledged by the OCSAN and CITY and duly recorded in the Official Records of the County Recorder of the County of Orange, State of California.

9. Entire Agreement

This Agreement (including any attached exhibits) contains the entire agreement between OCSAN and CITY regarding the subject matter of the Agreement, including all representations and warranties between them.

10. Notices

Notices relating to this Agreement must be in writing and sent to the addresses set forth below. A Party may change its address for notices by giving notice as required by this Section. A written notice will be considered given (i) when personally delivered, or (ii) two business days after deposit in the United States Mail as first-class mail, certified or registered, return receipt requested with postage prepaid, or (iii) one business day after deposit with a reputable overnight delivery service for next business day delivery, or (iv) on the business day of successful transmission by electronic e-mail. The Parties' addresses for notices are as follows:

To OCSAN: OC San
 Attn: General Manager
 10844 Ellis Avenue
 Fountain Valley, CA 92708
 E-mail: rthompson@ocsan.gov

To CITY: City of Orange
 Attn: City Manager
 300 E. Chapman Avenue
 Orange, CA 92866
 E-mail: tkisela@cityoforange.org

11. No Waiver

No waiver or failure to exercise any right, option, or privilege under the terms of this Agreement on any occasion shall be construed to be a waiver of any other right, option, or privilege on any other occasion.

12. No Third-Party Beneficiaries

This Agreement is entered into by and for OCSAN and CITY, and nothing herein is intended to establish rights or interests in individuals or entities not a party hereto.

13. Severability

If any provision of this Agreement is determined by a court of competent jurisdiction to be unenforceable in any circumstance, such determination shall not affect the validity or enforceability

of the remaining terms and provisions hereof or of the offending provision in any other circumstance. Notwithstanding the foregoing, if the value of this Agreement, based upon the substantial benefit of the bargain for any party, is materially impaired, which determination made by the presiding court or arbitrator of competent jurisdiction shall be binding, then both parties agree to substitute such provision(s) through good faith negotiations.

14. Authority

Each Party warrants that the individuals who have signed this Agreement on their behalf have the legal power, right and authority to make this Agreement and bind each respective Party.

Exhibit:

A—Description of OCSAN Property to be transferred to CITY

B—Depiction of OCSAN Property to be transferred to CITY

C—Description of Added Property constructed by OCSAN to be transferred to CITY

D—Depiction of Added Property constructed by OCSAN to be transferred to CITY

E—Description of CITY Property to be transferred to OCSAN

F—Depiction of CITY Property to be transferred to OCSAN

G—Properties tied to facilities subject to CITY operation and maintenance responsibility after transfer

///

///

[Signatures on the following page.]

IN WITNESS WHEREOF, this Agreement has been executed by the Parties hereto.

ATTEST:

CITY OF ORANGE

Pamela Coleman, City Clerk

Date: _____

By: _____

Printed Name: Daniel R. Slater

Title: Mayor

Date: _____

APPROVED AS TO FORM:

Nathalie Adourian
Senior Assistant City Attorney

ORANGE COUNTY SANITATION DISTRICT

By: _____

Printed Name: _____

Title: Chair of the Board of Directors

Date: _____

ATTEST:

By: _____
Clerk of the Board

Date: _____

APPROVED AS TO FORM

Brad Hogin
General Counsel

√

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

STATE OF CALIFORNIA)
)
COUNTY OF _____)

On _____, 2023, before me, _____,
Notary Public, personally appeared _____, who proved to
me on the basis of satisfactory evidence to be the person(s) whose name is subscribed to
the within instrument and acknowledged to me that he/she/they executed the same in
his/her/their authorized capacity, and that by his/her/their signature on the instrument the
person, or the entity upon behalf of which the person acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that
the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

(seal)

Signature _____

EXHIBITS

DISCLAIMER: Maps prepared by the Orange County Sanitation District. The maps are intended for graphical representation only. No level of accuracy is claimed. Portions of this derived product contain geographical information copyrighted by TomTom®. All Rights Reserved.

Exhibit A - Description of OCSAN Property to be Transferred to CITY

Pipelines				
Street	Downstream	Upstream	Existing Diameter (inches)	Length (feet) ¹
Taft Ave and Tustin St	SAR0250-0159	SAR0250-0165	15	75
Tustin St	City MH5	SAR0250-0173	18	497
Tustin St	SAR0250-0173	SAR0250-0175	18	135
Tustin St	SAR0250-0175	SAR0250-0177	18	95
Tustin St	SAR0250-0177	SAR0250-0182	18	388
Tustin St	SAR0250-0182	SAR0250-0185	18	149*
Tustin St	SAR0250-0185	SAR0250-0190	18	117
Tustin St	SAR0250-0190	SAR0250-0195	18	197*
Tustin St	SAR0250-0195	SAR0250-0200	18	175*
Tustin St	SAR0250-0200	SAR0250-0205	18	188*
Meats Ave	SAR0250-0205	SAR0250-0210	12	130
Meats Ave	SAR0250-0210	SAR0250-0215	12	104
Meats Ave	SAR0250-0215	SAR0250-0220	12	92
Meats Ave	SAR0250-0220	SAR0250-0225	12	347

¹ Lengths were determined from CCTV reports; *indicates that the lengths were verified using the as-built information

Exhibit A - Description of OCSAN Property to be Transferred to CITY

Manholes		
Street	Manhole ID	Connection Permit
Taft Ave and Tustin St	SAR0250-0165	T02-00427
Tustin Ave	SAR0250-0173	-
Tustin Ave	SAR0250-0175	T02-00149
Tustin Ave	SAR0250-0177	T02-01451
Tustin Ave	SAR0250-0182	T02-00310
Tustin Ave	SAR0250-0185	T02-01033
Tustin Ave	SAR0250-0190	-
Tustin Ave	SAR0250-0195	T02-01100
Tustin Ave	SAR0250-0200	-
Meats Ave	SAR0250-0205	T02-02336
Meats Ave	SAR0250-0210	-
Meats Ave	SAR0250-0215	-
Meats Ave	SAR0250-0220	-
Meats Ave	SAR0250-0225	T02-00881

Exhibit B - Depiction of OCSAN Property to be Transferred to CITY

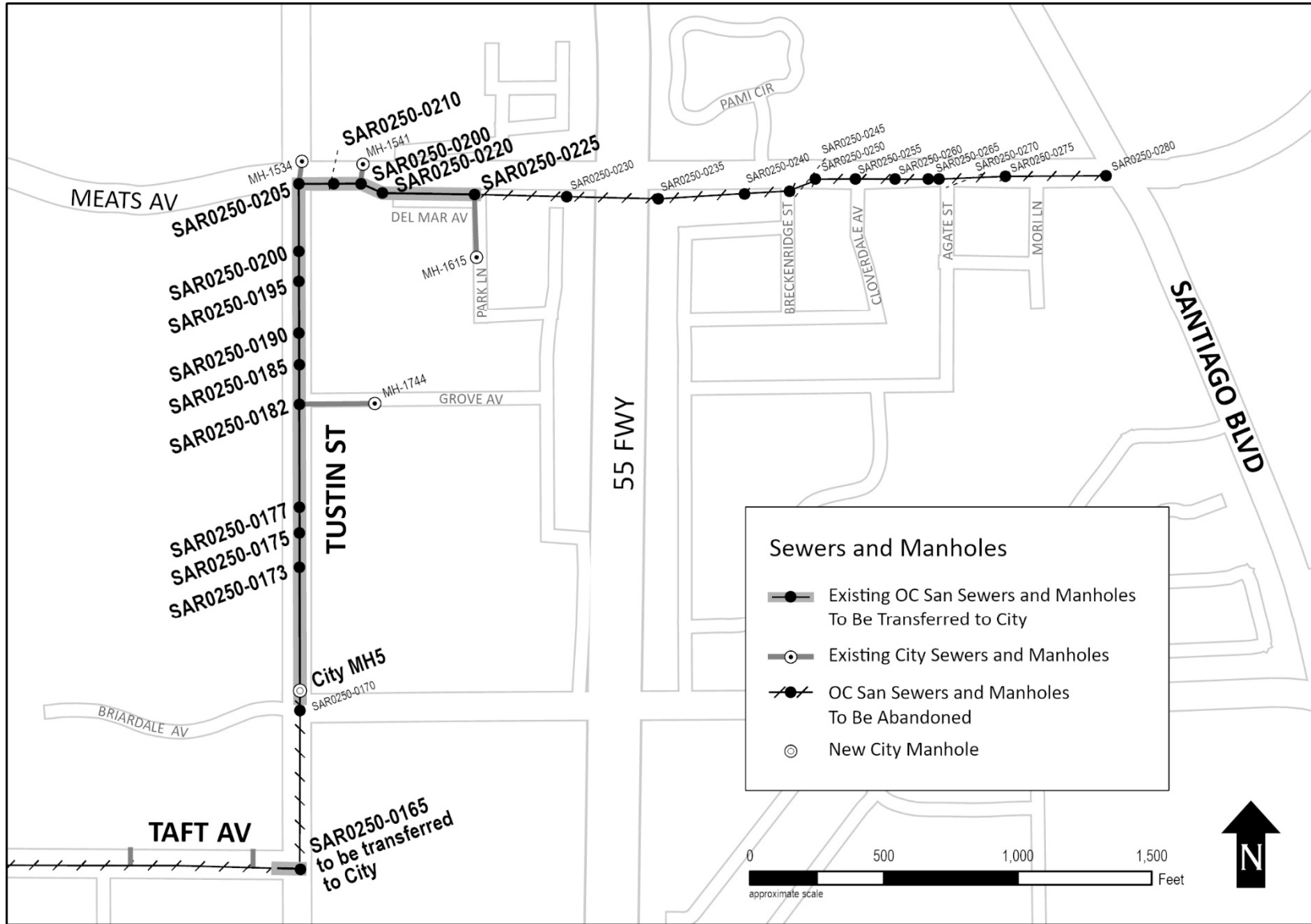


Exhibit C - Description of Added Property Constructed by OCSAN to be Transferred to CITY

Pipelines				
Street	Plan Sheet	Downstream MH	Upstream MH	Diameter (inches)
Taft Ave	C1001	SAR0250-0086	City MH (ID UNK)	8
Taft Ave/Cambridge Ave	C1003	SAR0250-0121	MH-2187	8
Taft Ave/Cambridge Ave	C1003	SAR0250-0121	City MH1	8
Taft Ave/Green Grove St	C1005	SAR0250-0141	MH-2147	8
Taft Ave/Green Grove St	C1005	SAR0250-0141	City MH2	8
Tustin St/E. Taft Ave	C1008	SAR0250-0168	City MH5	18
Meats Ave w/o Breckenridge St	C1012	City MH6	MH-1549	8
Meats Ave	C1012	SAR0250-0445	City MH6	8

Manholes		
Street	Plan Sheet	Manhole
Taft Ave / Cambridge Ave	C1003	City MH1
Taft Ave / Green Grove St	C1005	City MH2
Taft Ave / East of Nordic Dr	C1006	City MH3
Taft Ave / West of Tustin St	C1007	City MH4
Tustin St / E. Taft Ave	C1008	City MH5
Taft Ave w/o Highland St	C1008	City MH7
Tustin St w/o Highland St	C1009	City MH8
Tustin St w/o Breckenridge St	C1012	City MH6

Exhibit D - Depiction of Added Property Constructed by OCSAN to be Transferred to CITY

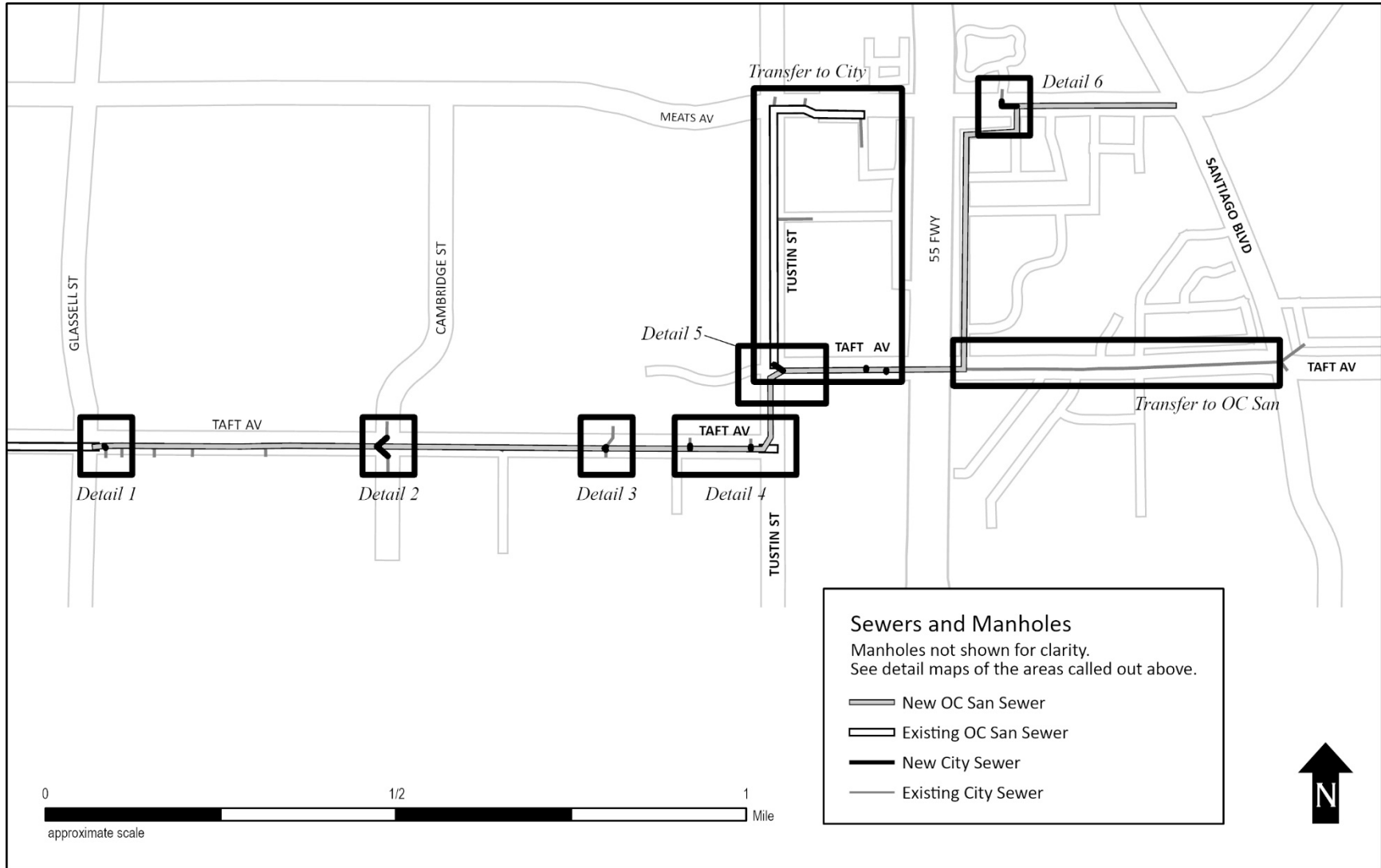
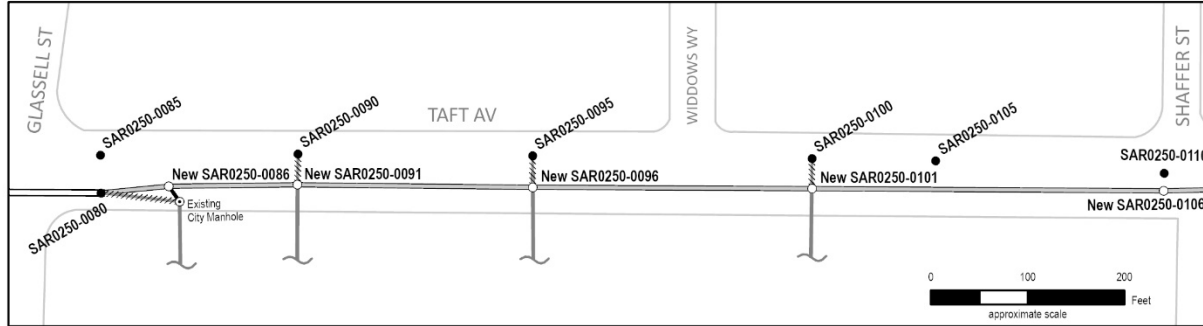


Exhibit D - Depiction of Added Property Constructed by OCSAN to be Transferred to CITY

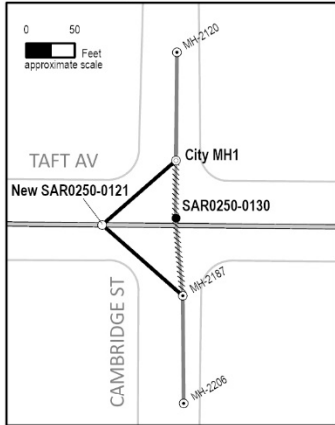
Detail Map 1



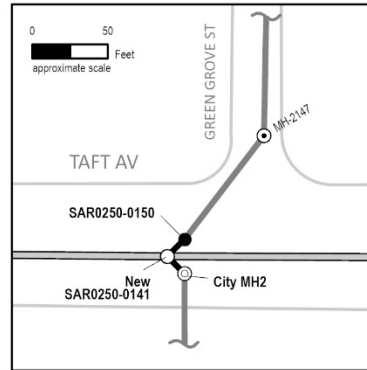
Sewers and Manholes
 Detail maps show new City sewer connections to new OC San sewer manholes.

- New City Sewer/Manhole
- Existing City Sewer/Manhole
- City Sewer/Manhole To Be Demolished
- New OC San Sewer/Manhole
- Existing OC San Sewer/Manhole
- OC San Sewer/Manhole To Be Abandoned
- Existing OC San Sewer/Manhole to be Transferred to City

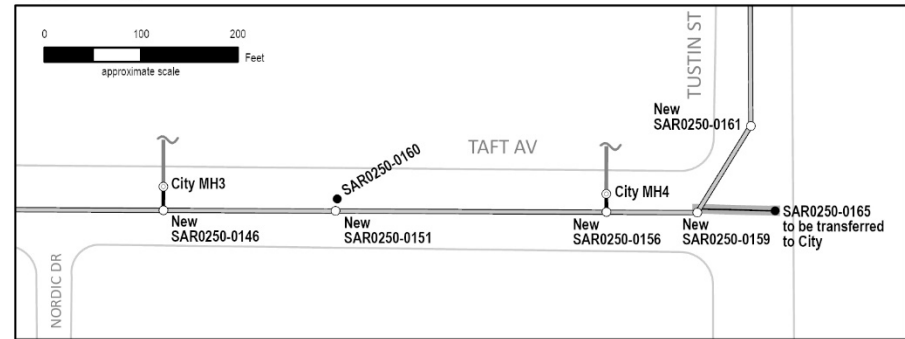
Detail Map 2



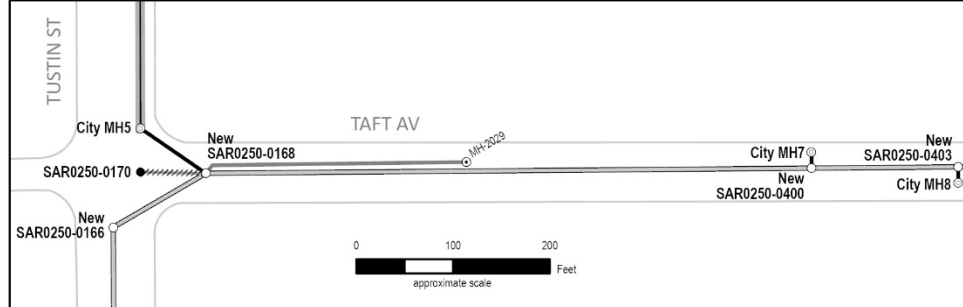
Detail Map 3



Detail Map 4



Detail Map 5



Detail Map 6

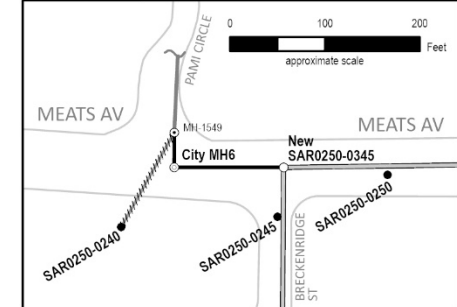


Exhibit E - Description of CITY Property to be Transferred to OCSAN

Pipelines				
Street	Downstream	Upstream	Existing Diameter (inches)	Length (feet)
Taft Ave	MH-2022	MH-2020	12	192
Taft Ave	MH-2001	MH-1995	12	361
Taft Ave	MH-2010	MH-2001	12	369
Taft Ave	MH-2014	MH-2010	12	359
Taft Ave	MH-2016	MH-2014	12	110
Taft Ave	MH-2017	MH-2016	12	172
Taft Ave	MH-2019	MH-2021	12	350
Taft Ave	MH-2020	MH-2019	12	353
Taft Ave	MH-2021	MH-2017	12	123

Exhibit E - Description of CITY Property to be Transferred to OCSAN

Manholes	
Street	Manhole ID
Taft Ave	MH-1995
Taft Ave	MH-2001
Taft Ave	MH-2010
Taft Ave	MH-2014
Taft Ave	MH-2016
Taft Ave	MH-2017
Taft Ave	MH-2019
Taft Ave	MH-2020
Taft Ave	MH-2021

Exhibit F - Depiction of CITY Property to be Transferred to OCSAN

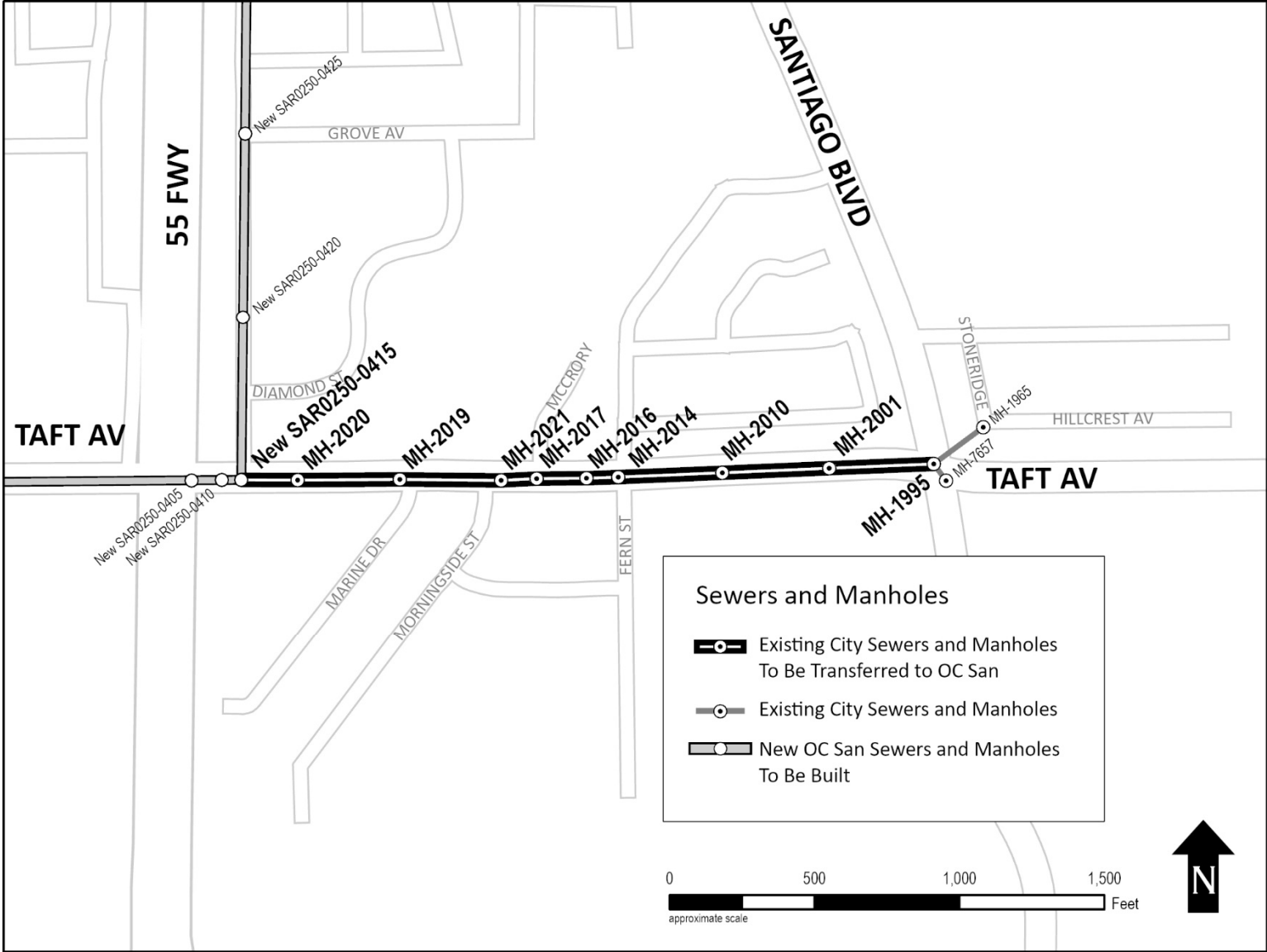
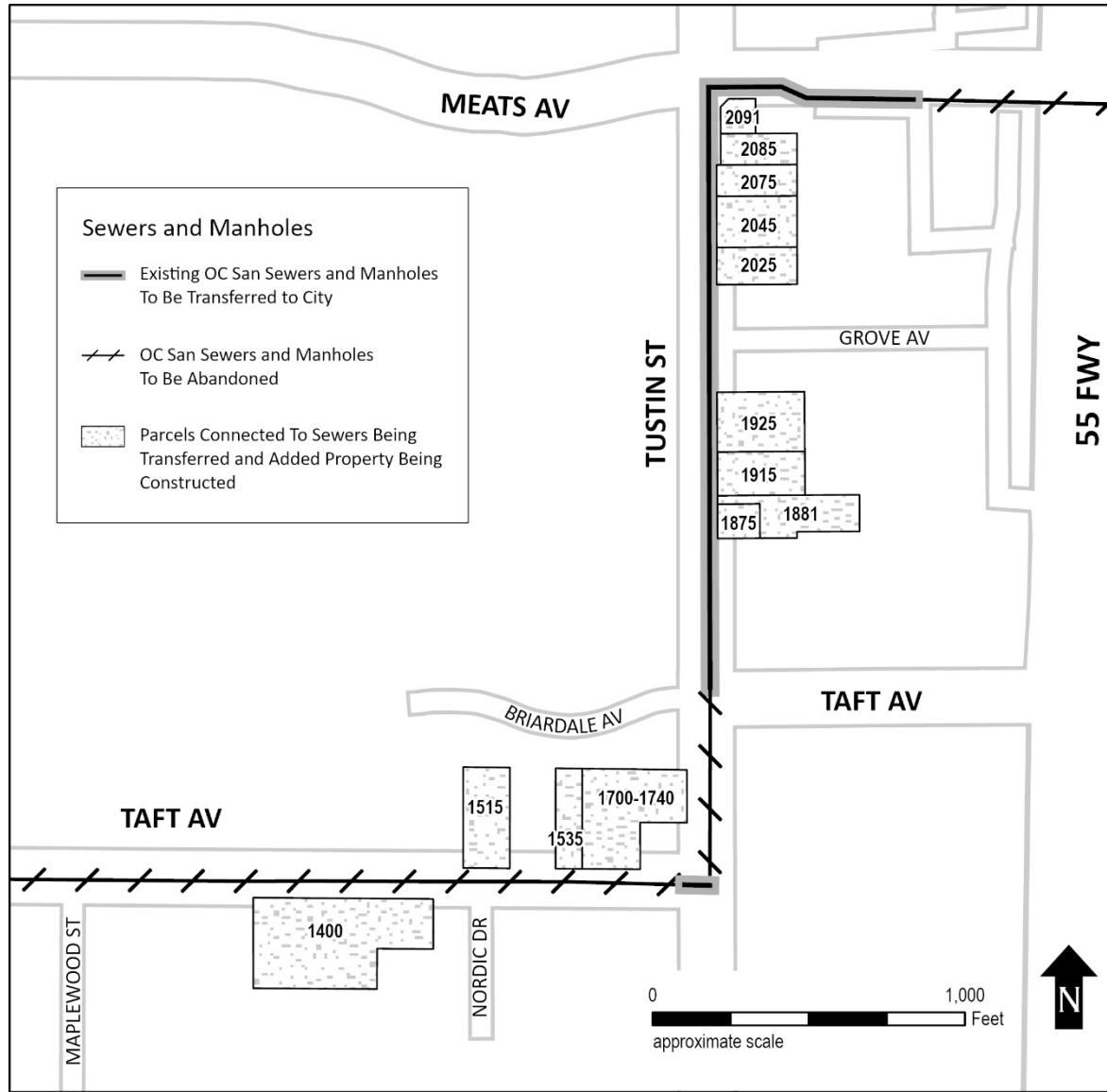


Exhibit G - Properties Tied to Facilities Subject to CITY Operation and Maintenance Responsibility After Transfer



**MEMORANDUM OF UNDERSTANDING
BETWEEN THE ORANGE COUNTY SANITATION DISTRICT AND THE CITY OF
ORANGE FOR THE CONSTRUCTION AND TRANSFER OF SEWER FACILITIES IN
CONJUNCTION WITH PROJECT 2-49**

THIS MEMORANDUM OF UNDERSTANDING (“MOU”), is made and entered into on this _____ day of _____, 2024, by and between the:

ORANGE COUNTY SANITATION DISTRICT,
a County Sanitation District, hereinafter referred to as “OCSAN”;

AND

CITY OF ORANGE, California, a Municipal Corporation,
hereinafter referred to as “City.”

OCSAN and City are sometimes hereinafter individually referred to as “Party” and hereinafter collectively referred to as “Parties.”

RECITALS

WHEREAS, OCSAN is a duly organized County Sanitation District existing pursuant to the County Sanitation District Act, California Health and Safety Code section 4700, et seq., providing for the ownership, operation, and maintenance of waste collection, treatment, and disposal facilities within Orange County, California; and

WHEREAS, City is a municipal corporation duly organized and validly existing under the laws of the State of California, with the power to carry on its business as it is now being conducted under the statutes of the State of California; and

WHEREAS, OCSAN is a regional operator of sewage collection and sewage treatment facilities, which owns and operates, among other facilities, regional sewage collection facilities, including trunk sewer pipelines as large as 108 inches in diameter.

WHEREAS, City operates a local sewage collection system, which collects sewage from properties within its jurisdiction and then transfers it to OCSAN via connection to OCSAN’s regional sewage collection and treatment facilities.

WHEREAS, OCSAN is engaged in Project No. 2-49 to improve its facilities in the City that run west along Meats Avenue from Santiago Blvd. across the 55 Freeway then south along Tustin Street then west along Taft Avenue (the “Taft Branch Improvements”). The Taft Branch Improvements will cause the abandonment of the portion of OCSAN’s facilities along Meats Avenue crossing the 55 Freeway and realigning them south along N. Sacramento Street to Taft Avenue.

WHEREAS, in connection with OCSAN's Taft Branch Improvements, OCSAN agrees to transfer to City OCSAN's sewer facilities along Meats west of the 55 Freeway then south on Tustin Street to its first intersection with Taft Avenue; and City agrees to transfer to OCSAN the City's sewer facilities along Taft Avenue from Santiago Blvd., west to N. Sacramento Street, both as further described in the Sewer Transfer Agreement to be recorded in the form attached hereto.

WHEREAS, in conjunction with the OCSAN's Taft Branch Improvements, OCSAN will construct new facilities to be transferred to the City and will modify existing City facilities to convey flow from existing City facilities to OCSAN's newly constructed regional facilities as further described in the Sewer Transfer Agreement.

WHEREAS, City will install video detection cameras within the Taft Branch Improvements corridor which OCSAN has agreed to procure on behalf of City prior to construction of the project at no cost to City pursuant to this MOU.

AGREEMENT

NOW, THEREFORE, the Parties hereto agree as follows:

Section 1: Cooperation. OCSAN and City will work cooperatively so the Taft Branch Improvements can be constructed in a manner that minimizes the costs and impacts to the public. The specific terms and conditions governing the elements of this Agreement are set forth hereinafter.

Section 2: OCSAN's Specific Obligations.

- A. OCSAN will be responsible for compliance with the California Environmental Quality Act ("CEQA") (Pub. Resources Code, Section 21000 et seq.) with respect to the Taft Branch Improvements. OCSAN will be the Lead Agency for purposes of CEQA and, in such capacity, OCSAN will conduct the applicable environmental review. OCSAN will supply to City copies of the OCSAN-approved environmental documents for City's files.
- B. OCSAN will convey to City the existing sewer line segments to be transferred to City pursuant to Section 1(a) of the Sewer Transfer Agreement.
- C. OCSAN will proceed with the design and construction of the sewer line segments to be constructed by OCSAN and transferred to City pursuant to Section 1(b)(1) of the Sewer Transfer Agreement.

Section 3: City's Specific Obligations.

- A. City will review and inspect the plans, specifications and construction of the sewer line segments to be constructed by OCSAN and transferred to City pursuant to Section 1(b)(2) of the Sewer Transfer Agreement.

- B. City will convey the sewer line segments owned by City to be transferred to OCSAN pursuant to Section 2 of the Sewer Transfer Agreement.

Section 4: Taft Branch Improvements Costs.

- A. OCSAN shall be responsible for design costs for the Taft Branch Improvements.
- B. In addition, OCSAN will acquire at no cost to City all video detection system and appurtenances to achieve detection at the following four intersections: (1) Taft and Shaffer; (2) Taft and Cambridge; (3) Tustin and Taft; (4) Tustin and Taft/Briardale.
- C. OCSAN shall restore inductive loop detectors affected by its construction activities within three (3) weeks at the intersection of Taft and Glassell at no cost to City.

Section 5: Risk Transfer and Indemnity.

The Parties agree to indemnify each other pursuant to Section 5 of the Sewer Transfer Agreement.

Section 6: Term. This Agreement will be in full force and effect until the specified obligations of both Parties have been fulfilled.

Section 7: Agents. Any contractor or subcontractor performing work in connection with the work described herein on behalf of either Party will be conclusively deemed to be the servant and agent of each respective Party employing said contractor or subcontractors thereof, acting on behalf and within the scope of such contractor and subcontractor contractual obligations for said Party.

Section 8: Notices. Notice shall be given pursuant to section 10 of the Sewer Transfer Agreement.

Section 9: Jurisdiction. In the event of a dispute regarding performance or interpretation of this Agreement, the venue for any action to enforce or interpret this Agreement will lie in the Superior Court of California for Orange County.

Section 10: No Third Party Beneficiaries. This Agreement is entered into by and for City and OCSAN, and nothing herein is intended to establish rights or interests in individuals or entities not a party hereto.

Section 11: Force Majeure. Except for the payment of money, neither Party will be liable for any delays or other non-performance resulting from circumstances or causes beyond its reasonable control, including without limitation, fire or other casualty, act of God, strike or labor dispute, war or other violence, acts of third parties, or any law, order, or requirement of any governmental agency or authority.

Section 12: Governing Law. This Agreement will be governed by the laws of the State of California.

Section 13: Entire Agreement. This Agreement constitutes the entire understanding and agreement between the Parties and supersedes all previous negotiations and agreements between the Parties pertaining to the subject matter hereof.

Section 14: Waiver. A waiver of a breach of the covenants, conditions, or obligations under this Agreement by either Party will not be construed as a waiver of any succeeding breach of the same or other covenants, conditions, or obligations of this Agreement.

Section 15: Modification. Alteration, change, or modification of this Agreement will be in the form of a written amendment, which will be signed by both Parties.

Section 16: Severability. If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement will continue in full force and effect.

Section 17: Agreement Execution and Authorization. Each of the undersigned represents and warrants that they are duly authorized to execute and deliver this Agreement and that such execution is binding upon the entity on whose behalf they are executing this Agreement.

[SIGNATURES ON THE NEXT PAGE]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed as of the day and year first above written.

ORANGE COUNTY SANITATION DISTRICT

By: _____
General Manager

APPROVED AS TO FORM:
GENERAL COUNSEL

ATTEST:

By: _____
Bradley R. Hogin,
General Counsel

By: _____
Kelly Lore,
Clerk of the Board

CITY OF ORANGE

By: _____
Daniel R. Slater, Mayor

APPROVED AS TO FORM:

ATTEST:

By: _____
Nathalie Adourian
Senior Assist. City Attorney

By: _____
Pamela Coleman, City Clerk

√



Agenda Item

City Council

Item #: 3.5.

2/27/2024

File #: 24-0107

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Rejection of all bids received for the Landscape Renovation at White Oak Ridge Between Newport Blvd. and Trails End Ln.; and authorization to re-advertise for bids.

2. SUMMARY

Bids for the Landscape Renovation at White Oak Ridge Between Newport Blvd. and Trails End Ln. were received and opened on December 21, 2023. Four bidders responded to the notice inviting bids. Staff recommends rejecting all bids due to inconsistent bid submittal instructions provided to potential bidders and re-advertising this project.

3. RECOMMENDED ACTION

Reject all bids received for Landscape Renovation at White Oak Ridge Between Newport Blvd. and Trails End Ln., Bid No. 23-24.20; and direct staff to re-advertise for bids.

4. FISCAL IMPACT

None

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

On November 28, 2023, the City Council approved an advertisement for bids for the Landscape Renovation at the White Oak Ridge Project. The bid solicitation was advertised on November 30, 2023, for a period of three weeks. Bids were opened on December 21, 2023. Four bids were received.

Orange Municipal Code ("OMC") Section 3.08.550 and Public Contract Code Section 20166 provide that the legislative body, in its discretion, may reject any and all bids and re-advertise. Pursuant to OMC Section 3.080.550 specifically, in its discretion, the City Council may reject any and all bids presented if the Public Works Director, prior to rejecting all bids, furnishes a written notice to an apparent low bidder, informing the bidder of the City's intention to reject the bid at least two business

days prior to the hearing at which the City Council intends to reject the bid. A letter in compliance with OMC Section 3.08.550 was sent to the apparent low bidder on or before February 22, 2024.

Staff recommends that the City Council reject all bids received due to inconsistent bid submittal instructions provided to potential bidders and readvertising the project for bids.

7. ATTACHMENTS

- Letter



Agenda Item

City Council

Item #: 3.5.

2/27/2024

File #: 24-0107

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THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

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4. FISCAL IMPACT

None

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7. ATTACHMENTS

- Letter



CITY OF ORANGE

PUBLIC WORKS DEPARTMENT

www.cityoforange.org

ENGINEERING DIVISION
(714) 744-5544
FAX: (714) 744-5573

MAINTENANCE DIVISION
(714) 532-6480
FAX: (714) 532-6444

TRAFFIC DIVISION
(714) 744-5540
FAX: (714) 744-5573

WATER DIVISION
(714) 288-2475
FAX: (714) 744-2973

February 22, 2024

Kormex Construction, Inc.
2324 S. Vineyard Ave., Ste. K
Ontario, CA 91761

Subject: Bid No. 23-24.20; SP-4276 Landscape Renovation at White Oak Ridge Between Newport Blvd. and Trails End Ln.

Dear Kormex Construction, Inc.,

Thank you for your response to the above referenced Bid No. 23-24-20. This letter is to notify you that the Public Works Director will recommend that the City Council reject all bids received on this project. Staff has scheduled this item for City Council action at our next Council meeting on February 27, 2024 at 6 p.m. This letter constitutes written notice of this proposed action.

If you have any questions, please feel free to contact me.

Sincerely,

Alan Truong, PE
Deputy Public Works Director

Cc: Christopher Cash, Public Works Director



Agenda Item

City Council

Item #: 3.6.

2/27/2024

File #: 24-0085

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Award of Contract to CEM Construction Corporation for the Annual Pipeline Renewal Project; Bid No. 23-24.25.

2. SUMMARY

Seven bids for the Annual Pipeline Renewal Project (W-722) were received and opened on February 1, 2024. The apparent low bidder is CEM Construction Corporation of Downey, CA for \$2,547,770.

3. RECOMMENDED ACTION

Approve the contract with CEM Construction Corporation in the total amount of \$2,802,547, representing an original bid amount of \$2,547,770, plus a 10% contingency of \$254,777, for the Annual Pipeline Renewal project; and authorize the Mayor and City Clerk to execute on behalf of the City.

4. FISCAL IMPACT

The expense for this contract is \$2,802,547 and will be funded through:

600.8041.56451.18400 Water Fund (600) Annual Pipeline Renewal Project

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community.

b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

Existing water mains on Heim Ave., Torres St., Bourbon St., Sail Ave., and Denise Ave. are scheduled to be replaced as part of the Annual Pipeline Renewal Project. These water mains were constructed between the 1960's and 1970's and have reached the end of their useful life. The mains are also undersized per current industry standards.

The new water mains will provide a more reliable water service and fire protection to the residents in the area. Completion of this project also helps with separating existing transmission from distribution mains which will minimize water service interruptions during the rehabilitation of the transmission

mains in the near future.

Plans and Specifications have been prepared to replace these existing water mains. The City Council previously approved advertisement for bids on October 10, 2023.

The bids were received and opened on February 1, 2024. Seven bidders responded as follows:

CONTRACTOR	AMOUNT
1. CEM Construction Corporation, Downey, CA	\$ 2,547,770
2. Dominguez General Engineering, Inc., Pomona, CA	\$ 2,805,480
3. Big Ben Engineering, Irvine, CA	\$ 2,956,204
4. TE Roberts Inc., Irvine, CA	\$ 3,304,124
5. L&S Construction, Inc., Orange, CA	\$ 3,605,730
6. Teichert Energy & Utilities Group, Inc., Long Beach, CA	\$ 4,170,885
7. Gentry General Engineering, Inc., Colton, CA	\$ 5,277,113

CEM Construction Corporation is the apparent responsive low bidder. The low bid is about 18.2% higher than the Engineer's Estimate of \$2,155,450. In the past three years, there has been an escalation of construction costs, and the bids received are reflective of current construction market conditions. Staff checked the references and qualifications for CEM Construction Corporation and found them to be acceptable, with adequate years of experience in completing contracts of a similar nature to this project. The Contractor has completed pipeline replacement projects with many surrounding agencies and performed work for the City of Orange satisfactorily in 2023. Therefore, staff recommends that CEM Construction Corporation be awarded the contract in the amount of \$2,547,770, plus a 10% contingency for a total amount of \$2,802,547. Construction is scheduled to begin in April 2024 and is expected to be completed within 210 calendar days.

7. ATTACHMENTS

- Location Map
- Contract with CEM Construction Corporation
- Bid Abstract



Agenda Item

City Council

Item #: 3.6.

2/27/2024

File #: 24-0085

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

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5. STRATEGIC PLAN GOALS

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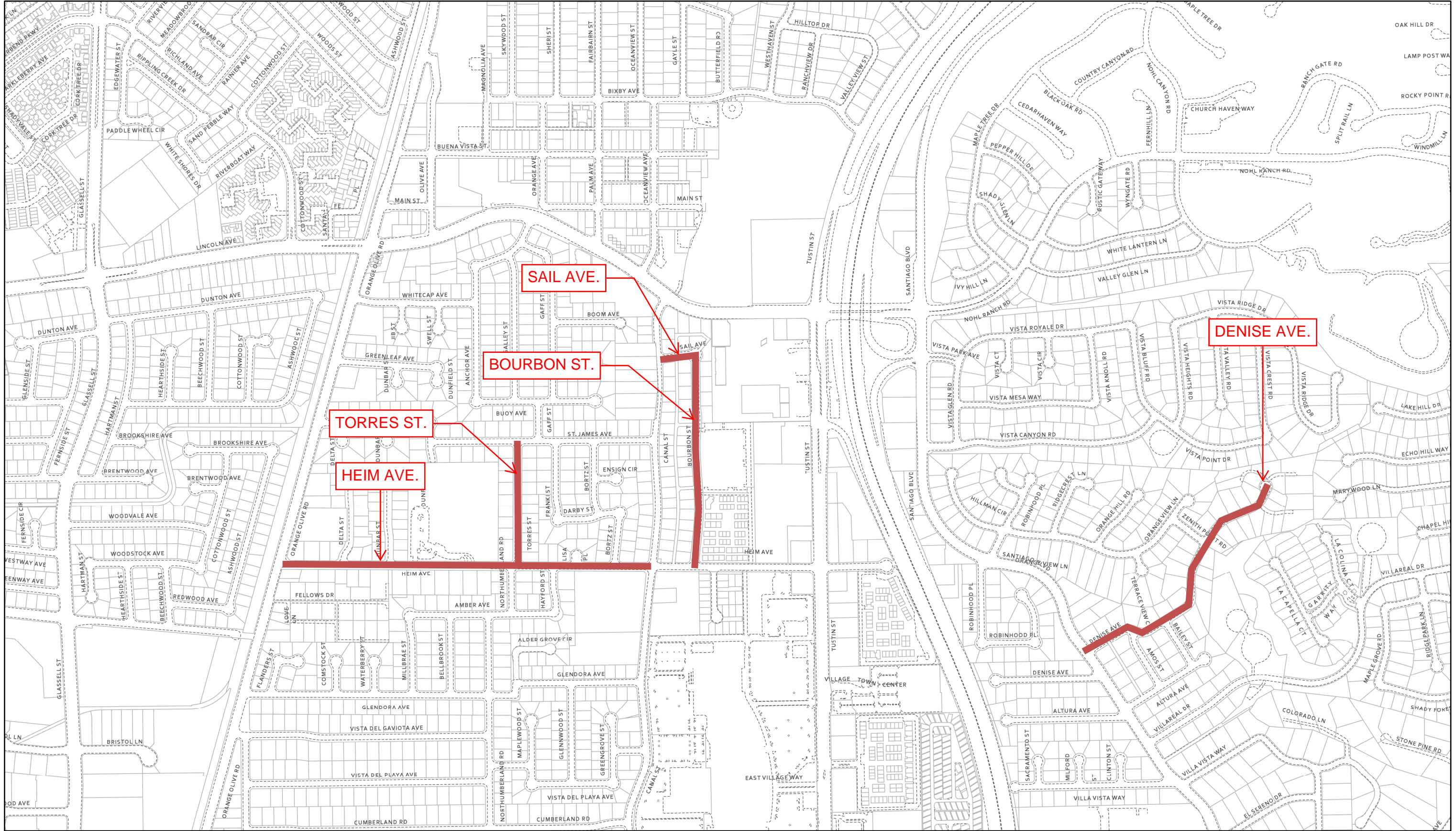
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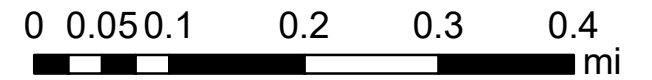
7. ATTACHMENTS

- Location Map
- Contract with CEM Construction Corporation
- Bid Abstract

Location Map



9/19/2023, 1:35:54 PM



NOT TO SCALE

CONTRACT
[Annual Pipeline Renewal Project (Bid No. 23-24.25)]

THIS CONTRACT (the “Contract”) is made and entered into as of _____, 2024 (“Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and CEM CONSTRUCTION CORPORATION, a California corporation (“Contractor”), who agree as follows.

ARTICLE 1
Work Performed

a. For and in consideration of the payments and agreements hereinafter mentioned, to be made and performed by City, and under the conditions expressed in the two (2) bonds presented to City with this Contract and incorporated herein by this reference, Contractor hereby agrees to and shall do all the work and furnish all the labor, materials, tools and equipment, except such as are mentioned in the specifications to be furnished by City to Contractor, necessary to complete in good workmanship and substantial manner the work (the “Work”) described in:

(1) The Construction Plans for Annual Pipeline Renewal Project (Bid No. 23-24-25; Drawing W-722 prepared by City of Orange, Water Division Staff and approved by the “Engineer” (as defined herein below) on January 10, 2024, and consisting of sheets numbered 1 through 19 ,inclusive (the “Plans”);

(2) The latest edition of the "City of Orange Standard Plans and Specifications" (the “Orange Book”) with the term "Engineer," as used in the Orange Book and in this Contract, to specifically include the City Engineer (or designee);

(3) The "Standard Specifications for Public Works Construction” (the “Greenbook”), and all amendments thereto, except the definition of “Subcontractor” in Section 1.2 (General – Terms and Definitions) of Part 1 (General Provisions) of the Greenbook, which is hereby amended in its entirety to read as follows: “Subcontractor – An individual, firm, or corporation having a direct contract with the Contractor for the performance of a part of the Work;”

(4) The “City of Orange Standard Special Provisions;”

(5) The Standard Plans; and

(6) Contractor’s Bid Proposal, which is on file with City’s Department of Public Works.

b. Contractor acknowledges that it has received the Plans from City and that a complete copy of the Plans are in its possession and are hereby specifically referred to and by such reference made a part hereof. The Orange Book, Greenbook and City of Orange Standard Special Provisions and Standard Plans are on file with City’s Public Works Director and are hereby specifically referred to and by such reference made a part hereof. Contractor hereby acknowledges

that it has read, reviewed and understands the Plans, the Orange Book, the Greenbook, the Special Provisions, the Standard Plans, and the Encroachment Permit as they relate to the Work, all of which documents shall be referred to herein collectively as the “Plans and Specifications.”

c. Contractor acknowledges the provisions of Chapter 8.28 of the Orange Municipal Code which requires, among other things, that Contractor utilize City’s exclusive solid waste hauler for the rental of bins for trash and debris removal and imposes mandatory recycling requirements for self-hauled construction and demolition waste. The terms and conditions set forth in this Contract shall control over any terms and conditions in the Plans and Specifications to the contrary.

d. The Work shall be performed in conformity with the Plans and Specifications and the Bid Proposal and all applicable laws, including any and all applicable federal and state labor laws and standards and applicable prevailing wage requirements and any and all state, federal and local statutes, regulations and ordinances relating to the protection of human health or the environment.

e. Unless and until otherwise notified in writing by City’s Public Works Director, City’s Project Engineer, Chris Mielke (“Authorized City Representative”), shall be the person to whom Contractor will report for the performance of the Work hereunder. It is understood that Contractor’s performance hereunder shall be under the direction and supervision of the Authorized City Representative or such other person as City’s Public Works Director may designate from time to time, that Contractor shall coordinate the Work hereunder with the Authorized City Representative to the extent required by the Authorized City Representative, and that all performances required hereunder by Contractor shall be performed to the satisfaction of the Authorized City Representative or City’s Public Works Director.

f. It is expressly agreed by and between the parties hereto that should there be any conflict between the terms of this instrument and Contractor’s Bid Proposal, then this instrument shall control and nothing herein shall be considered as an acceptance of the said terms of said Bid Proposal conflicting herewith.

g. Contractor agrees that it has an obligation to reset all permanent survey markers as stated in the Orange Book, Part 4, Section 400-2, “Permanent Survey Markers,” and obtain the approval for pre- and post-construction centerline tie sheets and Corner Records from the County of Orange and deliver said approved documents to City as soon as they are received. This obligation extends to any of its subcontractors that have performed work in this regard. This subsection survives completion of the Work, the Notice of Completion, and final payment and shall be an enforceable obligation until fulfilled.

ARTICLE 2 Commencement of Work

Contractor shall commence the Work provided for in this Contract within fifteen (15) days of the date of the issuance by City of a Notice to Proceed and diligently prosecute completion of the Work within Two Hundred Ten (210) calendar days from such date, unless legal extension is

granted in accordance with the terms set forth in the Greenbook. Time is of the essence in this Contract. Contractor shall do all things necessary and incidental to the prosecution of Contractor's Work.

ARTICLE 3 Compensation

a. Contractor agrees to receive and accept an amount not to exceed TWO MILLION FIVE HUNDRED FORTY-SEVEN THOUSAND SEVEN HUNDRED SEVENTY DOLLARS and 00/100 (\$2,547,770.00) *unless said amount is amended by Contract Change Order approved by the City*, as compensation for furnishing all materials and doing all the Work contemplated and embraced in this Contract. Said compensation covers (1) all loss or damage arising out of the nature of the Work, from the acts of the elements; (2) any unforeseen difficulties or obstructions which may arise or be encountered in the prosecution of the Work until its acceptance by City, other than as provided below; (3) all risks of every description connected with the Work; (4) all expenses incurred by or in consequence of the suspension or discontinuance of the Work; and (5) well and faithfully completing the Work, and for the whole thereof, in the manner and according to the Plans and Specifications, and requirements of the Authorized City Representative under them. Retention amounts shall be withheld from progress payments as required by law unless Contractor provides securities in lieu of retention.

b. In addition to the scheduled Work to be performed by the Contractor, the parties recognize that additional, unforeseen work and services may be required by the Authorized City Representative. In anticipation of such contingencies, the sum of TWO HUNDRED FIFTY-FOUR THOUSAND SEVEN HUNDRED SEVENTY-SEVEN DOLLARS and 00/100 (\$254,777.00) has been added to the total compensation of this Contract. The Authorized City Representative may approve the additional work and the actual costs incurred by the Contractor in performance of additional work or services in accordance with such amount as the Authorized City Representative and the Contractor may agree upon in advance. Said additional work or services and the amount of compensation therefor, up to the amount of the authorized contingency, shall be memorialized in the form of a Contract Amendment approved by the City Manager on a form acceptable to the City Attorney. The Contractor agrees to perform only that work or those services that are specifically requested by the Authorized City Representative. Any and all additional work and services performed under this Contract shall be completed in such sequence as to assure their completion as expeditiously as is consistent with professional skill and care in accordance with a cost estimate or proposal submitted to and approved by the Authorized City Representative prior to the commencement of such Work or services.

c. The total amount of compensation under this Contract, including contingencies, shall not exceed TWO MILLION EIGHT HUNDRED TWO THOUSAND FIVE HUNDRED FORTY-SEVEN DOLLARS and 00/100 (\$2,802,547.00).

ARTICLE 4 Licenses

Contractor represents that it and any subcontractors it may engage, possess any and all licenses which are required under state or federal law to perform the Work contemplated by this

Contract and that Contractor and subcontractors shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Contract.

ARTICLE 5 Guarantees

a. Contractor guarantees the construction and installation of all Work included in the Plans and Specifications for which Contractor has been awarded this Contract.

b. Should any of the materials or equipment installed pursuant to this Contract prove defective or should the Work as a whole prove defective, due to faulty equipment, workmanship, materials furnished or methods of installations, or should said Work or any part thereof fail to function properly, as designed, due to any of the above causes within twelve (12) months after the date on which said Work is accepted by City, Contractor shall make repairs and furnish such materials and equipment as are necessary to be furnished and installed within fifteen (15) calendar days after the receipt of a demand from City.

c. Said Work will be deemed defective within the meaning of this guarantee in the event that it fails to function as originally intended either by the Plans and Specifications of this Contract or by the manufacturer(s) of the equipment incorporated into the Work.

d. In the event repairs are not made within fifteen (15) calendar days after Contractor's receipt of a demand from City, City shall have the unqualified option to make any needed repairs or replacements itself or by any other contractor. Contractor shall reimburse City, upon demand, for all expenses incurred in restoring said Work to the condition contemplated in this Contract, including the cost of any equipment or materials replaced.

e. It is understood that emergency repairs may, by necessity, be made by City. Therefore, when defective equipment, materials or workmanship result in emergency repairs by City, Contractor shall reimburse City, upon demand, for all expenses incurred. Emergency repairs will be deemed as those repairs determined by City's Director of Public Works to be necessary due to an immediate detriment to the health, safety, welfare or convenience of the residents of City.

ARTICLE 6 Water Quality

a. The Santa Ana Regional Water Quality Control Board ("RWQCB") has issued National Pollutant Discharge Elimination System ("NPDES") Permit No. R8-2009-0030 (the "Permit"), which governs storm water and non-storm water discharges resulting from municipal activities performed by City or its contractors. In order to comply with the Permit requirements, the County of Orange has prepared a Drainage Area Management Plan ("DAMP"), containing Model Maintenance Procedures with Best Management Practices ("BMPs") that City and its contractors must adhere to. The Model Maintenance Procedures contain pollution prevention and source control techniques to minimize the impact of those activities upon dry-weather urban runoff, storm water runoff, and receiving water quality. Examples include: wash water from

cleaning of sidewalks or parking lots must be collected and disposed of in the sewer or landscaped areas.

b. The Permit, the DAMP and the Model Maintenance Procedures are on file in the office of City's Director of Public Works. Contractor hereby acknowledges that it has read, reviewed and understands the Permit, the DAMP and the Model Maintenance Procedures, as they relate to the Work and hereby shall perform the Work in conformance therewith.

ARTICLE 7

Independent Contractor; Contractor not Agent

a. At all times during the term of this Contract, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Contract. City shall not have the right to control the means by which Contractor accomplishes services rendered pursuant to this Contract. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Contract. Contractor shall be solely responsible for, and shall indemnify, defend and save City harmless from all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security, withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that Contractor and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

b. Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

ARTICLE 8

Public Work; Prevailing Wage

a. The Work which is the subject of this Contract is a "public work," as that term is defined in Section 1720 of the California Labor Code, for which prevailing wages must be paid. To the extent Contractor's employees will perform any work that falls within any of the classifications for which the Department of Labor Relations of the State of California promulgates prevailing wage determinations, Contractor hereby agrees that Contractor, and any subcontractor under it, shall pay not less than the specified prevailing rates of wages to all such workers. The general prevailing wage determinations for crafts can be located on the website of the Department of Industrial Relations (www.dir.ca.gov/DLSR). Additionally, to perform work under this Contract, Contractor must meet all State registration requirements and criteria, including project compliance monitoring.

b. Attached hereto as Attachment No. 1 and incorporated herein by this reference is a copy of the provisions of Sections 1725.5, 1771, 1771.1, 1771.4, 1775, 1776, 1777.5, 1813 and 1815 of the California Labor Code. Contractor hereby acknowledges that it has read, reviewed and understands those provisions of the Labor Code and shall prosecute and complete the Work under this Contract in strict compliance with all of those terms and provisions.

c. Contractor shall secure the payment of compensation to its employees in accordance with the provisions of Section 3700 of the California Labor Code. Accordingly, and as required by Section 1861 of the California Labor Code, Contractor hereby certifies as follows:

“I am aware of the provisions of Section 3700 of the Labor Code which require every employer to be insured against liability for workers' compensation or to undertake self-insurance in accordance with the provisions of that code, and I will comply with such provisions before commencing the performance of the work of this contract.”

d. Contractor shall indemnify, protect, defend and hold harmless City and its officers, employees, contractors and agents, with counsel reasonably acceptable to City, from and against any and all loss, liability, damage, claim, cost, expense, and/or “increased costs” (including reasonable attorney’s fees, court and litigation costs, and fees of expert witnesses) which result or arise in any way from the noncompliance by Contractor of any applicable local, state and/or federal law, including, without limitation, any applicable federal and/or state labor laws (including, without limitation, the requirement to pay state prevailing wages). It is agreed by the parties that, in connection with the construction of the Work which is the subject of this Contract, Contractor shall bear all risks of payment or non-payment of state prevailing wages. “Increased costs” as used in this paragraph shall have the meaning ascribed to it in Labor Code Section 1781, as the same may be enacted, adopted or amended from time to time. The foregoing indemnity shall survive termination of this Contract.

ARTICLE 9

Equal Employment Opportunity

During the performance of this Contract, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Contractor shall ensure that applicants are employed and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Contractor shall post in conspicuous places, available to employees and applicants for employment, a notice setting forth provisions of this non-discrimination clause.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any Work covered by this Contract, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

ARTICLE 10 Conflicts of Interest

Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a contractor to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code. Contractor further agrees that it shall not be eligible to work as the builder for any project for which the design work is part of this Contract.

ARTICLE 11 Indemnity

Contractor shall defend, indemnify and hold harmless City and its officers, officials, agents, and employees from and against:

a. Any and all claims, liabilities, losses, damages, penalties, costs or expenses (including reasonable attorneys' fees and court costs) which City may directly or indirectly sustain or suffer arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person which shall occur on or adjacent to the real property which is the subject of this Contract, or in connection with performance of this Contract which may be directly or indirectly caused by the acts or omissions of Contractor or its officers, employees, contractors or agents, or as a consequence of any use, generation, manufacture, storage, disposal, release or threatened release of a hazardous waste or substance. Contractor shall not be responsible for (and such indemnity shall not apply to) any willful misconduct, negligence or breach of this Contract by City or its officers, officials, agents, and employees. The foregoing indemnity shall survive termination of this Contract.

b. Any and all claims under workers' compensation acts and other employee benefit acts with respect to Contractor's employees or Contractor's subcontractor's employees arising out of Contractor's Work under this Contract, including any and all claims under any law pertaining to Contractor's status as an independent contractor.

ARTICLE 12 Insurance

a. Contractor shall procure and maintain for the duration of this Contract insurance against claims for injuries to persons or damages to property which may arise from or in connection

with the performance of the Work hereunder and the results of that Work by Contractor, its agents, representatives, employees or subcontractors. Any umbrella liability insurance that is provided as part of the general or automobile liability minimums set forth below shall be maintained for the duration of the Contract.

b. Contractor shall maintain the following minimum amount of insurance: the greater of either the limits set forth in (1) through (4), below; or all of the insurance coverage and/or limits carried by or available to Contractor.

- | | | |
|---------------------------|-------------|--|
| (1) General Liability | \$2,000,000 | per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit. |
| (2) Automobile Liability | \$1,000,000 | per accident for bodily injury and property damage. |
| (3) Workers' Compensation | | as required by the State of California. |
| (4) Employer's Liability | \$1,000,000 | per accident for bodily injury or disease. |

c. Any insurance proceeds in excess of or broader than the minimum required coverage and/or minimum required limits which are applicable to a given loss shall be available to City. No representation is made that the minimum insurance requirements of this Contract are sufficient to cover the obligations of Contractor under this Contract.

d. 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 retentions with respect to City, its officers, officials, agents and employees; or Contractor shall provide a financial guarantee satisfactory to City guaranteeing payment of losses and related investigations, claim administration, and defense expenses.

e. Each policy of general liability and automotive liability insurance shall contain, or be endorsed to contain, the following provisions:

(1) City, its officers, officials, agents, and employees are declared to be additional insureds under the terms of the policy, with respect to liability arising out of automobiles owned, leased, hired or borrowed by or on behalf of Contractor (any auto), and with respect to liability arising out of Work or operations performed by or on behalf of Contractor, including materials, parts or equipment furnished in connection with such Work or operations. A policy endorsement to that effect shall be provided to City along with the certificate of insurance. In lieu

of an endorsement, City will accept a copy of the policy(ies) which evidences that City is an additional insured as a contracting party. The minimum coverage required by Subsection 12.b, above, shall apply to City as an additional insured.

(2) For any claims related to this Contract, Contractor's insurance coverage shall be primary insurance with respect to City, its officers, officials, agents and employees. Any insurance or self-insurance maintained by City, its officers, officials, agents and employees shall be excess of Contractor's insurance and shall not contribute with it.

(3) Coverage shall not be canceled, except after thirty (30) days' prior written notice has been provided to City.

f. Contractor shall furnish City with original certificates of insurance and endorsements effecting coverage required by this Article 12. The endorsements shall be on forms acceptable to City. All certificates and endorsements are to be received and approved by City before the Work commences. However, failure to do so shall not operate as a waiver of these insurance requirements. City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

g. All insurance procured and maintained by Contractor shall be issued by insurers admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A or better and Class VII or better by the latest edition of Best Key Rating Guide.

h. Contractor shall immediately notify City if any required insurance lapses or is otherwise modified and cease performance of this Contract unless otherwise directed by City. In such a case, City may procure insurance or self-insure the risk and charge Contractor for such costs and any and all damages resulting therefrom by way of set-off from any sums owed Contractor.

i. Contractor agrees that in the event of loss due to any of the perils for which it has agreed to provide insurance, Contractor shall look solely to its insurance for recovery. Contractor hereby grants to City, on behalf of any insurer providing insurance to either Contractor or City with respect to the services of Contractor herein, a waiver of any right to subrogation which any such insurer may acquire against City by virtue of the payment of any loss under such insurance. The Workers' Compensation policy shall be endorsed with a waiver of subrogation in favor of City for all Work performed by Contractor, its employees, agents and subcontractors. Contractor shall obtain any other endorsement that may be necessary to effect this waiver of subrogation.

j. Contractor shall require and verify that all subcontractors maintain insurance meeting all of the requirements stated herein.

ARTICLE 13 Termination

City, acting through its City Manager or designee, reserves the right to terminate this Contract for any reason by giving five (5) days' written notice of intent to terminate to Contractor.

Upon receipt of notice, Contractor shall immediately cease work, unless the notice provides otherwise. Should City terminate this Contract, City shall pay Contractor for services satisfactorily provided and all allowable reimbursements incurred to the date of termination in compliance with this Contract, unless such termination shall be for cause, in which event City may withhold any disputed compensation. City shall not be liable for any claim of lost profits.

ARTICLE 14 Maintenance and Inspection of Records

In accordance with generally accepted accounting principles, Contractor and its subcontractors shall maintain reasonably full and complete books, documents, papers, accounting records and other information (collectively, the “records”) pertaining to the costs of and completion of services performed under this Contract. During the term of this Contract and for a period of three (3) years after termination or completion of this Contract, City shall have the right to inspect and/or audit Contractor's records pertaining to the performance of this Contract at Contractor's office. Contractor shall make available all such records for inspection or audit at its offices during normal business hours and upon three (3) days’ notice from City, and copies thereof shall be furnished if requested.

ARTICLE 15 Compliance with Laws

a. Contractor shall be knowledgeable of and comply with all local, state and federal laws pertaining to the subject matter hereof or in any way regulating the activities undertaken by Contractor or any subcontractor hereunder.

b. Contractor represents and warrants that it:

(1) Has complied and shall at all times during the term of this Contract comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Contract who is ineligible to work in the United States or under the terms of this Contract; and

(3) Has properly maintained, and shall at all times during the term of this Contract properly maintain, all related employment documentation records including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor’s employees; and

(4) Has responded, and shall at all times during the term of this Contract respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

c. Contractor shall require all subcontractors and/or subconsultants to make the same representations and warranties required by this Article 15 when hired to perform services under this Contract.

d. Contractor shall, upon request of City, provide a list of all employees working under this Contract and shall provide, to the reasonable satisfaction of City, verification that all such employees are eligible to work in the United States. All costs associated with such verification shall be borne by Contractor. Once such request has been made, Contractor may not change employees working under this Contract without written notice to City, accompanied by the verification required herein for such employees. Contractor shall require all subcontractors and/or sub-consultants to make the same verification when hired to perform services under this Contract.

e. If Contractor, or a subcontractor or subconsultant, knowingly employs an employee providing Work under this Contract who is not authorized to work in the United States, and/or fails to follow federal laws to determine the status of such employee, such shall constitute a material breach of this Contract and may be cause for immediate termination of this Contract by City.

f. Contractor shall indemnify and hold City, its officials and employees harmless for, of and from any loss, including but not limited to fines, penalties and corrective measures, City may sustain by reason of Contractor's failure to comply with said laws, rules and regulations in connection with the performance of this Contract.

ARTICLE 16 Governing Law and Venue

This Contract shall be construed in accordance with and governed by the laws of the State of California and Contractor shall submit to the jurisdiction of California courts. Venue for any dispute arising under this Contract shall be in Orange County, California.

ARTICLE 17 Integration and Amendment

a. This Contract constitutes the entire agreement of the parties. No other agreement, oral or written, pertaining to the Work to be performed under this Contract shall be of any force or effect unless it is in writing and signed by both parties. Any Work performed which is inconsistent with or in violation of the provisions of this Contract shall not be compensated.

b. Amendments to this Contract must be in writing and signed by both parties. The City Manager is authorized to execute amendments to this Contract up to the amounts specified in Chapter 3.08 of the Orange Municipal Code.]

ARTICLE 18 Notice

Except as otherwise provided herein, all notices required under this Contract shall be in writing and delivered personally, by e-mail, or by first class mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within three (3) days of

deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

CEM Construction Corporation
1412 Espanol Avenue
Montebello, CA 90640

Attn: Jesus E. Carrillo, President

Telephone: (323) 597-1084
E-Mail: EddieC@cem-construction.com

“CITY”

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591

Attn: Jose Diaz, Water Manager

Telephone: (714) 288-2475
E-Mail: jdiaz@cityoforange.org

ARTICLE 19
Claim Resolution

City and Contractor agree that the claim resolution process applicable to any claim by Contractor in connection with the Work provided herein shall be subject to the procedures set forth in California Public Contract Code Section 9204, attached hereto as Attachment No. 2, and incorporated herein by this reference.

ARTICLE 20
Counterparts

This Contract may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

[Remainder of page intentionally left blank; signatures on next page]

“CITY”

CITY OF ORANGE, a municipal corporation

By: _____
Daniel R. Slater
Mayor of the City of Orange

CONTRACT, BONDS AND INSURANCE
APPROVED BY:

ATTEST:

Nathalie Adourian
Senior Assistant City Attorney

Pamela Coleman, City Clerk

“CONTRACTOR”

CEM CONSTRUCTION CORPORATION,
a California corporation

[Note: Signature of Chairman of the Board, President or Vice President is required]

By: _____
Printed Name: _____
Title: _____

[Note: Signature of Secretary, Assistant Secretary, Chief Financial Officer or Assistant Treasurer is also required]

By: _____
Printed Name: _____
Title: _____

√

ATTACHMENT NO. 1

CALIFORNIA LABOR CODE SECTIONS 1725.5, 1771, 1771.1, 1771.4, 1775, 1776, 1777.5, 1813 and 1815

Section 1725.5. Registration of contractors; mandatory registration; qualifications and application; fees; exempt contractors

A contractor shall be registered pursuant to this section to be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any public work contract that is subject to the requirements of this chapter. For the purposes of this section, "contractor" includes a subcontractor as defined by Section 1722.1.

(a) To qualify for registration under this section, a contractor shall do all of the following:

(1)(A) Register with the Department of Industrial Relations in the manner prescribed by the department and pay an initial nonrefundable application fee of four hundred dollars (\$400) to qualify for registration under this section and an annual renewal fee on or before July 1 of each year thereafter. The annual renewal fee shall be in a uniform amount set by the Director of Industrial Relations, and the initial registration and renewal fees may be adjusted no more than annually by the director to support the costs specified in Section 1771.3.

(B) Beginning June 1, 2019, a contractor may register or renew according to this subdivision in annual increments up to three years from the date of registration. Contractors who wish to do so will be required to prepay the applicable nonrefundable application or renewal fees to qualify for the number of years for which they wish to preregister.

(2) Provide evidence, disclosures, or releases as are necessary to establish all of the following:

(A) Workers' compensation coverage that meets the requirements of Division 4 (commencing with Section 3200) and includes sufficient coverage for any worker whom the contractor employs to perform work that is subject to prevailing wage requirements other than a contractor who is separately registered under this section. Coverage may be evidenced by a current and valid certificate of workers' compensation insurance or certification of self-insurance required under Section 7125 of the Business and Professions Code.

(B) If applicable, the contractor is licensed in accordance with Chapter 9 (commencing with Section 7000) of the Business and Professions Code.

(C) The contractor does not have any delinquent liability to an employee or the state for any assessment of back wages or related damages, interest, fines, or penalties pursuant to any final judgment, order, or determination by a court or any federal, state, or local administrative agency, including a confirmed arbitration award. However, for purposes of this paragraph, the contractor shall not be disqualified for any judgment, order, or determination that is under appeal, provided that the contractor has secured the payment of any amount eventually found due through a bond or other appropriate means.

(D) The contractor is not currently debarred under Section 1777.1 or under any other federal or state law providing for the debarment of contractors from public works.

(E) The contractor has not bid on a public works contract, been listed in a bid proposal, or engaged in the performance of a contract for public works without being lawfully registered in accordance with this section, within the preceding 12 months or since the effective date of the requirements set forth in subdivision (e), whichever is earlier. If a contractor is found to be in violation of the requirements of this paragraph, the period of disqualification shall be waived if both of the following are true:

- (i) The contractor has not previously been found to be in violation of the requirements of this paragraph within the preceding 12 months.
- (ii) The contractor pays an additional nonrefundable penalty registration fee of two thousand dollars (\$2,000).
- (b) Fees received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.
- (c) A contractor who fails to pay the renewal fee required under paragraph (1) of subdivision (a) on or before the expiration of any prior period of registration shall be prohibited from bidding on or engaging in the performance of any contract for public work until once again registered pursuant to this section. If the failure to pay the renewal fee was inadvertent, the contractor may renew its registration retroactively by paying an additional nonrefundable penalty renewal fee equal to the amount of the renewal fee within 90 days of the due date of the renewal fee.
- (d) If, after a body awarding a contract accepts the contractor's bid or awards the contract, the work covered by the bid or contract is determined to be a public work to which Section 1771 applies, either as the result of a determination by the director pursuant to Section 1773.5 or a court decision, the requirements of this section shall not apply, subject to the following requirements:
- (1) The body that awarded the contract failed, in the bid specification or in the contract documents, to identify as a public work that portion of the work that the determination or decision subsequently classifies as a public work.
- (2) Within 20 days following service of notice on the awarding body of a determination by the Director of Industrial Relations pursuant to Section 1773.5 or a decision by a court that the contract was for public work as defined in this chapter, the contractor and any subcontractors are registered under this section or are replaced by a contractor or subcontractors who are registered under this section.
- (3) The requirements of this section shall apply prospectively only to any subsequent bid, bid proposal, contract, or work performed after the awarding body is served with notice of the determination or decision referred to in paragraph (2).
- (e) The requirements of this section shall apply to any bid proposal submitted on or after March 1, 2015, to any contract for public work, as defined in this chapter, executed on or after April 1, 2015, and to any work performed under a contract for public work on or after January 1, 2018, regardless of when the contract for public work was executed.
- (f) This section does not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

Section 1771. Payment of general prevailing rate

Except for public works projects of one thousand dollars (\$1,000) or less, not less than the general prevailing rate of per diem wages for work of a similar character in the locality in which the public work is performed, and not less than the general prevailing rate of per diem wages for holiday and overtime work fixed as provided in this chapter, shall be paid to all workers employed on public works.

This section is applicable only to work performed under contract, and is not applicable to work carried out by a public agency with its own forces. This section is applicable to contracts let for maintenance work.

Section 1771.1. Registration as a contractor or subcontractor required prior to bid submission; exceptions; violations; penalties

(a) A contractor or subcontractor shall not be qualified to bid on, be listed in a bid proposal, subject to the requirements of Section 4104 of the Public Contract Code, or engage in the performance of any contract for public work, as defined in this chapter, unless currently registered and qualified to perform public work pursuant to Section 1725.5. It is not a violation of this section for an unregistered contractor to submit a bid that is authorized by Section 7029.1 of the Business and Professions Code or by Section 10164 or 20103.5 of the Public Contract Code, provided the contractor is registered to perform public work pursuant to Section 1725.5 at the time the contract is awarded.

(b) Notice of the requirement described in subdivision (a) shall be included in all bid invitations and public works contracts, and a bid shall not be accepted nor any contract or subcontract entered into without proof of the contractor or subcontractor's current registration to perform public work pursuant to Section 1725.5.

(c) An inadvertent error in listing a subcontractor who is not registered pursuant to Section 1725.5 in a bid proposal shall not be grounds for filing a bid protest or grounds for considering the bid nonresponsive, provided that any of the following apply:

(1) The subcontractor is registered prior to the bid opening.

(2) Within 24 hours after the bid opening, the subcontractor is registered and has paid the penalty registration fee specified in subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(3) The subcontractor is replaced by another registered subcontractor pursuant to Section 4107 of the Public Contract Code.

(d) Failure by a subcontractor to be registered to perform public work as required by subdivision (a) shall be grounds under Section 4107 of the Public Contract Code for the contractor, with the consent of the awarding authority, to substitute a subcontractor who is registered to perform public work pursuant to Section 1725.5 in place of the unregistered subcontractor.

(e) The department shall maintain on its Internet Web site a list of contractors who are currently registered to perform public work pursuant to Section 1725.5.

(f) A contract entered into with any contractor or subcontractor in violation of subdivision (a) shall be subject to cancellation, provided that a contract for public work shall not be unlawful, void, or voidable solely due to the failure of the awarding body, contractor, or any subcontractor to comply with the requirements of Section 1725.5 or this section.

(g) If the Labor Commissioner or his or her designee determines that a contractor or subcontractor engaged in the performance of any public work contract without having been registered in accordance with this section, the contractor or subcontractor shall forfeit, as a civil penalty to the state, one hundred dollars (\$100) for each day of work performed in violation of the registration requirement, not to exceed an aggregate penalty of eight thousand dollars (\$8,000) in addition to any penalty registration fee assessed pursuant to clause (ii) of subparagraph (E) of paragraph (2) of subdivision (a) of Section 1725.5.

(h)(1) In addition to, or in lieu of, any other penalty or sanction authorized pursuant to this chapter, a higher tiered public works contractor or subcontractor who is found to have entered into a subcontract with an unregistered lower tier subcontractor to perform any public work in violation of the requirements of Section 1725.5 or this section shall be subject to forfeiture, as a civil penalty to the state, of one hundred dollars (\$100)

for each day the unregistered lower tier subcontractor performs work in violation of the registration requirement, not to exceed an aggregate penalty of ten thousand dollars (\$10,000).

(2) The Labor Commissioner shall use the same standards specified in subparagraph (A) of paragraph (2) of subdivision (a) of Section 1775 when determining the severity of the violation and what penalty to assess, and may waive the penalty for a first time violation that was unintentional and did not hinder the Labor Commissioner's ability to monitor and enforce compliance with the requirements of this chapter.

(3) A higher tiered public works contractor or subcontractor shall not be liable for penalties assessed pursuant to paragraph (1) if the lower tier subcontractor's performance is in violation of the requirements of Section 1725.5 due to the revocation of a previously approved registration.

(4) A subcontractor shall not be liable for any penalties assessed against a higher tiered public works contractor or subcontractor pursuant to paragraph (1). A higher tiered public works contractor or subcontractor may not require a lower tiered subcontractor to indemnify or otherwise be liable for any penalties pursuant to paragraph (1).

(i) The Labor Commissioner or his or her designee shall issue a civil wage and penalty assessment, in accordance with the provisions of Section 1741, upon determination of penalties pursuant to subdivision (g) and subparagraph (B) of paragraph (1) of subdivision (h). Review of a civil wage and penalty assessment issued under this subdivision may be requested in accordance with the provisions of Section 1742. The regulations of the Director of Industrial Relations, which govern proceedings for review of civil wage and penalty assessments and the withholding of contract payments under Article 1 (commencing with Section 1720) and Article 2 (commencing with Section 1770), shall apply.

(j)(1) Where a contractor or subcontractor engages in the performance of any public work contract without having been registered in violation of the requirements of Section 1725.5 or this section, the Labor Commissioner shall issue and serve a stop order prohibiting the use of the unregistered contractor or the unregistered subcontractor on all public works until the unregistered contractor or unregistered subcontractor is registered. The stop order shall not apply to work by registered contractors or subcontractors on the public work.

(2) A stop order may be personally served upon the contractor or subcontractor by either of the following methods:

(A) Manual delivery of the order to the contractor or subcontractor personally.

(B) Leaving signed copies of the order with the person who is apparently in charge at the site of the public work and by thereafter mailing copies of the order by first class mail, postage prepaid to the contractor or subcontractor at one of the following:

(i) The address of the contractor or subcontractor on file with either the Secretary of State or the Contractors' State License Board.

(ii) If the contractor or subcontractor has no address on file with the Secretary of State or the Contractors' State License Board, the address of the site of the public work.

(3) The stop order shall be effective immediately upon service and shall be subject to appeal by the party contracting with the unregistered contractor or subcontractor, by the unregistered contractor or subcontractor, or both. The appeal, hearing, and any further review of the hearing decision shall be governed by the procedures, time limits, and other requirements specified in subdivision (a) of Section 238.1.

(4) Any employee of an unregistered contractor or subcontractor who is affected by a work stoppage ordered by the commissioner pursuant to this subdivision shall be paid at his or her regular hourly prevailing wage rate by that employer for any hours the employee would have worked but for the work stoppage, not to exceed 10 days.

(k) Failure of a contractor or subcontractor, owner, director, officer, or managing agent of the contractor or subcontractor to observe a stop order issued and served upon him or her pursuant to subdivision (j) is guilty of a misdemeanor punishable by imprisonment in county jail not exceeding 60 days or by a fine not exceeding ten thousand dollars (\$10,000), or both.

(l) This section shall apply to any bid proposal submitted on or after March 1, 2015, and any contract for public work entered into on or after April 1, 2015. This section shall also apply to the performance of any public work, as defined in this chapter, on or after January 1, 2018, regardless of when the contract for public work was entered.

(m) Penalties received pursuant to this section shall be deposited in the State Public Works Enforcement Fund established by Section 1771.3 and shall be used only for the purposes specified in that section.

(n) This section shall not apply to work performed on a public works project of twenty-five thousand dollars (\$25,000) or less when the project is for construction, alteration, demolition, installation, or repair work or to work performed on a public works project of fifteen thousand dollars (\$15,000) or less when the project is for maintenance work.

Section 1771.4. Additional requirements when bidding and awarding public works contracts

(a) All of the following are applicable to all public works projects that are otherwise subject to the requirements of this chapter:

(1) The call for bids and contract documents shall specify that the project is subject to compliance monitoring and enforcement by the Department of Industrial Relations.

(2) The awarding body shall post or require the prime contractor to post job site notices, as prescribed by regulation.

(3) Each contractor and subcontractor shall furnish the records specified in Section 1776 directly to the Labor Commissioner, in the following manner:

(A) At least monthly or more frequently if specified in the contract with the awarding body.

(B) In a format prescribed by the Labor Commissioner.

(4) If the contractor or subcontractor is not registered pursuant to Section 1725.5 and is performing work on a project for which registration is not required because of subdivision (f) of Section 1725.5, the unregistered contractor or subcontractor is not required to furnish the records specified in Section 1776 directly to the Labor Commissioner but shall retain the records specified in Section 1776 for at least three years after completion of the work.

(5) The department shall undertake those activities it deems necessary to monitor and enforce compliance with prevailing wage requirements.

(b) The Labor Commissioner may exempt a public works project from compliance with all or part of the requirements of subdivision (a) if either of the following occurs:

(1) The awarding body has enforced an approved labor compliance program, as defined in Section 1771.5, on all public works projects under its authority, except those deemed exempt pursuant to subdivision (a) of Section 1771.5, continuously since December 31, 2011.

(2) The awarding body has entered into a collective bargaining agreement that binds all contractors performing work on the project and that includes a mechanism for resolving disputes about the payment of wages.

(c) The requirements of paragraph (1) of subdivision (a) shall only apply to contracts for public works projects awarded on or after January 1, 2015.

(d) The requirements of paragraph (3) of subdivision (a) shall apply to all contracts for public work, whether new or ongoing, on or after January 1, 2016.

Section 1775. Penalties for violations

(a)(1) The contractor and any subcontractor under the contractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit not more than two hundred dollars (\$200) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rates as determined by the director for the work or craft in which the worker is employed for any public work done under the contract by the contractor or, except as provided in subdivision (b), by any subcontractor under the contractor.

(2)(A) The amount of the penalty shall be determined by the Labor Commissioner based on consideration of both of the following:

(i) Whether the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) Whether the contractor or subcontractor has a prior record of failing to meet its prevailing wage obligations.

(B)(i) The penalty may not be less than forty dollars (\$40) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, unless the failure of the contractor or subcontractor to pay the correct rate of per diem wages was a good faith mistake and, if so, the error was promptly and voluntarily corrected when brought to the attention of the contractor or subcontractor.

(ii) The penalty may not be less than eighty dollars (\$80) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the contractor or subcontractor has been assessed penalties within the previous three years for failing to meet its prevailing wage obligations on a separate contract, unless those penalties were subsequently withdrawn or overturned.

(iii) The penalty may not be less than one hundred twenty dollars (\$120) for each calendar day, or portion thereof, for each worker paid less than the prevailing wage rate, if the Labor Commissioner determines that the violation was willful, as defined in subdivision (c) of Section 1777.1.

(C) If the amount due under this section is collected from the contractor or subcontractor, any outstanding wage claim under Chapter 1 (commencing with Section 1720) of Part 7 of Division 2 against that contractor

or subcontractor shall be satisfied before applying that amount to the penalty imposed on that contractor or subcontractor pursuant to this section.

(D) The determination of the Labor Commissioner as to the amount of the penalty shall be reviewable only for abuse of discretion.

(E) The difference between the prevailing wage rates and the amount paid to each worker for each calendar day or portion thereof for which each worker was paid less than the prevailing wage rate shall be paid to each worker by the contractor or subcontractor, and the body awarding the contract shall cause to be inserted in the contract a stipulation that this section will be complied with.

(b) If a worker employed by a subcontractor on a public works project is not paid the general prevailing rate of per diem wages by the subcontractor, the prime contractor of the project is not liable for any penalties under subdivision (a) unless the prime contractor had knowledge of that failure of the subcontractor to pay the specified prevailing rate of wages to those workers or unless the prime contractor fails to comply with all of the following requirements:

(1) The contract executed between the contractor and the subcontractor for the performance of work on the public works project shall include a copy of the provisions of this section and Sections 1771, 1776, 1777.5, 1813, and 1815.

(2) The contractor shall monitor the payment of the specified general prevailing rate of per diem wages by the subcontractor to the employees, by periodic review of the certified payroll records of the subcontractor.

(3) Upon becoming aware of the failure of the subcontractor to pay his or her workers the specified prevailing rate of wages, the contractor shall diligently take corrective action to halt or rectify the failure, including, but not limited to, retaining sufficient funds due the subcontractor for work performed on the public works project.

(4) Prior to making final payment to the subcontractor for work performed on the public works project, the contractor shall obtain an affidavit signed under penalty of perjury from the subcontractor that the subcontractor has paid the specified general prevailing rate of per diem wages to his or her employees on the public works project and any amounts due pursuant to Section 1813.

(c) The Division of Labor Standards Enforcement shall notify the contractor on a public works project within 15 days of the receipt by the Division of Labor Standards Enforcement of a complaint of the failure of a subcontractor on that public works project to pay workers the general prevailing rate of per diem wages.

Section 1776. Payroll records; retention; inspection; redacted information; agencies entitled to receive nonredacted copies of certified records; noncompliance penalties; rules

(a) Each contractor and subcontractor shall keep accurate payroll records, showing the name, address, social security number, work classification, straight time and overtime hours worked each day and week, and the actual per diem wages paid to each journeyman, apprentice, worker, or other employee employed by him or her in connection with the public work. Each payroll record shall contain or be verified by a written declaration that it is made under penalty of perjury, stating both of the following:

(1) The information contained in the payroll record is true and correct.

(2) The employer has complied with the requirements of Sections 1771, 1811, and 1815 for any work performed by his or her employees on the public works project.

(b) The payroll records enumerated under subdivision (a) shall be certified and shall be available for inspection at all reasonable hours at the principal office of the contractor on the following basis:

(1) A certified copy of an employee's payroll record shall be made available for inspection or furnished to the employee or his or her authorized representative on request.

(2) A certified copy of all payroll records enumerated in subdivision (a) shall be made available for inspection or furnished upon request to a representative of the body awarding the contract and the Division of Labor Standards Enforcement of the Department of Industrial Relations.

(3) A certified copy of all payroll records enumerated in subdivision (a) shall be made available upon request by the public for inspection or for copies thereof. However, a request by the public shall be made through either the body awarding the contract or the Division of Labor Standards Enforcement. If the requested payroll records have not been provided pursuant to paragraph (2), the requesting party shall, prior to being provided the records, reimburse the costs of preparation by the contractor, subcontractors, and the entity through which the request was made. The public may not be given access to the records at the principal office of the contractor.

(c) Unless required to be furnished directly to the Labor Commissioner in accordance with paragraph (3) of subdivision (a) of Section 1771.4, the certified payroll records shall be on forms provided by the Division of Labor Standards Enforcement or shall contain the same information as the forms provided by the division. The payroll records may consist of printouts of payroll data that are maintained as computer records, if the printouts contain the same information as the forms provided by the division and the printouts are verified in the manner specified in subdivision (a).

(d) A contractor or subcontractor shall file a certified copy of the records enumerated in subdivision (a) with the entity that requested the records within 10 days after receipt of a written request.

(e) Except as provided in subdivision (f), any copy of records made available for inspection as copies and furnished upon request to the public or any public agency by the awarding body or the Division of Labor Standards Enforcement shall be marked or obliterated to prevent disclosure of an individual's name, address, and social security number. The name and address of the contractor awarded the contract or the subcontractor performing the contract shall not be marked or obliterated. Any copy of records made available for inspection by, or furnished to, a multiemployer Taft-Hartley trust fund (29 U.S.C. Sec. 186(c)(5)) that requests the records for the purposes of allocating contributions to participants shall be marked or obliterated only to prevent disclosure of an individual's full social security number, but shall provide the last four digits of the social security number. Any copy of records made available for inspection by, or furnished to, a joint labor-management committee established pursuant to the federal Labor Management Cooperation Act of 1978 (29 U.S.C. Sec. 175a) shall be marked or obliterated only to prevent disclosure of an individual's social security number.

(f)(1) Notwithstanding any other provision of law, agencies that are included in the Joint Enforcement Strike Force on the Underground Economy established pursuant to Section 329 of the Unemployment Insurance Code and other law enforcement agencies investigating violations of law shall, upon request, be provided nonredacted copies of certified payroll records. Any copies of records or certified payroll made available for inspection and furnished upon request to the public by an agency included in the Joint Enforcement Strike Force on the Underground Economy or to a law enforcement agency investigating a violation of law shall be marked or redacted to prevent disclosure of an individual's name, address, and social security number.

(2) An employer shall not be liable for damages in a civil action for any reasonable act or omission taken in good faith in compliance with this subdivision.

(g) The contractor shall inform the body awarding the contract of the location of the records enumerated under subdivision (a), including the street address, city, and county, and shall, within five working days, provide a notice of a change of location and address.

(h) The contractor or subcontractor has 10 days in which to comply subsequent to receipt of a written notice requesting the records enumerated in subdivision (a). In the event that the contractor or subcontractor fails to comply within the 10-day period, he or she shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit one hundred dollars (\$100) for each calendar day, or portion thereof, for each worker, until strict compliance is effectuated. Upon the request of the Division of Labor Standards Enforcement, these penalties shall be withheld from progress payments then due. A contractor is not subject to a penalty assessment pursuant to this section due to the failure of a subcontractor to comply with this section.

(i) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section.

(j) The director shall adopt rules consistent with the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1 of the Government Code) and the Information Practices Act of 1977 (Title 1.8 (commencing with Section 1798) of Part 4 of Division 3 of the Civil Code) governing the release of these records, including the establishment of reasonable fees to be charged for reproducing copies of records required by this section.

Section 1777.5. Employment of registered apprentices; wages; standards; number; apprenticeable craft or trade; exemptions; contributions; compliance program

(a)(1) This chapter does not prevent the employment upon public works of properly registered apprentices who are active participants in an approved apprenticeship program.

(2) For purposes of this chapter, “apprenticeship program” means a program under the jurisdiction of the California Apprenticeship Council established pursuant to Section 3070.

(b)(1) Every apprentice employed upon public works shall be paid the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered and shall be employed only at the work of the craft or trade to which he or she is registered.

(2) Unless otherwise provided by a collective bargaining agreement, when a contractor requests the dispatch of an apprentice pursuant to this section to perform work on a public works project and requires the apprentice to fill out an application or undergo testing, training, an examination, or other preemployment process as a condition of employment, the apprentice shall be paid for the time spent on the required preemployment activity, including travel time to and from the required activity, if any, at the prevailing rate of per diem wages for apprentices in the trade to which he or she is registered. Unless otherwise provided by a collective bargaining agreement, a contractor is not required to compensate an apprentice for the time spent on preemployment activities if the apprentice is required to take a preemployment drug or alcohol test and he or she fails to pass that test.

(c) Only apprentices, as defined in Section 3077, who are in training under apprenticeship standards that have been approved by the Chief of the Division of Apprenticeship Standards and who are parties to written

apprentice agreements under Chapter 4 (commencing with Section 3070) of Division 3 are eligible to be employed at the apprentice wage rate on public works. The employment and training of each apprentice shall be in accordance with either of the following:

- (1) The apprenticeship standards and apprentice agreements under which he or she is training.
- (2) The rules and regulations of the California Apprenticeship Council.

(d) If the contractor to whom the contract is awarded by the state or any political subdivision, in performing any of the work under the contract, employs workers in any apprenticeable craft or trade, the contractor shall employ apprentices in at least the ratio set forth in this section and may apply to any apprenticeship program in the craft or trade that can provide apprentices to the site of the public work for a certificate approving the contractor under the apprenticeship standards for the employment and training of apprentices in the area or industry affected. However, the decision of the apprenticeship program to approve or deny a certificate shall be subject to review by the Administrator of Apprenticeship. The apprenticeship program or programs, upon approving the contractor, shall arrange for the dispatch of apprentices to the contractor. A contractor covered by an apprenticeship program's standards shall not be required to submit any additional application in order to include additional public works contracts under that program. "Apprenticeable craft or trade," as used in this section, means a craft or trade determined as an apprenticeable occupation in accordance with rules and regulations prescribed by the California Apprenticeship Council. As used in this section, "contractor" includes any subcontractor under a contractor who performs any public works not excluded by subdivision (o).

(e) Before commencing work on a contract for public works, every contractor shall submit contract award information to an applicable apprenticeship program that can supply apprentices to the site of the public work. The information submitted shall include an estimate of journeyman hours to be performed under the contract, the number of apprentices proposed to be employed, and the approximate dates the apprentices would be employed. A copy of this information shall also be submitted to the awarding body, if requested by the awarding body. Within 60 days after concluding work on the contract, each contractor and subcontractor shall submit to the awarding body, if requested, and to the apprenticeship program a verified statement of the journeyman and apprentice hours performed on the contract. The information under this subdivision shall be public. The apprenticeship programs shall retain this information for 12 months.

(f) The apprenticeship program supplying apprentices to the area of the site of the public work shall ensure equal employment and affirmative action in apprenticeship for women and minorities.

(g) The ratio of work performed by apprentices to journeymen employed in a particular craft or trade on the public work may be no higher than the ratio stipulated in the apprenticeship standards under which the apprenticeship program operates if the contractor agrees to be bound by those standards. However, except as otherwise provided in this section, in no case shall the ratio be less than one hour of apprentice work for every five hours of journeyman work.

(h) This ratio of apprentice work to journeyman work shall apply during any day or portion of a day when any journeyman is employed at the jobsite and shall be computed on the basis of the hours worked during the day by journeymen so employed. Any work performed by a journeyman in excess of eight hours per day or 40 hours per week shall not be used to calculate the ratio. The contractor shall employ apprentices for the number of hours computed as above before the end of the contract or, in the case of a subcontractor, before the end of the subcontract. However, the contractor shall endeavor, to the greatest extent possible, to employ apprentices during the same time period that the journeymen in the same craft or trade are employed at the jobsite. When an hourly apprenticeship ratio is not feasible for a particular craft or trade, the Administrator

of Apprenticeship, upon application of an apprenticeship program, may order a minimum ratio of not less than one apprentice for each five journeymen in a craft or trade classification.

(i) A contractor covered by this section who has agreed to be covered by an apprenticeship program's standards upon the issuance of the approval certificate, or who has been previously approved for an apprenticeship program in the craft or trade, shall employ the number of apprentices or the ratio of apprentices to journeymen stipulated in the applicable apprenticeship standards, but in no event less than the 1-to-5 ratio required by subdivision (g).

(j) Upon proper showing by a contractor that he or she employs apprentices in a particular craft or trade in the state on all of his or her contracts on an annual average of not less than one hour of apprentice work for every five hours of labor performed by journeymen, the Administrator of Apprenticeship may grant a certificate exempting the contractor from the 1-to-5 hourly ratio, as set forth in this section for that craft or trade.

(k) An apprenticeship program has the discretion to grant to a participating contractor or contractor association a certificate, which shall be subject to the approval of the Administrator of Apprenticeship, exempting the contractor from the 1-to-5 ratio set forth in this section when it finds that any one of the following conditions is met:

(1) Unemployment for the previous three-month period in the area exceeds an average of 15 percent.

(2) The number of apprentices in training in the area exceeds a ratio of 1 to 5.

(3) There is a showing that the apprenticeable craft or trade is replacing at least one-thirtieth of its journeymen annually through apprenticeship training, either on a statewide basis or on a local basis.

(4) Assignment of an apprentice to any work performed under a public works contract would create a condition that would jeopardize his or her life or the life, safety, or property of fellow employees or the public at large, or the specific task to which the apprentice is to be assigned is of a nature that training cannot be provided by a journeyman.

(l) If an exemption is granted pursuant to subdivision (k) to an organization that represents contractors in a specific trade from the 1-to-5 ratio on a local or statewide basis, the member contractors shall not be required to submit individual applications for approval to local joint apprenticeship committees, if they are already covered by the local apprenticeship standards.

(m)(1) A contractor to whom a contract is awarded, who, in performing any of the work under the contract, employs journeymen or apprentices in any apprenticeable craft or trade shall contribute to the California Apprenticeship Council the same amount that the director determines is the prevailing amount of apprenticeship training contributions in the area of the public works site. A contractor may take as a credit for payments to the council any amounts paid by the contractor to an approved apprenticeship program that can supply apprentices to the site of the public works project. The contractor may add the amount of the contributions in computing his or her bid for the contract.

(2)(A) At the conclusion of the 2002-03 fiscal year and each fiscal year thereafter, the California Apprenticeship Council shall distribute training contributions received by the council under this subdivision, less the expenses of the Department of Industrial Relations for administering this subdivision, by making grants to approved apprenticeship programs for the purpose of training apprentices. The grant funds shall be distributed as follows:

(i) If there is an approved multiemployer apprenticeship program serving the same craft or trade and geographic area for which the training contributions were made to the council, a grant to that program shall be made.

(ii) If there are two or more approved multiemployer apprenticeship programs serving the same craft or trade and county for which the training contributions were made to the council, the grant shall be divided among those programs based on the number of apprentices from that county registered in each program.

(iii) All training contributions not distributed under clauses (i) and (ii) shall be used to defray the future expenses of the Department of Industrial Relations for the administration and enforcement of apprenticeship and preapprenticeship standards and requirements under this code.

(B) An apprenticeship program shall only be eligible to receive grant funds pursuant to this subdivision if the apprenticeship program agrees, prior to the receipt of any grant funds, to keep adequate records that document the expenditure of grant funds and to make all records available to the Department of Industrial Relations so that the Department of Industrial Relations is able to verify that grant funds were used solely for training apprentices. For purposes of this subparagraph, adequate records include, but are not limited to, invoices, receipts, and canceled checks that account for the expenditure of grant funds. This subparagraph shall not be deemed to require an apprenticeship program to provide the Department of Industrial Relations with more documentation than is necessary to verify the appropriate expenditure of grant funds made pursuant to this subdivision.

(C) The Department of Industrial Relations shall verify that grants made pursuant to this subdivision are used solely to fund training apprentices. If an apprenticeship program is unable to demonstrate how grant funds are expended or if an apprenticeship program is found to be using grant funds for purposes other than training apprentices, then the apprenticeship program shall not be eligible to receive any future grant pursuant to this subdivision and the Department of Industrial Relations may initiate the process to rescind the registration of the apprenticeship program.

(3) All training contributions received pursuant to this subdivision shall be deposited in the Apprenticeship Training Contribution Fund, which is hereby created in the State Treasury. Upon appropriation by the Legislature, all moneys in the Apprenticeship Training Contribution Fund shall be used for the purpose of carrying out this subdivision and to pay the expenses of the Department of Industrial Relations.

(n) The body awarding the contract shall cause to be inserted in the contract stipulations to effectuate this section. The stipulations shall fix the responsibility of compliance with this section for all apprenticeable occupations with the prime contractor.

(o) This section does not apply to contracts of general contractors or to contracts of specialty contractors not bidding for work through a general or prime contractor when the contracts of general contractors or those specialty contractors involve less than thirty thousand dollars (\$30,000).

(p) An awarding body that implements an approved labor compliance program in accordance with subdivision (b) of Section 1771.5 may, with the approval of the director, assist in the enforcement of this section under the terms and conditions prescribed by the director.

Section 1813. Forfeiture for violations; contract stipulation; report of violations

The contractor or subcontractor shall, as a penalty to the state or political subdivision on whose behalf the contract is made or awarded, forfeit twenty- five dollars (\$25) for each worker employed in the execution of

the contract by the respective contractor or subcontractor for each calendar day during which the worker is required or permitted to work more than 8 hours in any one calendar day and 40 hours in any one calendar week in violation of the provisions of this article. In awarding any contract for public work, the awarding body shall cause to be inserted in the contract a stipulation to this effect. The awarding body shall take cognizance of all violations of this article committed in the course of the execution of the contract, and shall report them to the Division of Labor Standards Enforcement.

Section 1815. Overtime

Notwithstanding the provisions of Sections 1810 to 1814, inclusive, of this code, and notwithstanding any stipulation inserted in any contract pursuant to the requirements of said sections, work performed by employees of contractors in excess of 8 hours per day, and 40 hours during any one week, shall be permitted upon public work upon compensation for all hours worked in excess of 8 hours per day at not less than 1 ½ times the basic rate of pay.

ATTACHMENT NO. 2

CALIFORNIA PUBLIC CONTRACT CODE SECTION 9204

Section 9204. Legislative findings and declarations regarding timely and complete payment of contractors for public works projects; claims process (Eff: January 1, 2017)

(a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) "Contractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3)(A) "Public entity" means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) "Public entity" shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) "Public works project" means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) "Subcontractor" means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d)(1)(A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2)(A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2027, deletes or extends that date.

W-722 - Annual Pipeline Renewal Project (Quest Bid #8914446)

Bid 23-24.25

Bid Opening: 2/1/24

Line Item	Item Description	UofM	Quantity	Engineer Estimate		1 CEM Construction Corporation		2 Dominguez General		3 Big Ben Engineering		4 TE Roberts Inc.		5 L&S Construction, Inc.		6 Teichert Energy & Utilities		7 Gentry General Engineering,	
				Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension	Unit Price	Extension
1	Mobilizations/Demo/Phasing (not to exceed 2.5% of total cost)	LS	1	\$50,000.00	\$1,645,230.00	\$55,000.00	\$55,000.00	\$50,000.00	\$2,805,480.00	\$70,000.00	\$2,956,204.00	\$78,232.00	\$3,304,124.00	\$75,000.00	\$3,605,730.00	\$114,000.00	\$4,170,885.00	\$132,000.00	\$5,277,113.00
2	4" C900	LF	82	\$90.00	\$7,380.00	\$190.00	\$15,580.00	\$250.00	\$20,500.00	\$350.00	\$28,700.00	\$395.00	\$32,390.00	\$260.00	\$21,320.00	\$285.00	\$23,370.00	\$350.00	\$28,700.00
3	6" C900	LF	182	\$120.00	\$21,840.00	\$195.00	\$35,490.00	\$300.00	\$54,600.00	\$375.00	\$68,250.00	\$375.00	\$68,250.00	\$340.00	\$61,880.00	\$295.00	\$53,690.00	\$423.00	\$76,986.00
4	8" C900	LF	6662	\$160.00	\$1,065,920.00	\$200.00	\$1,332,400.00	\$220.00	\$1,465,640.00	\$187.00	\$1,245,794.00	\$171.00	\$1,139,202.00	\$235.00	\$1,565,570.00	\$265.00	\$1,765,430.00	\$356.00	\$2,371,672.00
5	10" C900	LF	40	\$200.00	\$8,000.00	\$250.00	\$10,000.00	\$350.00	\$14,000.00	\$750.00	\$30,000.00	\$968.00	\$38,720.00	\$1,550.00	\$62,000.00	\$305.00	\$12,200.00	\$643.00	\$25,720.00
6	12" C900	LF	30	\$240.00	\$7,200.00	\$420.00	\$12,600.00	\$400.00	\$12,000.00	\$1,100.00	\$33,000.00	\$1,029.00	\$30,870.00	\$2,100.00	\$63,000.00	\$315.00	\$9,450.00	\$958.00	\$28,740.00
7	Remove existing fire hydrant	EA	12	\$2,000.00	\$24,000.00	\$1,000.00	\$12,000.00	\$3,000.00	\$36,000.00	\$900.00	\$10,800.00	\$4,194.00	\$50,328.00	\$4,100.00	\$49,200.00	\$2,700.00	\$32,400.00	\$1,200.00	\$14,400.00
8	New fire hydrant	EA	15	\$7,000.00	\$105,000.00	\$14,000.00	\$210,000.00	\$17,000.00	\$255,000.00	\$15,000.00	\$225,000.00	\$15,816.00	\$237,240.00	\$17,250.00	\$258,750.00	\$35,000.00	\$525,000.00	\$20,500.00	\$307,500.00
9	2" Air Vac	EA	2	\$6,000.00	\$12,000.00	\$7,500.00	\$15,000.00	\$10,000.00	\$20,000.00	\$9,500.00	\$19,000.00	\$11,349.00	\$22,698.00	\$10,500.00	\$21,000.00	\$11,000.00	\$22,000.00	\$18,000.00	\$36,000.00
10	New 3/4" service with new radio read wm	EA	109	\$3,500.00	\$381,500.00	\$2,475.00	\$269,775.00	\$2,500.00	\$272,500.00	\$3,950.00	\$430,550.00	\$6,530.00	\$711,770.00	\$5,555.00	\$605,495.00	\$4,700.00	\$512,300.00	\$8,400.00	\$915,600.00
11	New 1" service with new radio read wm	EA	51	\$4,000.00	\$204,000.00	\$2,975.00	\$151,725.00	\$2,500.00	\$127,500.00	\$4,900.00	\$249,900.00	\$7,229.00	\$368,679.00	\$5,950.00	\$303,450.00	\$4,500.00	\$229,500.00	\$8,600.00	\$438,600.00
12	New 6" DI gate valve	EA	9	\$1,200.00	\$10,800.00	\$3,250.00	\$29,250.00	\$2,500.00	\$22,500.00	\$3,500.00	\$31,500.00	\$2,648.00	\$23,832.00	\$2,600.00	\$23,400.00	\$5,100.00	\$45,900.00	\$4,000.00	\$36,000.00
13	New 8" DI gate valve	EA	33	\$1,500.00	\$49,500.00	\$3,750.00	\$123,750.00	\$3,000.00	\$99,000.00	\$4,150.00	\$136,950.00	\$3,479.00	\$114,807.00	\$3,350.00	\$110,550.00	\$5,400.00	\$178,200.00	\$4,700.00	\$155,100.00
14	New 10" DI gate valve	EA	2	\$2,000.00	\$4,000.00	\$4,750.00	\$9,500.00	\$5,000.00	\$10,000.00	\$6,000.00	\$12,000.00	\$5,201.00	\$10,402.00	\$4,750.00	\$9,500.00	\$5,600.00	\$11,200.00	\$6,400.00	\$12,800.00
15	New 12" DI gate valve	EA	2	\$2,500.00	\$5,000.00	\$5,250.00	\$10,500.00	\$6,000.00	\$12,000.00	\$7,000.00	\$14,000.00	\$6,283.00	\$12,566.00	\$5,600.00	\$11,200.00	\$5,800.00	\$11,600.00	\$7,100.00	\$14,200.00
16	Concrete Cross-Gutter Replacement	SF	1040	\$25.00	\$26,000.00	\$55.00	\$57,200.00	\$35.00	\$36,400.00	\$55.00	\$57,200.00	\$37.00	\$38,480.00	\$40.00	\$41,600.00	\$55.00	\$57,200.00	\$35.00	\$36,400.00
17	2" A.C. Pavement Overlay - Surface Course (5' WIDE)	TON	437	\$130.00	\$56,810.00	\$250.00	\$109,250.00	\$320.00	\$139,840.00	\$380.00	\$166,060.00	\$394.00	\$172,178.00	\$395.00	\$172,615.00	\$385.00	\$168,245.00	\$335.00	\$146,395.00
18	Traffic Control, Signing and Striping	LS	1	\$50,000.00	\$50,000.00	\$12,500.00	\$12,500.00	\$50,000.00	\$50,000.00	\$60,000.00	\$60,000.00	\$17,597.00	\$17,597.00	\$60,000.00	\$60,000.00	\$290,000.00	\$290,000.00	\$386,000.00	\$386,000.00
19	Project Information Signs	LS	1	\$10,000.00	\$10,000.00	\$1,250.00	\$1,250.00	\$20,000.00	\$20,000.00	\$2,500.00	\$2,500.00	\$12,582.00	\$12,582.00	\$5,000.00	\$5,000.00	\$14,800.00	\$14,800.00	\$8,900.00	\$8,900.00
20	Offset assembly as needed	EA	6	\$5,000.00	\$30,000.00	\$7,000.00	\$42,000.00	\$3,000.00	\$18,000.00	\$6,000.00	\$36,000.00	\$12,713.00	\$76,278.00	\$7,500.00	\$45,000.00	\$12,400.00	\$74,400.00	\$9,500.00	\$57,000.00
21	New 1.5" service with new radio read wm	EA	1	\$3,000.00	\$3,000.00	\$7,000.00	\$7,000.00	\$15,000.00	\$15,000.00	\$9,000.00	\$9,000.00	\$11,543.00	\$11,543.00	\$8,700.00	\$8,700.00	\$4,500.00	\$4,500.00	\$11,400.00	\$11,400.00
22	New 2" service with new radio read wm	EA	1	\$3,500.00	\$3,500.00	\$8,000.00	\$8,000.00	\$15,000.00	\$15,000.00	\$10,000.00	\$10,000.00	\$12,820.00	\$12,820.00	\$11,500.00	\$11,500.00	\$4,700.00	\$4,700.00	\$11,800.00	\$11,800.00
23	Remove and reconstruct asphalt speed hump	EA	4	\$5,000.00	\$20,000.00	\$4,500.00	\$18,000.00	\$10,000.00	\$40,000.00	\$2,500.00	\$10,000.00	\$5,665.00	\$22,660.00	\$5,000.00	\$20,000.00	\$2,700.00	\$10,800.00	\$6,300.00	\$25,200.00
	Total:				\$2,155,450.00		\$2,547,770.00		\$2,805,480.00		\$2,956,204.00		\$3,304,124.00		\$3,605,730.00		\$4,170,885.00		\$5,277,113.00



Agenda Item

City Council

Item #: 3.7.

2/27/2024

File #: 24-0093

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024; and authorization to file Notice of Completion.

2. SUMMARY

The City of Orange entered into a contract with Pavement Coatings Co. for the Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024 (Bid No. 23-24.03; SP-4259). The project included work on arterial and local streets throughout the City. The work consisted of local dig out repairs, slurry seal, signing and striping, and it was completed to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024 as complete, and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance



Agenda Item

City Council

Item #: 3.7.

2/27/2024

File #: 24-0093

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024; and authorization to file Notice of Completion.

2. SUMMARY

The City of Orange entered into a contract with Pavement Coatings Co. for the Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024 (Bid No. 23-24.03; SP-4259). The project included work on arterial and local streets throughout the City. The work consisted of local dig out repairs, slurry seal, signing and striping, and it was completed to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024 as complete, and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Orange
300 East Chapman Avenue
Orange, California 92866
Attention: City Clerk

[Space above this line for Recorder's use only.]

THIS DOCUMENT IS RECORDED AT THE REQUEST AND FOR THE BENEFIT OF THE CITY OF ORANGE AND IS EXEMPT FROM THE PAYMENT OF A RECORDING FEE PURSUANT TO GOVERNMENT CODE SECTIONS 6103 AND 27383.

NOTICE OF COMPLETION AND ACCEPTANCE

NOTICE IS HEREBY GIVEN that work on that certain public work and improvements known as “Annual Slurry Seal at Various Locations, Fiscal Year 2023-2024 (Bid No. 23-24.03; SP-4259)” (herein referred to as the “Project”), for the owner, the City of Orange, a municipal corporation (herein referred to as the “City”), whose address is 300 E. Chapman Avenue, Orange, CA 92866, was completed and accepted by the City Council of the City of Orange on February 27, 2024 at a regular meeting of its members, at which a quorum was present and acting throughout. The Project is at various locations throughout the City of Orange, State of California. The contractor who performed (or caused to be performed) said public work and improvements were Pavement Coatings Co., a California corporation, with its principal office at 10240 San Sevaine Way, Jurupa Valley, State of California.

The name of the surety on the Labor and Material Bond for the Project is The Ohio Casualty Insurance Company, New Hampshire (Bond No. 024268997) in the amount of \$618,500.00.

DATED as of the 27th day of February 2024.

CITY OF ORANGE, a municipal corporation

By: _____
Daniel R. Slater, Mayor, City of Orange

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Daniel R. Slater, Mayor of the City of Orange, state that I have read the foregoing document know the contents thereof, and that the facts therein stated are true of my own knowledge. I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED as of the 27th day of February 2024 at Orange, California.

Daniel R. Slater, Mayor, City of Orange

I, Pamela Coleman, City Clerk for the City of Orange, hereby attest that Daniel R. Slater is known to me to be the Mayor of the City of Orange and known to me to be the person who executed the within instrument on behalf of said municipal corporation and acknowledged to me that the City of Orange executed the same.

Pamela Coleman, City Clerk, City of Orange



Agenda Item

City Council

Item #: 3.8.

2/27/2024

File #: 24-0094

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Chapman and Hewes Intersection Signing and Striping Modifications; and authorization to file Notice of Completion.

2. SUMMARY

The City of Orange entered into a contract with Elecnor Belco Electric, Inc. for modifying the signing and striping on Chapman Avenue to accommodate dual left turn lanes at Hewes Street (Bid No. 22-23.36, SP-4252). The work included removing existing striping, applying fog seal to the existing pavement, and striping. The project was completed to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Chapman and Hewes Intersection Signing and Striping Modifications as complete, and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Orange
300 East Chapman Avenue
Orange, California 92866
Attention: City Clerk

[Space above this line for Recorder's use only.]

THIS DOCUMENT IS RECORDED AT THE REQUEST AND FOR THE BENEFIT OF THE CITY OF ORANGE AND IS EXEMPT FROM THE PAYMENT OF A RECORDING FEE PURSUANT TO GOVERNMENT CODE SECTIONS 6103 AND 27383.

NOTICE OF COMPLETION AND ACCEPTANCE

NOTICE IS HEREBY GIVEN that work on that certain public work and improvements known as "Chapman and Hewes Intersection Signing and Striping Modifications Project (Bid No. 22-23.36; SP-4252)" (herein referred to as the "Project"), for the owner, the City of Orange, a municipal corporation (herein referred to as the "City"), whose address is 300 E. Chapman Avenue, Orange, CA 92866, was completed and accepted by the City Council of the City of Orange on February 27, 2024 at a regular meeting of its members, at which a quorum was present and acting throughout. The Project is at the intersection of Chapman and Hewes in the City of Orange, State of California. The contractor who performed (or caused to be performed) said public work and improvements were Elecnor Belco Electric, a California corporation, with its principal office at 14320 Albers Way, Chino, State of California.

The name of the surety on the Labor and Material Bond for the Project is Liberty Mutual Insurance Company, MA (Bond No. 015221426) in the amount of \$118,120.00.

DATED as of the 27th day of February 2024.

CITY OF ORANGE, a municipal corporation

By: _____
Daniel R. Slater, Mayor, City of Orange

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Daniel R. Slater, Mayor of the City of Orange, state that I have read the foregoing document know the contents thereof, and that the facts therein stated are true of my own knowledge. I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED as of the 27th day of February 2024 at Orange, California.

Daniel R. Slater, Mayor, City of Orange

I, Pamela Coleman, City Clerk for the City of Orange, hereby attest that Daniel R. Slater is known to me to be the Mayor of the City of Orange and known to me to be the person who executed the within instrument on behalf of said municipal corporation and acknowledged to me that the City of Orange executed the same.

Pamela Coleman, City Clerk, City of Orange



Agenda Item

City Council

Item #: 3.9.

2/27/2024

File #: 24-0063

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Sourcewell Contract #CA-R8-GB01-123021-HCC, Gas Line Replacement at El Modena Library; and authorization to file Notice of Completion.

2. SUMMARY

The replacement of the gas line that supplies gas to the heaters at the El Modena Library has been completed. The heating units are now functioning as designed. The City had entered a contract with Horizon Construction Company International, Inc. for this work, and they have completed it to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Sourcewell Contract #CA-R8-GB01-123021-HCC, Gas Line Replacement at El Modena Library (SP-4273), as complete and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance



Agenda Item

City Council

Item #: 3.9.

2/27/2024

File #: 24-0063

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Sourcewell Contract #CA-R8-GB01-123021-HCC, Gas Line Replacement at El Modena Library; and authorization to file Notice of Completion.

2. SUMMARY

The replacement of the gas line that supplies gas to the heaters at the El Modena Library has been completed. The heating units are now functioning as designed. The City had entered a contract with Horizon Construction Company International, Inc. for this work, and they have completed it to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Sourcewell Contract #CA-R8-GB01-123021-HCC, Gas Line Replacement at El Modena Library (SP-4273), as complete and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion and Acceptance

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Orange
300 East Chapman Avenue
Orange, California 92866
Attention: City Clerk

[Space above this line for Recorder's use only.]

THIS DOCUMENT IS RECORDED AT THE REQUEST AND FOR THE BENEFIT OF THE CITY OF ORANGE AND IS EXEMPT FROM THE PAYMENT OF A RECORDING FEE PURSUANT TO GOVERNMENT CODE SECTIONS 6103 AND 27383.

NOTICE OF COMPLETION AND ACCEPTANCE

NOTICE IS HEREBY GIVEN that work on that certain public work and improvements known as "Gas Line Replacement at El Modena Library (Sourcewell Contract #CA-R8-GB01-123021-HCC (SP-4273))." (herein referred to as the "Project"), for the owner, the City of Orange, a municipal corporation (herein referred to as the "City"), whose address is 300 E. Chapman Avenue, Orange, CA 92866, was completed and accepted by the City Council of the City of Orange on March 12, 2024, at a regular meeting of its members, at which a quorum was present and acting throughout. The Project is at the El Modena Library at 380 W. Hewes Street in the City of Orange, State of California. The Contractor who performed (or caused to be performed) said public work and improvements were Horizons Construction Company International, Inc. California Corporation, with its principal office at 432 W. Meats Ave. Orange, the State of California.

The name of the surety on the Labor and Material Bond for the Project is The Great American Insurance Company (Bond# 5362302), of Ohio in the amount of \$49,133.69.

DATED as of the 27th day of February 2024.

CITY OF ORANGE, a municipal corporation

By: _____
Daniel R. Slater, Mayor, City of Orange

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Daniel R. Slater, Mayor of the City of Orange, state that I have read the foregoing document, know the contents thereof, and that the facts therein stated are true of my own knowledge. I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED as of the 27th day of February 2024 at Orange, California.

Daniel R. Slater, Mayor, City of Orange

I, Pamela Coleman, City Clerk for the City of Orange, hereby attest that Daniel R. Slater is known to me to be the Mayor of the City of Orange and known to me to be the person who executed the within instrument on behalf of said municipal corporation, and acknowledged to me that the City of Orange executed the same.

Pamela Coleman, City Clerk of the City of Orange



Agenda Item

City Council

Item #: 3.10.

2/27/2024

File #: 24-0096

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Final Acceptance of Annual Concrete Replacement at Various Locations, Fiscal Year 2022-2023; and authorization to file Notice of Completion.

2. SUMMARY

The City of Orange entered into a contract with S&H Civilworks for replacing damaged sidewalk, curb and gutter, and reconstructing the Americans with Disabilities Act sidewalk access ramps at various locations throughout the City (Bid No. 22-23.21, SP-4241). The work was completed to the satisfaction of the Public Works Department.

3. RECOMMENDED ACTION

Accept Annual Concrete Replacement at Various Locations, Fiscal Year 2022-2023 as complete, and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion

RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Orange
300 East Chapman Avenue
Orange, California 92866
Attention: City Clerk

[Space above this line for Recorder's use only.]

THIS DOCUMENT IS RECORDED AT THE REQUEST AND FOR THE BENEFIT OF THE CITY OF ORANGE AND IS EXEMPT FROM THE PAYMENT OF A RECORDING FEE PURSUANT TO GOVERNMENT CODE SECTIONS 6103 AND 27383.

NOTICE OF COMPLETION AND ACCEPTANCE

NOTICE IS HEREBY GIVEN that work on that certain public work and improvements known as "Annual Concrete Replacement at Various Locations, Fiscal Year 2022-2023 (Bid No. 22-23.21; SP-4241)" (herein referred to as the "Project"), for the owner, the City of Orange, a municipal corporation (herein referred to as the "City"), whose address is 300 E. Chapman Avenue, Orange, CA 92866, was completed and accepted by the City Council of the City of Orange on February 27, 2024 at a regular meeting of its members, at which a quorum was present and acting throughout. The Project is at various locations throughout the City of Orange, State of California. The contractor who performed (or caused to be performed) said public work and improvements were S&H Civilworks, a California corporation, with its principal office at 1801 Hilltop Drive, Colton, State of California.

The name of the surety on the Labor and Material Bond for the Project is The Philadelphia Indemnity Insurance Company, Pennsylvania (Bond No. PB03081700584) in the amount of \$1,038,950.00.

DATED as of the 27th day of February 2024.

CITY OF ORANGE, a municipal corporation

By: _____
Daniel R. Slater, Mayor, City of Orange

STATE OF CALIFORNIA
COUNTY OF ORANGE

I, Daniel R. Slater, Mayor of the City of Orange, state that I have read the foregoing document know the contents thereof, and that the facts therein stated are true of my own knowledge. I hereby declare under penalty of perjury that the foregoing is true and correct.

DATED as of the 27th day of February 2024 at Orange, California.

Daniel R. Slater, Mayor, City of Orange

I, Pamela Coleman, City Clerk for the City of Orange, hereby attest that Daniel R. Slater is known to me to be the Mayor of the City of Orange and known to me to be the person who executed the within instrument on behalf of said municipal corporation and acknowledged to me that the City of Orange executed the same.

Pamela Coleman, City Clerk, City of Orange



Agenda Item

City Council

Item #: 3.10.

2/27/2024

File #: 24-0096

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

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3. RECOMMENDED ACTION

Accept Annual Concrete Replacement at Various Locations, Fiscal Year 2022-2023 as complete, and authorize staff to file Notice of Completion with the County Recorder.

4. ATTACHMENTS

- Notice of Completion



Agenda Item

City Council

Item #: 3.11.

2/27/2024

File #: 24-0113

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Declare the unimproved right-of-way located at 515 Fletcher Avenue, east of Glassell Street, as surplus to the City's needs and authorize the disposal of the property. Resolution No. 11526.

2. SUMMARY

Resolution No. 11526 will declare that certain City-owned real property located at 515 Fletcher Avenue, east of Glassell Street, as exempt surplus land under Government Code Section 54221 and find that the foregoing action is exempt from review under the California Environmental Quality Act.

3. RECOMMENDED ACTION

Adopt Resolution No. 11526. A Resolution of the City Council of the City of Orange finding that certain City-owned real property located at 515 Fletcher Avenue east of Glassell Street in the City of Orange is exempt surplus land pursuant to Government Code Section 54221 and finding that the foregoing action is exempt from review under the California Environmental Quality Act.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

d: Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

The City of Orange ("City") is addressing the status of a parcel of real property identified as a portion of 515 Fletcher Avenue ("Property"), an unimproved 10-foot strip of the right-of-way on Fletcher Avenue, between Glassell Street and the eastern railroad tracks. Although the northern half of Fletcher Avenue's right-of-way, approximately 50 feet, is developed with sidewalks and street pavement, the southern portion remains an unimproved dirt area, spanning approximately 11,581 square feet. This undeveloped section, while connecting adequately to Heartside and Beachwood Streets, has required maintenance from the City over the years, accruing costs associated with trash and weed removal.

Recognizing that the existing street infrastructure is sufficient for current connectivity, and the Property is not necessary for the City's use, and further, that the Property is less than one-half acre

and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes, the City wishes to classify this land as "exempt surplus land" pursuant to Section 54221(f)(1)(B) of the Surplus Land Act (Government Code sections 54220, et seq., as amended by AB 1486). While a pre-adoption review of proposed Resolution No.11526 was not required, a copy of this Resolution was submitted to the Public Lands Team at the Department of Housing and Community Development ("HCD"). The City was thereafter advised that the proposed Resolution No. 11526 meets the requirements for an exemption. Therefore, staff recommends approval of Resolution No. 11526, officially declaring the Property as "exempt surplus land."

Declaration that the Property is "exempt surplus land" does not require review under California Environmental Quality Act ("CEQA") because it is not a project as defined by the CEQA Guidelines, Section 15378, because adopting this Resolution does not have the potential for creating a significant effect on the environment.

The City will be required to send Resolution No. 11526 to HCD 30 days before disposition of the Property. HCD will thereafter issue a letter finding that the Property may be disposed of without any further action under the Surplus Land Act. Staff is exploring an opportunity with the adjoining property owner to potentially swap the property, upon HCD clearance, for a future water well site.

7. ATTACHMENTS

- Resolution No. 11526

RESOLUTION NO. 11526

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE FINDING THAT CERTAIN CITY-OWNED REAL PROPERTY LOCATED AT 515 FLETCHER AVENUE EAST OF GLASSELL STREET IN THE CITY OF ORANGE IS EXEMPT SURPLUS LAND PURSUANT TO GOVERNMENT CODE SECTION 54221 AND FINDING THAT THE FOREGOING ACTION IS EXEMPT FROM REVIEW UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

WHEREAS, the City of Orange (“City”) is a municipal corporation exercising governmental functions and powers, organized and existing under the laws of the State of California; and

WHEREAS, the City owns in fee simple certain real property, which consists of approximately 11,581 square feet and commonly known as a portion of 515 Fletcher Avenue E/O Glassell Street, as described in Exhibit A and depicted in Exhibit B, both incorporated herein by this reference (“Property”); and

WHEREAS, the Surplus Land Act, Government Code sections 54220, *et seq.* (as amended, the “Act”) applies when a local agency disposes of “surplus land,” as that term is defined in Government Code section 54221; and

WHEREAS, the Property is “surplus land” under the Act because it is land owned in fee simple by the City and is not necessary for the City’s use and for which the City Council will take formal action (in the form of adoption of this Resolution) in a regular public meeting declaring that the land is surplus; and

WHEREAS, pursuant to the Act, at Government Code section 54221(f)(1)(B), as recently amended by the California Legislature by Senate Bill 747 (“SB 747”) and Assembly Bill 480 (“AB 480”), “exempt surplus land” includes property that is “less than one-half acre and is not contiguous to land owned by a state or local agency that is used for open-space or low-and moderate-income housing purposes”; and

WHEREAS, as further contained in subsection (f)(2), to be considered exempt surplus land under Government Code Section 54221(f)(1)(B) that does not require that a notice of availability for open space purposes be sent pursuant Government Code section 54222(b) prior to disposition, the property must not be (i) within a coastal zone, (ii) adjacent to a historical unit of the State Parks System, (iii) listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places, or (iv) within the Lake Tahoe region as defined in Section 66905.5; and

WHEREAS, Government Code section 54222.3 provides that “this article shall not apply to the disposal of exempt surplus land as defined in Section 54221 by an agency of the state or any local agency”; and

WHEREAS, while pre-adoption review of a local agency’s resolution finding land to be exempt surplus land under the Act is encouraged but not required, a copy of this Resolution was submitted to the Public Lands Team at the Department of Housing and Community Development (“HCD”) on or about January 4, 2024 and a response from HCD was received on or about January 18, 2024 advising that the draft Resolution meets the requirements for an exemption and requesting a copy of the adopted Resolution once available for HCD to provide a findings letter; and

WHEREAS, the City Council desires to declare the Property as “exempt surplus land” consistent with and in compliance with the Act and that a copy of this Resolution be transmitted to HCD at least thirty (30) days prior to disposition, per HCD Guidelines.

WHEREAS, the City Council believes that the sale of the Property is for the common benefit of the City and its residents, and in accord with the public purposes and provisions of applicable State and local law requirements.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Orange, on the basis of the facts set forth in the agenda report presented to it and any testimony received at the meeting at which this matter was considered, as follows:

1. The foregoing recitals are true and correct.
2. That this Resolution has been reviewed with respect to the applicability of the California Environmental Quality Act (Public Resources Code Section 21000, *et seq.*) (“CEQA”). Designation of the Property as exempt surplus land does not have the potential for creating a significant effect on the environment and is therefore exempt from further review under CEQA pursuant to CEQA Guidelines Section 15060(c)(3), because it is not a project as defined by the CEQA Guidelines, Section 15378. Adoption of this Resolution does not have the potential for resulting in either a direct physical change in the environment or a reasonably foreseeable indirect physical change in the environment.
3. That (1) the Property is surplus land because it is not necessary for the City’s use; (2) the Property is exempt surplus land, pursuant to Government Code section 54221(f)(1)(B)(i) because it is (i) less than one-half acre and (ii) not contiguous to land owned by owned by a state or local agency that is used for open-space or low-and moderate-income housing purposes; and (3) the Property is not (i) within a coastal zone, (ii) adjacent to a historical unit of the State Parks System, (iii) listed on, or determined by the State Office of Historic Preservation to be eligible for, the National Register of Historic Places, or (iv) within the Lake Tahoe region as defined in Section 66905.5, and therefore no notice of availability of the Parcel for open space purposes is required pursuant to Government Code section 54221(f)(2).

4. The City Manager, or designee, is authorized to take all steps necessary to dispose of the Property, no less than thirty (30) days after submission of this Resolution to HCD, per HCD Guidelines.

ADOPTED this ____ day of _____, 2024

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Mike Vigliotta

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the ____ day of _____, 2024 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

R314787.01

9-29-2022

EXHIBIT "A"
LEGAL DESCRIPTION
QUITCLAIM DEED

That portion of the Resubdivision of the Town of Saint James, in the City of Orange, County of Orange, State of California, as per map recorded in Book 3, Page 25 of Miscellaneous maps, in the office of the County Recorder of said County, described as follows:

Beginning at Northeast corner of the land described as the "South 20 feet of the North 40 feet of the West 170 feet" in that certain Grant Deed to the City of Orange, recorded April 8, 1965, in Book 7476, Page 424, of Official Records, in said office of the County Recorder; thence along a line parallel with and 20.00 feet Southerly of the centerline of Fletcher Avenue as shown on Tract No. 4231, in the City of Orange, County of Orange, State of California, as per map filed in Book 155, Pages 36 and 37, of Miscellaneous Maps, in said office of the County Recorder, South 84°09'49" East 1,015.03 feet to the Westerly line of the Atchison, Topeka and Santa Fe Railway Company Right of Way; thence along said Right of Way North 16°20'23" East 11.70 feet to a line parallel with and 8.50 feet Southerly of said centerline of Fletcher Avenue; thence along said parallel line North 84°09'49" West 946.45 feet to the beginning of a curve concave Southerly, having a radius of 549.50 feet; thence Westerly 71.68 feet along said curve through a central angle of 07°29'41" to the Northerly prolongation of the Easterly line of said land described as the "South 20 feet of the North 40 feet of the West 170 feet"; thence, non-tangent South 21°12'56" East 6.87 feet to the Point of Beginning.

Containing an area of 11,581 square feet, more or less.

Subject to covenants, conditions, reservations, restrictions, rights-of-way and easements, if any, of record.

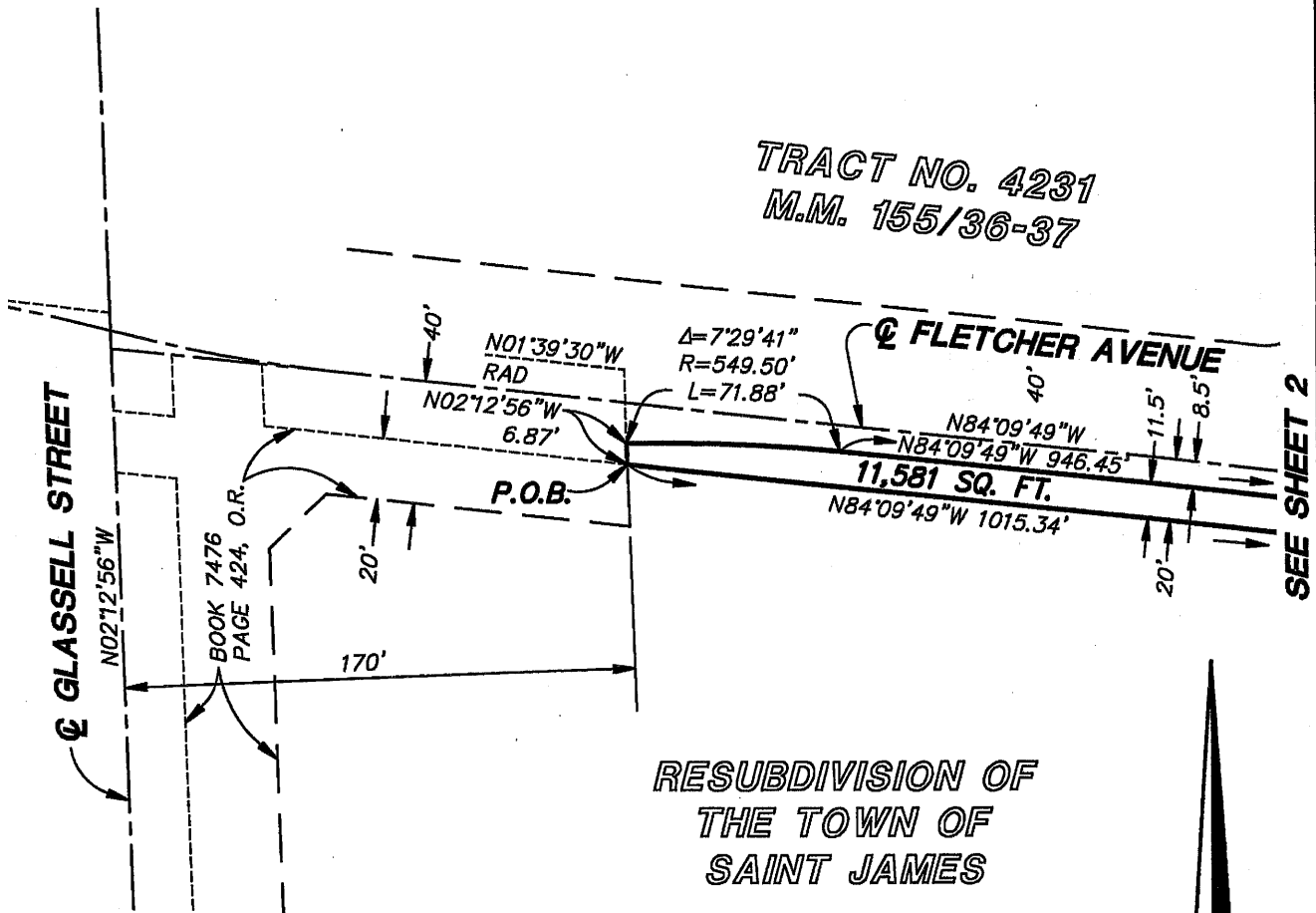
All as shown on Exhibit "B" attached hereto and by this reference made a part hereof.

David W. Mackey

DAVID W. MACKEY, PLS 8912



TRACT NO. 4231
M.M. 155/36-37



RESUBDIVISION OF
THE TOWN OF
SAINT JAMES

M.B. 3/25



SEE SHEET 2

HUITT-ZOLLARS

Huitt-Zollars, Inc. Irvine
2603 Main Street, Suite 400, Irvine, CA 92614
Phone (949) 988-5815 Fax (949) 988-5820

SKETCH TO ACCOMPANY
A LEGAL DESCRIPTION

EXHIBIT 'B'
QUITCLAIM DEED

SCALE	1"=60'
DRAWN BY	RAD
CHECKED BY	DWM
DATE	9/29/2022
JOB NO.	R314787.01

APPROVED BY

David W. Mackey

9/29/2022

TRACT NO.
4231
M.M. 155/36-37

TRACT NO.
4557
M.M. 160/34-36

HEARTSIDE STREET

BEECHWOOD STREET

FLETCHER AVENUE

N84°09'49"W

N84°09'49"W 946.45'

11,581 SQ. FT.

N84°09'49"W 1015.34'

40'

8.50'

20'

11.50'

RESUBDIVISION OF
THE TOWN OF
SAINT JAMES

M.B. 3/25

SEE BELOW LEFT

SEE SHEET 1



SCALE: 1"=60'

TRACT NO. 4557
M.M. 160 / 34 - 36

FLETCHER AVENUE

N84°09'49"W

N84°09'49"W 946.45'

11,581 SQ. FT.

N84°09'49"W 1015.34'

40'

8.50'

20'

11.50'

RESUBDIVISION OF
THE TOWN OF
SAINT JAMES

M.B. 3/25

WLY ROW LINE
A.T. & S.F.
RAILROAD CO.

N14°51'18"E
11.64'

SEE ABOVE RIGHT



Agenda Item

City Council

Item #: 3.11.

2/27/2024

File #: 24-0113

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Declare the unimproved right-of-way located at 515 Fletcher Avenue, east of Glassell Street, as surplus to the City's needs and authorize the disposal of the property. Resolution No. 11526.

2. SUMMARY

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3. RECOMMENDED ACTION

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4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

d: Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

The City of Orange ("City") is addressing the status of a parcel of real property identified as a portion of 515 Fletcher Avenue ("Property"), an unimproved 10-foot strip of the right-of-way on Fletcher Avenue, between Glassell Street and the eastern railroad tracks. Although the northern half of Fletcher Avenue's right-of-way, approximately 50 feet, is developed with sidewalks and street pavement, the southern portion remains an unimproved dirt area, spanning approximately 11,581 square feet. This undeveloped section, while connecting adequately to Heartside and Beachwood Streets, has required maintenance from the City over the years, accruing costs associated with trash and weed removal.

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and is not contiguous to land owned by a state or local agency that is used for open-space or low- and moderate-income housing purposes, the City wishes to classify this land as "exempt surplus land" pursuant to Section 54221(f)(1)(B) of the Surplus Land Act (Government Code sections 54220, et seq., as amended by AB 1486). While a pre-adoption review of proposed Resolution No.11526 was not required, a copy of this Resolution was submitted to the Public Lands Team at the Department of Housing and Community Development ("HCD"). The City was thereafter advised that the proposed Resolution No. 11526 meets the requirements for an exemption. Therefore, staff recommends approval of Resolution No. 11526, officially declaring the Property as "exempt surplus land."

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7. ATTACHMENTS

- Resolution No. 11526



Agenda Item

City Council

Item #: 7.1.

2/27/2024

File #: 24-0068

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Trang Nguyen, Finance Director

1. SUBJECT

Agreement with Tyler Technologies Inc. for the upgrade of the City's enterprise resource planning system.

2. SUMMARY

The three-year agreement with Tyler Technologies, Inc would upgrade the City's current enterprise resource planning system and provide implementation support and conversion from the City's current financial system. In addition, the agreement covers two additional years of annual subscription and maintenance support.

3. RECOMMENDED ACTION

1. Approve the agreement with Tyler Technologies Inc. in the total amount of \$2,021,392, representing the original proposed amount of \$1,837,629, plus a 10% contingency of \$183,763; and authorize the Mayor and City Clerk to execute on behalf of the City.
2. Authorize the appropriation of \$1,295,000 from the unreserved fund balance to:
 - 790.1601.56033.20391 Computer Replacement Fund - Financial System Replacement \$910,000
 - 600.1222.56510.20391 Water Fund - Financial System Replacement \$385,000

4. FISCAL IMPACT

The expense for this agreement is not-to-exceed \$2,021,392 and will be funded through:

600.1222.56510.20391 - Water Fund - Financial System Replacement	\$384,576
790.1601.56033.20391 - Computer Replacement Fund -	
Financial System Replacement	<u>1,636,816</u>
Total:	\$2,021,392

Upon approval of this appropriation, the estimated fund balance for Fund 600 at June 30, 2024 will be approximately \$12.4 million and the estimated fund balance for Fund 790 at June 30, 2024 will be approximately \$4.3 million.

5. STRATEGIC PLAN GOALS

- Goal 2: Be a fiscally healthy community
 - a: Expend fiscal resources responsibly.
 - d: Effectively manage and develop City assets.

6. DISCUSSION AND BACKGROUND

The City of Orange has utilized the Tyler Technologies Eden Enterprise Resource Planning (ERP) System as its primary financial software program since 2009, and the system has provided the necessary basic services that the City has needed in managing its financial assets. Since that time, the City has grown and developed; and the technology has progressed considerably since the initial implementation of this ERP system.

Effective March 2027, the existing Tyler Eden system will sunset and will no longer be supported. Tyler Technologies has since launched the Tyler Enterprise ERP (formerly known as Tyler Munis) as its flagship product to replace the older Tyler Eden system. Tyler Enterprise ERP is a leading ERP system, being used by more than 2,000 public agencies nationwide. Tyler Enterprise provides a fully integrated system that will allow the City to increase productivity, gain efficiencies, and improve overall operational effectiveness. The new system will allow the City to automate many manual workflows and business processes. Notably, the new system will provide improved reporting options in contrast to the currently limited reporting capabilities with the Tyler Eden system.

If approved, the City of Orange Finance department will work closely with the Tyler representative to schedule the timing for implementation of the various modules that are proposed for approval in the agreement. The tentative schedule currently identifies the kick-off of the conversion to take place in April/May 2024, with the projected completion within 18-24 months.

The implementation of Tyler Enterprise ERP will replace the four existing systems/programs with an annual cost of approximately \$359,000, which is about \$26,000 more than the annual cost of the existing system. It is also important to note that the implementation and conversion cost is only billable upon use. The table below summarizes the costs and savings of the project.

	Year 1	Year 2	Year 3	Total
Implementation and Conversion	\$839,832			\$839,832
Annual fees	332,929	332,434*	332,434*	997,797
Contingency	183,763			183,763
Total Budget	\$1,356,524	\$332,434	\$332,434	\$2,021,392
Estimated savings from current systems/programs		(26,566)	(26,566)	(53,132)

**Year 2 and 3 does not include \$495 maintenance fees payable to a third-party software/hardware service such as printer, scanner, and cash register.*

The estimated project cost of over \$2 million does not include a Project Manager. Staff is evaluating the need of a Project Manager and will include in the proposed FY 2024-25 budget request, if needed.

7. ATTACHMENTS

- Agreement with Tyler Technologies, Inc.



Agenda Item

City Council

Item #: 7.1.

2/27/2024

File #: 24-0068

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THRU: Tom Kisela, City Manager

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Financial System Replacement	<u>1,636,816</u>
Total:	\$2,021,392

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The implementation of Tyler Enterprise ERP will replace the four existing systems/programs with an annual cost of approximately \$359,000, which is about \$26,000 more than the annual cost of the existing system. It is also important to note that the implementation and conversion cost is only billable upon use. The table below summarizes the costs and savings of the project.

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The estimated project cost of over \$2 million does not include a Project Manager. Staff is evaluating the need of a Project Manager and will include in the proposed FY 2024-25 budget request, if needed.

7. ATTACHMENTS

- Agreement with Tyler Technologies, Inc.

SOFTWARE SERVICES AGREEMENT
[Enterprise Resource Planning Services]

THIS SOFTWARE SERVICES AGREEMENT (the “Agreement”) is made at Orange, California, on this ____ day of _____, 2024 (the “Effective Date”) by and between the CITY OF ORANGE, a municipal corporation (“City”), and TYLER TECHNOLOGIES, INC., a California corporation (“Contractor”), who agree as follows:

1. Services. Subject to the terms and conditions set forth in this Agreement, Contractor shall provide the services set forth in the Tyler Technologies Software as a Service Agreement (the “Tyler SaaS Contract”), which is attached hereto and incorporated herein by reference. As a material inducement to City to enter into this Agreement, Contractor represents and warrants that it has investigated and considered the scope of services and understands the difficulties and restrictions in performing the work to the extent the City has represented any such difficulties and restrictions. The services which are the subject of this Agreement are not in the usual course of City’s business and City relies on Contractor’s representation that it is independently engaged in the business of providing such services and is experienced in performing the work. Contractor shall perform all services in a manner in conformance with Contractor’s services warranty set forth in Section C(5) of the Tyler SaaS Contract. All services provided shall conform to all applicable federal, state, and local laws, rules and regulations. The City understands that the actual amount of services and expenses depends on some factors outside of Contractor’s control, such as the City’s level of involvement in the project and the speed of knowledge transfer. The terms and conditions set forth in this Agreement shall control over any terms and conditions in the Tyler SaaS Contract to the contrary.

Trang Nguyen, Finance Director (“City’s Project Manager”), shall be the person to whom Contractor will report for the performance of services hereunder. It is understood that Contractor’s performance hereunder shall be under the supervision of City’s Project Manager (or his/her designee), that Contractor shall coordinate its services hereunder with City’s Project Manager to the extent required by City’s Project Manager, and that all performances required hereunder by Contractor shall be performed in accordance with the Services Warranty set forth in the Tyler SaaS Contract, Section C(5) to the satisfaction of City’s Project Manager and the City Manager.

2. Compensation and Fees.

a. The City agrees to pay Contractor the professional services fees in the amounts set forth in the Investment Summary (attached as Exhibit A to the Tyler SaaS Contract). Those amounts are payable in accordance with Contractor’s Invoicing and Payment Policy (attached as Exhibit B to the Tyler SaaS Contract). The City acknowledges that the fees stated in the Investment Summary are good-faith estimates of the amount of time and materials required for the City’s implementation. Contractor will bill the City the actual fees incurred based on the in-scope services provided to the City. Any discrepancies in the total values set forth in the Investment Summary will be resolved by multiplying the applicable hourly rate by the quoted hours. As of the Effective Date, the estimated total compensation for all services performed under this Agreement during the three (3) year initial term is ONE MILLION EIGHT HUNDRED

THIRTY-SEVEN THOUSAND SIX HUNDRED TWENTY-NINE DOLLARS and 0/100 (\$1,837,629.00). For avoidance of doubt, no services beyond those listed in the Investment Summary will be added to the Agreement without mutual written consent of the parties.

b. The estimated total compensation amount listed in (a) above includes a one-time fee of EIGHT HUNDRED THIRTY-NINE THOUSAND EIGHT HUNDRED THIRTY-TWO and 0/100 (\$839,832.00) and annual recurring fees of THREE HUNDRED THIRTY-TWO THOUSAND NINE HUNDRED TWENTY-NINE and 0/100 (\$332,929.00).

c. The above compensation does not include any travel expenses, but does include the following costs: all clerical, administrative, overhead, insurance, reproduction, and telephone related expenses.

3. Payment.

a. As scheduled services are completed, Contractor shall submit to City an invoice for the services completed, including expenses and authorized extra work actually performed or incurred.

b. All such invoices shall state the basis for the amount invoiced, including services completed, the number of hours spent and any extra work performed.

c. City will pay Contractor the amount invoiced within forty-five (45) days of the invoice date.

d. Full payment of an invoice shall constitute payment in full for all services, authorized costs and authorized extra work covered by that invoice.

4. Change Orders. No payment for extra services caused by a change in the scope or complexity of work, or for any other reason, shall be made unless and until such extra services and a price therefor have been previously authorized in writing and approved by City as an amendment to this Agreement. City's Project Manager is authorized to approve a reduction in the services to be performed and compensation therefor. All amendments shall set forth the changes of work, extension of time, and/or adjustment of the compensation to be paid by City to Contractor and shall be signed by the City's Project Manager, City Manager or City Council, as applicable.

5. Licenses. Contractor represents that it and any subcontractors it may engage, possess any and all licenses which are required under state or federal law to perform the work contemplated by this Agreement and that Contractor and its subcontractors shall maintain all appropriate licenses, including a City of Orange business license, at its cost, during the performance of this Agreement.

6. Independent Contractor. At all times during the term of this Agreement, Contractor shall be an independent contractor and not an employee of City. City shall have the right to control Contractor only insofar as the result of Contractor's services rendered pursuant to this Agreement. City shall not have the right to control the means by which Contractor

accomplishes services rendered pursuant to this Agreement. Contractor shall, at its sole cost and expense, furnish all facilities, materials and equipment which may be required for furnishing services pursuant to this Agreement. Contractor shall be solely responsible for all matters relating to the payment of its subcontractors, agents and employees, including compliance with social security withholding and all other wages, salaries, benefits, taxes, exactions, and regulations of any nature whatsoever. Contractor acknowledges that it and any subcontractors, agents or employees employed by Contractor shall not, under any circumstances, be considered employees of City, and that they shall not be entitled to any of the benefits or rights afforded employees of City, including, but not limited to, sick leave, vacation leave, holiday pay, Public Employees Retirement System benefits, or health, life, dental, long-term disability or workers' compensation insurance benefits.

7. **Contractor Not Agent.** Except as City may specify in writing, Contractor shall have no authority, express or implied, to act on behalf of City in any capacity whatsoever as an agent. Contractor shall have no authority, express or implied, to bind City to any obligation whatsoever.

8. **Designated Persons.** Reserved.

9. **Assignment or Subcontracting.** This Agreement shall be binding on, and shall be for the benefit of, either the City's or Contractor's successor(s) or permitted assign(s). No assignment or subcontracting by Contractor of any part of this Agreement or of funds to be received under this Agreement shall be of any force or effect unless the assignment or subcontracting has the prior written approval of City, not to be unreasonably withheld; provided, however, the City's consent is not required for an assignment by Contractor as a result of a corporate reorganization, merger, acquisition, or purchase of substantially all of Contractor's assets. Such assignment or subcontracting may be approved by the City Manager or designee. The City may not assign this Agreement without the prior written consent of Contractor.

10. **Time of Completion.** Reserved.

11. **Time Is of the Essence.** Reserved.

12. **Liquidated Damages.** Reserved.

13. **Delays and Extensions of Time.** See Section H(9) (Force Majeure) of the Tyler SaaS Contract.

14. **Products of Contractor.** Reserved.

15. **Equal Employment Opportunity.** During the performance of this Agreement, Contractor agrees as follows:

a. Contractor shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin, mental or physical disability that is unrelated to the individual's ability to perform the duties of a particular job or position, or any

other basis prohibited by applicable law. Contractor shall ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, national origin, mental or physical disability that is unrelated to the individual's ability to perform the duties of a particular job or position, or any other basis prohibited by applicable law. Such actions shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rates of pay or other forms of compensation and selection for training, including apprenticeship. Contractor agrees to post in conspicuous places, available to employees and applicants for employment, all notices related to non-discrimination as may be required by applicable law.

b. Contractor shall, in all solicitations and advertisements for employees placed by, or on behalf of Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin, mental or physical disability, or any other basis prohibited by applicable law.

c. Contractor shall cause the foregoing paragraphs (a) and (b) to be inserted in all subcontracts for any work covered by this Agreement, provided that the foregoing provisions shall not apply to subcontracts for standard commercial supplies or raw materials.

16. Conflicts of Interest. Contractor agrees that it shall not make, participate in the making, or in any way attempt to use its position as a consultant to influence any decision of City in which Contractor knows or has reason to know that Contractor, its officers, partners, or employees have a financial interest as defined in Section 87103 of the Government Code.

17. Indemnity. See Sections G(1) and G(2.2) of the Tyler SaaS Contract.

18. Insurance.

a. Contractor shall carry workers' compensation insurance as required by applicable law for the protection of its employees during the progress of the work. Contractor understands that it is an independent contractor and not entitled to any workers' compensation benefits under any City program.

b. Contractor shall maintain during the life of this Agreement the following minimum amount of comprehensive general liability insurance or commercial general liability insurance: One Million Dollars (\$1,000,000.00) per claim; Two Million Dollars (\$2,000,000) in the aggregate. Said insurance shall cover bodily injury, death and property damage and be written on an occurrence basis.

c. Contractor shall maintain during the life of this Agreement, the following minimum amount of automotive liability insurance: a combined single limit of One Million Dollars (\$1,000,000.00) per claim. Said insurance shall cover bodily injury, death and property damage for all owned, non-owned and hired vehicles.

d. No representation is made that the minimum insurance requirements of this Agreement are sufficient to cover the obligations of Contractor under this Agreement.

e. Each policy of general liability and automotive liability shall provide that City, its officers, officials, agents, and employees are included as additional insureds under the terms of the policy for claims caused, in whole or in part, by Contractor as respects this Agreement. Contractor will provide copies of certificates of insurance listing the City as certificate holder upon the City's written request. The minimum coverage required by Subsection 18.b and c, above, shall apply to City as an additional insured. Any umbrella liability insurance that is provided as part of the general or automobile liability minimums set forth herein shall be maintained for the duration of the Agreement.

f. Contractor shall maintain during the life of this Agreement professional liability insurance covering errors and omissions arising out of the performance of this Agreement with a minimum limit of One Million Dollars (\$1,000,000.00) per claim. Contractor agrees to keep such policy in force and effect, or to purchase extended reporting rights, for at least three (3) years from the date of completion of this Agreement.

g. The commercial general liability and automobile liability insurance policies maintained by Contractor shall be primary insurance for claims that are caused, in whole or in part, by Tyler as respects the contract. Contractor will determine its own needs in procurement of insurance to cover liabilities other than as stated above.

h. Upon written request, Contractor shall furnish certificates of insurance, as required by City, evidencing the aforementioned minimum insurance coverages on standard Acord forms.

i. Except for professional liability insurance coverage that may be required by this Agreement, all insurance maintained by Contractor shall be issued by companies admitted to conduct the pertinent line of insurance business in California and having a rating of Grade A- or better and Class VII or better by the latest edition of Best Key Rating Guide. In the case of professional liability insurance coverage, such coverage shall be issued by companies either licensed or admitted to conduct business in California so long as such insurer possesses the aforementioned Best rating.

j. Contractor will provide the City with notice of cancellation or non-renewal, or reduction in Contractor's insurance coverages below the minimum requirements set forth in this Agreement within thirty (30) days thereof unless replaced.

k. Contractor agrees to waive subrogation on claims under Contractor's commercial general liability or automobile liability policies that arise out of or relate to this Agreement and are between Contractor and City, except to the extent the damage or injury is caused by the City.

l. All coverages for subcontractors shall be subject to all of the requirements stated herein.

19. Termination. See Section F of the Tyler SaaS Contract.

20. Maintenance and Inspection of Records. In accordance with generally accepted accounting principles, Contractor shall maintain reasonably full and complete books, documents, papers, accounting records, and other information (collectively, the “records”) pertaining to the costs of and completion of services performed under this Agreement. City and its authorized representatives shall have access to and the right to audit and reproduce any of Contractor's records regarding the services provided under this Agreement, once per year on one-week advance written notice, and at City’s expense. Unless otherwise agreed, the location of the records will be the Contractor office servicing this Agreement during Contractor’s normal business hours. The audit will not include access to Contractor’s personnel records, or conditions of employment. Contractor shall maintain all such records for the greater of five (5) years from their creation or the period required by applicable law.

21. Compliance with all Laws/Immigration Laws.

a. Contractor shall comply with all local, state and federal laws which are applicable to the performance of this Agreement.

b. Reserved.

c. Contractor represents and warrants that it:

(1) Has complied and shall at all times during the term of this Agreement comply, in all respects, with all immigration laws, regulations, statutes, rules, codes, and orders, including, without limitation, the Immigration Reform and Control Act of 1986 (IRCA); and

(2) Has not and will not knowingly employ any individual to perform services under this Agreement who is ineligible to work in the United States or under the terms of this Agreement; and

(3) Has properly maintained, and shall at all times during the term of this Agreement properly maintain, all related employment documentation records including, without limitation, the completion and maintenance of the Form I-9 for each of Contractor’s employees; and

(4) Has responded, and shall at all times during the term of this Agreement respond, in a timely fashion to any government inspection requests relating to immigration law compliance and/or Form I-9 compliance and/or worksite enforcement by the Department of Homeland Security, the Department of Labor, or the Social Security Administration.

d. Contractor shall require all subcontractors or subconsultants to make the same representations and warranties as set forth in Subsection 21.c.

e. Reserved.

f. Reserved.

g. If Contractor or subcontractor knowingly employs an employee providing work under this Agreement who is not authorized to work in the United States, and/or fails to follow federal laws to determine the status of such employee, that may constitute a material breach of this Agreement and may be cause for termination of this Agreement by City in accordance with Section F(2.2) of the Tyler SaaS Contract.

h. Reserved.

22. Governing Law and Venue. This Agreement shall be construed in accordance with and governed by the laws of the State of California and Contractor agrees to submit to the jurisdiction of California courts. Venue for any dispute arising under this Agreement shall be in the State or Federal courts serving Orange County, California.

23. Integration. See Section H(11) of the Tyler SaaS Contract.

24. Notice. Except as otherwise provided herein, all notices required under this Agreement shall be in writing and delivered personally, by e-mail, or by first class U.S. mail, postage prepaid, to each party at the address listed below. Either party may change the notice address by notifying the other party in writing. Notices shall be deemed received upon receipt of same or within three (3) days of deposit in the U.S. Mail, whichever is earlier. Notices sent by e-mail shall be deemed received on the date of the e-mail transmission.

“CONTRACTOR”

“CITY”

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attn.: Chief Legal Officer

City of Orange
300 E. Chapman Avenue
Orange, CA 92866-1591
Attn.: Trang Nguyen

Telephone: 972-713-3720
E-Mail: abigail.diaz@tylertech.com

Telephone: 714-744-2235
E-Mail: nguyent@cityoforange.org

25. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. Signatures transmitted via facsimile and electronic mail shall have the same effect as original signatures.

[Remainder of page intentionally left blank; signatures on next page]

IN WITNESS of this Agreement, the parties have entered into this Agreement as of the year and day first above written.

“CONTRACTOR”

“CITY”

TYLER TECHNOLOGIES, INC.,
a California corporation

CITY OF ORANGE, a municipal corporation

By: _____
Brian Miller,
Executive Vice President & Chief Financial Officer

By: _____
Daniel R. Slater, Mayor

By: _____
Abigail Diaz, Chief Legal Officer

ATTEST:

Pamela Coleman, City Clerk

APPROVED AS TO FORM:

Nathalie Adourian
Senior Assistant City Attorney

- *NOTE:**
- City requires the following signature(s) on behalf of the Contractor:
 - (1) the Chairman of the Board, the President or a Vice-President, AND (2) the Secretary, the Chief Financial Officer, the Treasurer, an Assistant Secretary or an Assistant Treasurer. If only one corporate officer exists or one corporate officer holds more than one corporate office, please so indicate. OR
 - The corporate officer named in a corporate resolution as authorized to enter into this Agreement. A copy of the corporate resolution, certified by the Secretary close in time to the execution of the Agreement, must be provided to City.

√

EXHIBIT “A”

SCOPE OF SERVICES

[Beneath this sheet.]



SOFTWARE AS A SERVICE AGREEMENT

This Software as a Service Agreement is made between Tyler Technologies, Inc. and Client.

WHEREAS, Client selected Tyler to provide certain products and services set forth in the Investment Summary, including providing Client with access to Tyler's proprietary software products, and Tyler desires to provide such products and services under the terms of this Agreement;

NOW THEREFORE, in consideration of the foregoing and of the mutual covenants and promises set forth in this Agreement, Tyler and Client agree as follows:

SECTION A – DEFINITIONS

- **“Agreement”** means this Software as a Services Agreement.
- **“Base Agreement”** means the Software Services Agreement to which this Agreement is attached.
- **“Business Travel Policy”** means our business travel policy. A copy of our current Business Travel Policy is attached as Schedule 1 to Exhibit B.
- **“Client”** means the City of Orange, California.
- **“Data”** means your data necessary to utilize the Tyler Software.
- **“Data Storage Capacity”** means the contracted amount of storage capacity for your Data identified in the Investment Summary.
- **“Defect”** means a failure of the Tyler Software to substantially conform to the functional descriptions set forth in our written proposal to you, or their functional equivalent. Future functionality may be updated, modified, or otherwise enhanced through our maintenance and support services, and the governing functional descriptions for such future functionality will be set forth in our then-current Documentation.
- **“Defined Users”** means the number of users that are authorized to use the SaaS Services. The Defined Users for the Agreement are as identified in the Investment Summary. If Exhibit A contains Enterprise Permitting & Licensing labeled software, defined users mean the maximum number of named users that are authorized to use the Enterprise Permitting & Licensing labeled modules as indicated in the Investment Summary.
- **“Developer”** means a third party who owns the intellectual property rights to Third Party Software.
- **“Documentation”** means any online or written documentation related to the use or functionality of the Tyler Software that we provide or otherwise make available to you, including instructions, user guides, manuals and other training or self-help documentation.
- **“Effective Date”** means the date by which both your and our authorized representatives have signed the Agreement.
- **“Force Majeure”** means an event beyond the reasonable control of you or us, including, without limitation, governmental action, war, riot or civil commotion, fire, natural disaster, or any other cause that could not with reasonable diligence be foreseen or prevented by you or us.

- **“Investment Summary”** means the agreed upon cost proposal for the products and services attached as Exhibit A.
- **“Invoicing and Payment Policy”** means the invoicing and payment policy. A copy of our current Invoicing and Payment Policy is attached as Exhibit B.
- **“Order Form”** means an ordering document that includes a quote or investment summary and specifying the items to be provided by Tyler to Client, including any addenda and supplements thereto.
- **“SaaS Fees”** means the fees for the SaaS Services identified in the Investment Summary.
- **“SaaS Services”** means software as a service consisting of system administration, system management, and system monitoring activities that Tyler performs for the Tyler Software, and includes the right to access and use the Tyler Software, receive maintenance and support on the Tyler Software, including Downtime resolution under the terms of the SLA, and Data storage and archiving. SaaS Services do not include support of an operating system or hardware, support outside of our normal business hours, or training, consulting or other professional services.
- **“SLA”** means the service level agreement. A copy of our current SLA is attached hereto as Exhibit C.
- **“Statement of Work”** means the industry standard implementation plan describing how our professional services will be provided to implement the Tyler Software, and outlining your and our roles and responsibilities in connection with that implementation. The Statement of Work is attached as Exhibit E.
- **“Support Call Process”** means the support call process applicable to all of our customers who have licensed the Tyler Software. A copy of our current Support Call Process is attached as Schedule 1 to Exhibit C.
- **“Third Party Hardware”** means the third party hardware, if any, identified in the Investment Summary.
- **“Third Party Products”** means the Third Party Software and Third Party Hardware.
- **“Third Party SaaS Services”** means software as a service provided by a third party, if any, identified in the Investment Summary.
- **“Third Party Services”** means the third party services, if any, identified in the Investment Summary.
- **“Third Party Software”** means the third party software, if any, identified in the Investment Summary.
- **“Third Party Terms”** means, if any, the end user license agreement(s) or similar terms for the Third Party Products or other parties’ products or services, as applicable, and attached or indicated at Exhibit D.
- **“Tyler”** means Tyler Technologies, Inc., a Delaware corporation.
- **“Tyler Software”** means our proprietary software, including any integrations, custom modifications, and/or other related interfaces identified in the Investment Summary and licensed by us to you through this Agreement.
- **“we”, “us”, “our”** and similar terms mean Tyler.
- **“you”** and similar terms mean Client.

SECTION B –SAAS SERVICES

1. Rights Granted.

1.1 We grant to you the non-exclusive, non-assignable limited right to use the SaaS Services solely

for your internal business purposes for the number of Defined Users only. The Tyler Software will be made available to you according to the terms of the SLA. You acknowledge that we have no delivery obligations and we will not ship copies of the Tyler Software as part of the SaaS Services. You may use the SaaS Services to access updates and enhancements to the Tyler Software, as further described in Section C(9). The foregoing notwithstanding, to the extent we have sold you perpetual licenses for Tyler Software, if and listed in the Investment Summary, for which you are receiving SaaS Services, your rights to use such Tyler Software are perpetual, subject to the terms and conditions of this Agreement including, without limitation, Section B(4). We will make any such software available to you for download.

2. SaaS Fees. You agree to pay us the SaaS Fees. Those amounts are payable in accordance with our Invoicing and Payment Policy. The SaaS Fees are based on the number of Defined Users and amount of Data Storage Capacity. You may add additional users or additional data storage capacity on the terms set forth in Section H(1). In the event you regularly and/or meaningfully exceed the Defined Users or Data Storage Capacity, we reserve the right to charge you additional fees commensurate with the overage(s).
3. Ownership.
 - 3.1 We retain all ownership and intellectual property rights to the SaaS Services, the Tyler Software, and anything developed by us under this Agreement. You do not acquire under this Agreement any license to use the Tyler Software in excess of the scope and/or duration of the SaaS Services.
 - 3.2 The Documentation is licensed to you and may be used and copied by your employees for internal, non-commercial reference purposes only.
 - 3.3 You retain all ownership and intellectual property rights to the Data. You expressly recognize that except to the extent necessary to carry out our obligations contained in this Agreement, we do not create or endorse any Data used in connection with the SaaS Services.
4. Restrictions. You may not: (a) make the Tyler Software or Documentation resulting from the SaaS Services available in any manner to any third party for use in the third party's business operations; (b) modify, make derivative works of, disassemble, reverse compile, or reverse engineer any part of the SaaS Services; (c) access or use the SaaS Services in order to build or support, and/or assist a third party in building or supporting, products or services competitive to us; or (d) license, sell, rent, lease, transfer, assign, distribute, display, host, outsource, disclose, permit timesharing or service bureau use, or otherwise commercially exploit or make the SaaS Services, Tyler Software, or Documentation available to any third party other than as expressly permitted by this Agreement.
5. Software Warranty. We warrant that the Tyler Software will perform without Defects during the term of this Agreement. If the Tyler Software does not perform as warranted, we will use all reasonable efforts, consistent with industry standards, to cure the Defect in accordance with the maintenance and support process set forth in Section C(9), below, the SLA and our then current Support Call Process.
6. SaaS Services.
 - 6.1 Our SaaS Services are audited at least yearly in accordance with the AICPA's Statement on

Standards for Attestation Engagements (“SSAE”) No. 21. We have attained, and will maintain, SOC 1 and SOC 2 compliance, or its equivalent, for so long as you are timely paying for SaaS Services. The scope of audit coverage varies for some Tyler Software solutions. Upon execution of a mutually agreeable Non-Disclosure Agreement (“NDA”), we will provide you with a summary of our compliance report(s) or its equivalent. Every year thereafter, for so long as the NDA is in effect and in which you make a written request, we will provide that same information. If our SaaS Services are provided using a 3rd party data center, we will provide available compliance reports for that data center.

- 6.2 You will be hosted on shared hardware in a Tyler data center or in a third-party data center. In either event, databases containing your Data will be dedicated to you and inaccessible to our other customers.
- 6.3 Our Tyler data centers have fully-redundant telecommunications access, electrical power, and the required hardware to provide access to the Tyler Software in the event of a disaster or component failure. In the event of a data center failure, we reserve the right to employ our disaster recovery plan for resumption of the SaaS Services. In that event, we commit to a Recovery Point Objective (“RPO”) of 24 hours and a Recovery Time Objective (“RTO”) of 24 hours. RPO represents the maximum duration of time between the most recent recoverable copy of your hosted Data and subsequent data center failure. RTO represents the maximum duration of time following data center failure within which your access to the Tyler Software must be restored.
- 6.4 We conduct annual penetration testing of either the production network and/or web application to be performed. We will maintain industry standard intrusion detection and prevention systems to monitor malicious activity in the network and to log and block any such activity. We will provide you with a written or electronic record of the actions taken by us in the event that any unauthorized access to your database(s) is detected as a result of our security protocols. We will undertake an additional security audit, on terms and timing to be mutually agreed to by the parties, at your written request. You may not attempt to bypass or subvert security restrictions in the SaaS Services or environments related to the Tyler Software. Unauthorized attempts to access files, passwords or other confidential information, and unauthorized vulnerability and penetration test scanning of our network and systems (hosted or otherwise) is prohibited without the prior written approval of our IT Security Officer.
- 6.5 We test our disaster recovery plan on an annual basis. Our standard test is not client-specific. Should you request a client-specific disaster recovery test, we will work with you to schedule and execute such a test on a mutually agreeable schedule. At your written request, we will provide test results to you within a commercially reasonable timeframe after receipt of the request.
- 6.6 We will be responsible for importing back-up and verifying that you can log-in. You will be responsible for running reports and testing critical processes to verify the returned Data.
- 6.7 We provide secure Data transmission paths between each of your workstations and our servers.
- 6.8 Tyler data centers are accessible only by authorized personnel with a unique key entry. All other visitors to Tyler data centers must be signed in and accompanied by authorized personnel.

Entry attempts to the data center are regularly audited by internal staff and external auditors to ensure no unauthorized access.

6.9 Where applicable with respect to our applications that take or process card payment data, we are responsible for the security of cardholder data that we possess, including functions relating to storing, processing, and transmitting of the cardholder data and affirm that, as of the Effective Date, we comply with applicable requirements to be considered PCI DSS compliant and have performed the necessary steps to validate compliance with the PCI DSS. We agree to supply the current status of our PCI DSS compliance program in the form of an official Attestation of Compliance, which can be found at <https://www.tylertech.com/about-us/compliance>, and in the event of any change in our status, will comply with applicable notice requirements.

7. License Rights Terminate Upon Migration. When Tyler makes Tyler Software identified in the Investment Summary (the “Evergreen Modules”) and licensed pursuant to this Agreement available to the Client for use in live production, the license to the Tyler software listed in Exhibit A, Schedule 1 (hereafter, “Migration Modules”) terminates, as do Tyler’s maintenance, support, and/or update obligations for such software.

SECTION C – PROFESSIONAL SERVICES

1. Professional Services. We will provide you the various implementation-related services itemized in the Investment Summary and described in the Statement of Work.
2. Professional Services Fees. See Section 2(a) of the Base Agreement.
3. Additional Services. The Investment Summary contains, and the Statement of Work describes, the scope of services and related costs (including programming and/or interface estimates) required for the project based on our understanding of the specifications you supplied. If additional work is required, or if you use or request additional services, we will provide you with an addendum or change order, as applicable, outlining the costs for the additional work. The price quotes in the addendum or change order will be valid for thirty (30) days from the date of the quote. For avoidance of doubt, no services beyond those listed in the Investment Summary will be added to the Agreement without mutual written consent of the parties.
4. Cancellation. If you cancel services less than four (4) weeks in advance (other than for Force Majeure or breach by us), you will be liable for all (a) daily fees associated with cancelled professional services if we are unable to reassign our personnel and (b) any non-refundable travel expenses already incurred by us on your behalf. We will make all reasonable efforts to reassign personnel in the event you cancel within four (4) weeks of scheduled commitments.
5. Services Warranty. We will perform the services in a professional, workmanlike manner, consistent with industry standards. In the event we provide services that do not conform to this warranty, we will re-perform such services at no additional cost to you.
6. Site Access and Requirements. At no cost to us, you agree to provide us with full and free access to your personnel, facilities, and equipment as may be reasonably necessary for us to provide implementation services, subject to any reasonable security protocols or other written policies

provided to us as of the Effective Date, and thereafter as mutually agreed to by you and us.

7. Background Checks. For at least the past twelve (12) years, all of our employees have undergone criminal background checks prior to hire. All employees sign our confidentiality agreement and security policies.
8. Client Assistance. You acknowledge that the implementation of the Tyler Software is a cooperative process requiring the time and resources of your personnel. You agree to use all reasonable efforts to cooperate with and assist us as may be reasonably required to meet the agreed upon project deadlines and other milestones for implementation. This cooperation includes at least working with us to schedule the implementation-related services outlined in this Agreement. We will not be liable for failure to meet any deadlines and milestones when such failure is due to Force Majeure or to the failure by your personnel to provide such cooperation and assistance (either through action or omission).
9. Maintenance and Support. For so long as you timely pay your SaaS Fees according to the Invoicing and Payment Policy, then in addition to the terms set forth in the SLA and the Support Call Process, we will:
 - 9.1 perform our maintenance and support obligations in a professional, good, and workmanlike manner, consistent with industry standards, to resolve Defects in the Tyler Software (subject to any applicable release life cycle policy);
 - 9.2 provide support during our established support hours;
 - 9.3 maintain personnel that are sufficiently trained to be familiar with the Tyler Software and Third Party Software, if any, in order to provide maintenance and support services;
 - 9.4 make available to you all releases to the Tyler Software (including updates and enhancements) that we make generally available without additional charge to customers who have a maintenance and support agreement in effect; and
 - 9.5 provide non-Defect resolution support of prior releases of the Tyler Software in accordance with any applicable release life cycle policy.

We will use all reasonable efforts to perform support services remotely. Currently, we use a third-party secure unattended connectivity tool called Bomgar, as well as GotoAssist by Citrix. Therefore, you agree to maintain a high-speed internet connection capable of connecting us to your PCs and server(s). You agree to provide us with a login account and local administrative privileges as we may reasonably require to perform remote services. We will, at our option, use the secure connection to assist with proper diagnosis and resolution, subject to any reasonably applicable security protocols. If we cannot resolve a support issue remotely, we may be required to provide onsite services. In such event, we will be responsible for our travel expenses, unless it is determined that the reason onsite support was required was a reason outside our control. Either way, you agree to provide us with full and free access to the Tyler Software, working space, adequate facilities within a reasonable distance from the equipment, and use of machines, attachments, features, or other equipment reasonably necessary for us to provide the maintenance and support services, all at no charge to us. We strongly recommend that you also maintain your VPN for backup connectivity

purposes.

For the avoidance of doubt, SaaS Fees do not include the following services: (a) onsite support (unless Tyler cannot remotely correct a Defect in the Tyler Software, as set forth above); (b) application design; (c) other consulting services; or (d) support outside our normal business hours as listed in our then-current Support Call Process. Requested services such as those outlined in this section will be billed to you on a time and materials basis at our then current rates. You must request those services with at least one (1) weeks' advance notice.

10. Support of Migration Modules. Beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement, and contingent upon Client's timely payment of annual SaaS Fees for Tyler Evergreen Modules, Client is entitled to receive, at no additional charge, maintenance and support for the Migration Modules until Tyler makes the Tyler Evergreen Modules available for use in live production.

SECTION D – THIRD PARTY PRODUCTS

1. Third Party Hardware. We will sell, deliver, and install onsite the Third Party Hardware, if you have purchased any, for the price set forth in the Investment Summary. Those amounts are payable in accordance with our Invoicing and Payment Policy.
2. Third Party Software. As part of the SaaS Services, you will receive access to the Third Party Software and related documentation for internal business purposes only. Your rights to the Third Party Software will be governed by the Third Party Terms.
3. Third Party Products Warranties.
 - 3.1 We are authorized by each Developer to grant access to the Third Party Software.
 - 3.2 The Third Party Hardware will be new and unused, and upon payment in full, you will receive free and clear title to the Third Party Hardware.
 - 3.3 You acknowledge that we are not the manufacturer of the Third Party Products. We do not warrant or guarantee the performance of the Third Party Products. However, we grant and pass through to you any warranty that we may receive from the Developer or supplier of the Third Party Products.
4. Third Party Services. If you have purchased Third Party Services, those services will be provided independent of Tyler by such third-party at the rates set forth in the Investment Summary and in accordance with our Invoicing and Payment Policy.

SECTION E - INVOICING AND PAYMENT; INVOICE DISPUTES

1. Invoicing and Payment. We will invoice you the SaaS Fees and fees for other professional services in the Investment Summary per our Invoicing and Payment Policy, subject to Section E(2).
2. Invoice Disputes. If you believe any delivered software or service does not conform to the warranties in this Agreement, you will provide us with written notice within thirty (30) days of your

receipt of the applicable invoice. The written notice must contain reasonable detail of the issues you contend are in dispute so that we can confirm the issue and respond to your notice with either a justification of the invoice, an adjustment to the invoice, or a proposal addressing the issues presented in your notice. We will work with you as may be necessary to develop an action plan that outlines reasonable steps to be taken by each of us to resolve any issues presented in your notice. You may withhold payment of the amount(s) actually in dispute, and only those amounts, until we complete the action items outlined in the plan. If we are unable to complete the action items outlined in the action plan because of your failure to complete the items agreed to be done by you, then you will remit full payment of the invoice. We reserve the right to suspend delivery of all SaaS Services, including maintenance and support services, if you fail to pay an invoice not disputed as described above within fifteen (15) days of notice of our intent to do so.

SECTION F – TERM AND TERMINATION

1. **Term.** The initial term of this Agreement is three (3) years, commencing on the first day of the first month following the Effective Date, unless earlier terminated as set forth below. Upon expiration of the initial term, this Agreement will renew automatically for additional one (1) year renewal terms at our then current SaaS Fees unless terminated in writing by either party at least sixty (60) days prior to the end of the then-current renewal term. Your right to access or use the Tyler Software and the SaaS Services will terminate at the end of this Agreement.
2. **Termination.** This Agreement may be terminated as set forth below. In the event of termination, you will pay us for all undisputed fees and expenses related to the software, products, and/or services you have received, or we have incurred or delivered, prior to the effective date of termination. Disputed fees and expenses in all terminations other than your termination for cause must have been submitted as invoice disputes in accordance with Section E(2).
 - 2.1 **Failure to Pay SaaS Fees.** You acknowledge that continued access to the SaaS Services is contingent upon your timely payment of SaaS Fees. If you fail to timely pay the SaaS Fees, we may discontinue the SaaS Services and deny your access to the Tyler Software. We may also terminate this Agreement if you don't cure such failure to pay within forty-five (45) days of receiving written notice of our intent to terminate.
 - 2.2 **For Cause.** If you believe we have materially breached this Agreement, you will invoke the Dispute Resolution clause set forth in Section H(3). You may terminate this Agreement for cause in the event we do not cure, or create a mutually agreeable action plan to address, a material breach of this Agreement within the thirty (30) day window set forth in Section H(3).
 - 2.3 **Force Majeure.** Either party has the right to terminate this Agreement if a Force Majeure event suspends performance of the SaaS Services for a period of forty-five (45) days or more.
 - 2.4 **Lack of Appropriations.** If you should not appropriate or otherwise make available funds sufficient to utilize the SaaS Services, you may unilaterally terminate this Agreement upon thirty (30) days written notice to us. You will not be entitled to a refund or offset of previously paid, but unused SaaS Fees. You agree not to use termination for lack of appropriations as a substitute for termination for convenience.

SECTION G – INDEMNIFICATION, LIMITATION OF LIABILITY AND INSURANCE

1. Intellectual Property Infringement Indemnification.

- 1.1 We will defend you against any third party claim(s) that the Tyler Software or Documentation infringes that third party's patent, copyright, or trademark, or misappropriates its trade secrets, and will pay the amount of any resulting adverse final judgment (or settlement to which we consent). You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 1.2 Our obligations under this Section G(1) will not apply to the extent the claim or adverse final judgment is based on your use of the Tyler Software in contradiction of this Agreement, including with non-licensed third parties, or your willful infringement.
- 1.3 If we receive information concerning an infringement or misappropriation claim related to the Tyler Software, we may, at our expense and without obligation to do so, either: (a) procure for you the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent, in which case you will stop running the allegedly infringing Tyler Software immediately. Alternatively, we may decide to litigate the claim to judgment, in which case you may continue to use the Tyler Software consistent with the terms of this Agreement.
- 1.4 If an infringement or misappropriation claim is fully litigated and your use of the Tyler Software is enjoined by a court of competent jurisdiction, in addition to paying any adverse final judgment (or settlement to which we consent), we will, at our option, either: (a) procure the right to continue its use; (b) modify it to make it non-infringing; or (c) replace it with a functional equivalent. This section provides your exclusive remedy for third party copyright, patent, or trademark infringement and trade secret misappropriation claims.

2. General Indemnification.

- 2.1 We will indemnify and hold harmless you and your agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for (a) personal injury or property damage to the extent caused by our negligence or willful misconduct; or (b) our violation of PCI-DSS requirements or a law applicable to our performance under this Agreement. You must notify us promptly in writing of the claim and give us sole control over its defense or settlement. You agree to provide us with reasonable assistance, cooperation, and information in defending the claim at our expense.
- 2.2 To the extent permitted by applicable law, you will indemnify and hold harmless us and our agents, officials, and employees from and against any and all third-party claims, losses, liabilities, damages, costs, and expenses (including reasonable attorney's fees and costs) for personal injury or property damage to the extent caused by your negligence or willful misconduct; or (b) your violation of a law applicable to your performance under this Agreement. We will notify you promptly in writing of the claim and will give you sole control over its defense or settlement. We agree to provide you with reasonable assistance, cooperation, and information in defending the claim at your expense.

3. **DISCLAIMER.** EXCEPT FOR THE EXPRESS WARRANTIES PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, WE HEREBY DISCLAIM ALL OTHER WARRANTIES AND CONDITIONS, WHETHER EXPRESS, IMPLIED, OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES, DUTIES, OR CONDITIONS OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. CLIENT UNDERSTANDS AND AGREES THAT TYLER DISCLAIMS ANY LIABILITY FOR ERRORS THAT RELATE TO USER ERROR.
4. **LIMITATION OF LIABILITY.** EXCEPT AS OTHERWISE EXPRESSLY SET FORTH IN THIS AGREEMENT, OUR LIABILITY FOR DAMAGES ARISING OUT OF THIS AGREEMENT, WHETHER BASED ON A THEORY OF CONTRACT OR TORT, INCLUDING NEGLIGENCE AND STRICT LIABILITY, SHALL BE LIMITED TO YOUR ACTUAL DIRECT DAMAGES, NOT TO EXCEED (A) DURING THE INITIAL TERM, AS SET FORTH IN SECTION F(1), TOTAL FEES PAID AS OF THE TIME OF THE CLAIM; OR (B) DURING ANY RENEWAL TERM, THE THEN-CURRENT ANNUAL SAAS FEES PAYABLE IN THAT RENEWAL TERM. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE PRICES SET FORTH IN THIS AGREEMENT ARE SET IN RELIANCE UPON THIS LIMITATION OF LIABILITY AND TO THE MAXIMUM EXTENT ALLOWED UNDER APPLICABLE LAW, THE EXCLUSION OF CERTAIN DAMAGES, AND EACH SHALL APPLY REGARDLESS OF THE FAILURE OF AN ESSENTIAL PURPOSE OF ANY REMEDY. THE FOREGOING LIMITATION OF LIABILITY SHALL NOT APPLY TO CLAIMS THAT ARE SUBJECT TO SECTIONS G(1) AND G(2).
5. **EXCLUSION OF CERTAIN DAMAGES.** TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT SHALL WE BE LIABLE FOR ANY SPECIAL, INCIDENTAL, PUNITIVE, INDIRECT, OR CONSEQUENTIAL DAMAGES WHATSOEVER, EVEN IF WE HAVE BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.
6. **Insurance.** See Section 18 of the Base Agreement.

SECTION H – GENERAL TERMS AND CONDITIONS

1. **Additional Products and Services.** You may purchase additional products and services at the rates set forth in the Investment Summary for twelve (12) months from the Effective Date by executing a mutually agreed addendum. If no rate is provided in the Investment Summary, or those twelve (12) months have expired, you may purchase additional products and services at our then-current list price, also by executing a mutually agreed addendum. The terms of this Agreement will control any such additional purchase(s), unless otherwise specifically provided in the addendum.
2. **Optional Items.** Pricing for any listed optional products and services in the Investment Summary will be valid for twelve (12) months from the Effective Date.
3. **Dispute Resolution.** You agree to provide us with written notice within thirty (30) days of becoming aware of a dispute. You agree to cooperate with us in trying to reasonably resolve all disputes, including, if requested by either party, appointing a senior representative to meet and engage in good faith negotiations with our appointed senior representative. Senior representatives will convene within thirty (30) days of the written dispute notice, unless otherwise agreed. All meetings and discussions between senior representatives will be deemed confidential settlement discussions not subject to disclosure under Federal Rule of Evidence 408 or any similar applicable state rule. If we fail to resolve the dispute, then the parties shall participate in non-binding mediation in an effort to resolve the dispute. If the dispute remains unresolved after mediation, then either of us may

assert our respective rights and remedies in a court of competent jurisdiction. Nothing in this section shall prevent you or us from seeking necessary injunctive relief during the dispute resolution procedures.

4. Taxes. The fees in the Investment Summary do not include any taxes, including, without limitation, sales, use, or excise tax. If you are a tax-exempt entity, you agree to provide us with a tax-exempt certificate. Otherwise, we will pay all applicable taxes to the proper authorities and you will reimburse us for such taxes. If you have a valid direct-pay permit, you agree to provide us with a copy. For clarity, we are responsible for paying our income taxes, both federal and state, as applicable, arising from our performance of this Agreement.
5. Nondiscrimination. See Section 15 of the Base Agreement.
6. E-Verify. We have complied, and will comply, with the E-Verify procedures administered by the U.S. Citizenship and Immigration Services Verification Division for all of our employees assigned to your project.
7. Subcontractors. See Section 9 of the Base Agreement.
8. Binding Effect; No Assignment. See Section 9 of the Base Agreement.
9. Force Majeure. Except for your payment obligations, neither party will be liable for delays in performing its obligations under this Agreement to the extent that the delay is caused by Force Majeure; provided, however, that within ten (10) business days of the Force Majeure event, the party whose performance is delayed provides the other party with written notice explaining the cause and extent thereof, as well as a request for a reasonable time extension equal to the estimated duration of the Force Majeure event.
10. No Intended Third Party Beneficiaries. This Agreement is entered into solely for the benefit of you and us. No third party will be deemed a beneficiary of this Agreement, and no third party will have the right to make any claim or assert any right under this Agreement. This provision does not affect the rights of third parties under any Third Party Terms.
11. Entire Agreement; Amendment. This Agreement represents the entire agreement between you and us with respect to the subject matter hereof, and supersedes any prior agreements, understandings, and representations, whether written, oral, expressed, implied, or statutory. Purchase orders submitted by you, if any, are for your internal administrative purposes only, and the terms and conditions contained in those purchase orders will have no force or effect. This Agreement may only be modified by a written amendment signed by an authorized representative of each party.
12. Severability. If any term or provision of this Agreement is held invalid or unenforceable, the remainder of this Agreement will be considered valid and enforceable to the fullest extent permitted by law.
13. No Waiver. In the event that the terms and conditions of this Agreement are not strictly enforced by either party, such non-enforcement will not act as or be deemed to act as a waiver or modification of this Agreement, nor will such non-enforcement prevent such party from enforcing each and every term of this Agreement thereafter.

14. Independent Contractor. We are an independent contractor for all purposes under this Agreement.
15. Notices. See Section 24 of the Base Agreement.
16. Client Lists. You agree that we may identify you by name in client lists, marketing presentations, and promotional materials.
17. Confidentiality. Both parties recognize that their respective employees and agents, in the course of performance of this Agreement, may be exposed to confidential information and that disclosure of such information could violate rights to private individuals and entities, including the parties. Confidential information is nonpublic information that a reasonable person would believe to be confidential and includes, without limitation, personal identifying information (*e.g.*, social security numbers) and trade secrets, each as defined by applicable state law. Each party agrees that it will not disclose any confidential information of the other party and further agrees to take all reasonable and appropriate action to prevent such disclosure by its employees or agents. The confidentiality covenants contained herein will survive the termination or cancellation of this Agreement. This obligation of confidentiality will not apply to information that:
 - (a) is in the public domain, either at the time of disclosure or afterwards, except by breach of this Agreement by a party or its employees or agents;
 - (b) a party can establish by reasonable proof was in that party's possession at the time of initial disclosure;
 - (c) a party receives from a third party who has a right to disclose it to the receiving party; or
 - (d) is the subject of a legitimate disclosure request under the open records laws or similar applicable public disclosure laws governing this Agreement; provided, however, that in the event you receive an open records or other similar applicable request, you will give us prompt notice and otherwise perform the functions required by applicable law.
18. Quarantining of Client Data. Some services provided by Tyler require us to be in possession of your Data. In the event we detect malware or other conditions associated with your Data that are reasonably suspected of putting Tyler resources or other Tyler clients' data at risk, we reserve the absolute right to move your Data from its location within a multi-tenancy Tyler hosted environment to an isolated "quarantined" environment without advance notice. Your Data will remain in such quarantine for a period of at least six (6) months during which time we will review the Data, and all traffic associated with the Data, for signs of malware or other similar issues. If no issues are detected through such reviews during the six (6) month period of quarantine, we will coordinate with you the restoration of your Data to a non-quarantined environment. In the event your Data must remain in quarantine beyond this six (6) month period through no fault of Tyler's, we reserve the right to require payment of additional fees for the extended duration of quarantine. We will provide an estimate of what those costs will be upon your request.
19. Business License. In the event a local business license is required for us to perform services hereunder, you will promptly notify us and provide us with the necessary paperwork and/or contact information so that we may timely obtain such license.
20. Governing Law. See Section 22 of the Base Agreement.
21. Multiple Originals and Authorized Signatures. This Agreement may be executed in multiple

originals, any of which will be independently treated as an original document. Any electronic, faxed, scanned, photocopied, or similarly reproduced signature on this Agreement or any amendment hereto will be deemed an original signature and will be fully enforceable as if an original signature. Each party represents to the other that the signatory set forth below is duly authorized to bind that party to this Agreement.

22. Cooperative Procurement. To the maximum extent permitted by applicable law, we agree that this Agreement may be used as a cooperative procurement vehicle by eligible jurisdictions. We reserve the right to negotiate and customize the terms and conditions set forth herein, including but not limited to pricing, to the scope and circumstances of that cooperative procurement.

23. Data & Insights Solution Terms. Your use of certain Tyler solutions includes Tyler’s Data & Insights data platform. Your rights, and the rights of any of your end users, to use Tyler’s Data & Insights data platform is subject to the Data & Insights SaaS Services Terms of Service, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.

24. Contract Documents. This Agreement includes the following exhibits:

- Exhibit A Investment Summary
Schedule 1: Migration Modules
- Exhibit B Invoicing and Payment Policy
Schedule 1: Business Travel Policy
- Exhibit C Service Level Agreement
Schedule 1: Support Call Process
- Exhibit D Third Party Terms
- Exhibit E Statement of Work

IN WITNESS WHEREOF, a duly authorized representative of each party has executed this Agreement as of the date(s) set forth below.

Tyler Technologies, Inc.

City of Orange, California

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Address for Notices:

Tyler Technologies, Inc.
One Tyler Drive
Yarmouth, ME 04096
Attention: Chief Legal Officer

Address for Notices:

City of Orange
300 E. Chapman Ave.
Orange, CA 92866-1591
Attention: Trang Nguyen





Exhibit A Investment Summary

The following Investment Summary details the software and services to be delivered by us to you under the Agreement. This Investment Summary is effective as of the Effective Date, despite any expiration date in the Investment Summary that may have lapsed as of the Effective Date. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement. In the event of conflict between the Agreement and terms in the Comments section of this Investment Summary, the language in the Agreement will prevail.

Tyler sales quotation to be inserted prior to Agreement execution.

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Quoted By: Jason Cloutier
 Quote Expiration: 03/04/24
 Quote Name: City of Orange-EERP
 Quote Description: Tyler Enterprise ERP (Updated 1.16.24)
 SaaS Term 3.00

Sales Quotation For:

Shipping Address:

City of Orange
 PO Box 449
 Orange CA 92856-9049

Tyler SaaS and Related Services

Description	Qty	Imp. Hours	Annual Fee
Financial Management			
Accounting	1	296	\$ 51,847.00
Accounts Payable	1	96	\$ 15,140.00
Assets Mobile	1	16	\$ 3,478.00
Budgeting	1	128	\$ 15,140.00
Capital Assets	1	112	\$ 14,379.00
Cash Management	1	72	\$ 10,564.00
Contract Management	1	56	\$ 6,538.00
Inventory	1	112	\$ 14,379.00
Project & Grant Accounting	1	92	\$ 10,141.00
Purchasing	1	256	\$ 25,595.00
Human Resources Management			
Human Resources & Talent Management	1	232	\$ 5,705.00
Payroll with Employee Access	1	272	\$ 8,444.00
Time & Attendance w Mobile Access - Up to 750 Employees	1	216	\$ 23,000.00

Revenue Management			
Accounts Receivable	1	192	\$ 12,526.00
Cashiering	1	72	\$ 31,354.00
General Billing	1	96	\$ 6,797.00
Resident Access	1	96	\$ 14,400.00
Utility Billing CIS	1	332	\$ 30,550.00
Utility Billing Meter Interface	1	60	\$ 8,859.00
Content Management			
Content Manager Core includes Onboarding	1	64	\$ 21,305.00
Data Insights			
Enterprise Analytics and Reporting w Executive Insights	1	128	\$ 27,636.00
Open Finance	1	0	\$ 22,800.00
Additional			
Enterprise Forms Processing Software (including Common Form Set)	1	0	\$ 9,750.00
			Sub-Total: \$ 390,327.00
			Less Discount: \$ 57,893.00
	TOTAL	2996	\$ 332,434.00

Professional Services

Description	Quantity	Unit Price	Ext Discount	Extended Price	Maintenance
Capital Assets Import Hours	24	\$ 175.00	\$ 2,112.00	\$ 2,088.00	\$ 0.00
COA Import Hours	20	\$ 175.00	\$ 1,760.00	\$ 1,740.00	\$ 0.00
Executive Insights Implementation	1	\$ 10,500.00	\$ 0.00	\$ 10,500.00	\$ 0.00
Install Fee - Open Finance	1	\$ 7,000.00	\$ 0.00	\$ 7,000.00	\$ 0.00
Payroll Accruals Import Hours	8	\$ 175.00	\$ 704.00	\$ 696.00	\$ 0.00
Payroll Deductions Import Hours	12	\$ 175.00	\$ 1,056.00	\$ 1,044.00	\$ 0.00
Position Control Import Hours	8	\$ 175.00	\$ 704.00	\$ 696.00	\$ 0.00
Project Management	752	\$ 200.00	\$ 0.00	\$ 150,400.00	\$ 0.00
State Retirement Tables Import Hours	8	\$ 175.00	\$ 704.00	\$ 696.00	\$ 0.00
Conversions – See Detailed Breakdown Below				\$ 40,750.00	\$ 0.00

Onsite Implementation	764	\$ 225.00	\$ 0.00	\$ 171,900.00	\$ 0.00
Remote Implementation	2232	\$ 200.00	\$ 0.00	\$ 446,400.00	\$ 0.00
TOTAL				\$ 833,910.00	\$ 0.00

Payments

	Use Case	List Price	Service %	Min	Basis Points	Rate	Cap	POS	Online	IVR
Payments - Client Card Cost - Interchange Plus										
Enterprise ERP										
Enterprise ERP Payments	Utility Billing				0.50%	\$ 0.50		X	X	X
Enterprise ERP Payments	General Billing				0.50%	\$ 0.50		X	X	X
Payments - Other Fees										
Enterprise ERP										
Client eCheck Cost		\$ 1.00								
eCheck Rejects		\$ 5.00								
Credit Card Chargebacks		\$				15.00				

- Client Card Cost - Interchange Plus** Per card transaction with Visa, MasterCard, Discover, and American Express for all transactions on top of industry-driven rates for bank fees, card brand fees, interchange fees, dues, assessments, and other processing fees.
- Enterprise ERP Payments** IVR Cost - Additional \$0.50 per transaction on top of Card and eCheck fee.
- Client eCheck Cost** Per electronic check transaction.
- eCheck Rejects** When an eCheck transaction comes back as declined (e.g bounced check)
- Credit Card Chargebacks** If a card payer disputes a transaction at the card issuing bank (e.g. stolen card)

3rd Party Hardware, Software and Services

Description	Qty	Unit Price	Unit Discount	Total Price	Unit Maint/SaaS	Unit Maint/SaaS Discount	Total Maint/SaaS
Barcode Printer Kit	1	\$ 1,445.00	\$ 0.00	\$ 1,445.00	\$ 145.00	\$ 0.00	\$ 145.00

Barcode Scanner - NX6 Rugged Mobile Scanning Device	1	\$ 1,695.00	\$ 0.00	\$ 1,695.00	\$ 170.00	\$ 0.00	\$ 170.00
Cash Drawer	1	\$ 260.00	\$ 0.00	\$ 260.00	\$ 0.00	\$ 0.00	\$ 0.00
Hand Held Scanner - Model 1950GSR	1	\$ 450.00	\$ 0.00	\$ 450.00	\$ 0.00	\$ 0.00	\$ 0.00
Hand Held Scanner Stand	1	\$ 30.00	\$ 0.00	\$ 30.00	\$ 0.00	\$ 0.00	\$ 0.00
Payments Lane 3000 Terminal Purchase	1	\$ 419.00	\$ 0.00	\$ 419.00	\$ 0.00	\$ 0.00	\$ 0.00
Payments PCI Service Fee (Per Device)	1	\$ 0.00	\$ 0.00	\$ 0.00	\$ 180.00	\$ 0.00	\$ 180.00
Printer (TM-S9000II)	1	\$ 1,623.00	\$ 0.00	\$ 1,623.00	\$ 0.00	\$ 0.00	\$ 0.00
TOTAL				\$ 5,922.00			\$ 495.00

Summary	One Time Fees	Recurring Fees
Total Tyler License Fees	\$ 0.00	\$ 0.00
Total SaaS	\$ 0.00	\$ 332,434.00
Total Tyler Services	\$ 833,910.00	\$ 0.00
Total Third-Party Hardware, Software, Services	\$ 5,922.00	\$ 495.00
Summary Total	\$ 839,832.00	\$ 332,929.00
Contract Total	\$ 1,837,629.00	
Estimated Travel Expenses excl in Contract Total	\$ 58,840.00	

Unless otherwise indicated in the contract or amendment thereto, pricing for optional items will be held For six (6) months from the Quote date or the Effective Date of the Contract, whichever is later.

Customer Approval: _____ Date: _____

Print Name: _____ P.O.#: _____

All Primary values quoted in US Dollars

Detailed Breakdown of Conversions (Included in Summary Total)

Description	Qty	Unit Price	Unit Discount	Extended Price
Financials				

Accounting	1	\$ 9,500.00	\$ 4,750.00	\$ 4,750.00
Accounts Payable	1	\$ 14,700.00	\$ 7,350.00	\$ 7,350.00
Contracts	1	\$ 6,000.00	\$ 3,000.00	\$ 3,000.00
Inventory	1	\$ 7,000.00	\$ 3,500.00	\$ 3,500.00
Project Accounting	1	\$ 9,500.00	\$ 4,750.00	\$ 4,750.00
Purchase Orders	1	\$ 8,000.00	\$ 4,000.00	\$ 4,000.00
Human Resources Management				
Human Resources Management	1	\$ 14,300.00	\$ 7,150.00	\$ 7,150.00
Revenue Management				
General Billing	1	\$ 12,500.00	\$ 6,250.00	\$ 6,250.00
TOTAL				\$ 40,750.00

Tyler Annual Discount Detail (Excludes Optional Products)

Description	Annual Fee	Annual Fee Discount	Annual Fee Net
Financial Management			
Accounting	\$ 51,847.00	\$ 11,406.00	\$ 40,441.00
Accounts Payable	\$ 15,140.00	\$ 3,331.00	\$ 11,809.00
Assets Mobile	\$ 3,478.00	\$ 0.00	\$ 3,478.00
Budgeting	\$ 15,140.00	\$ 3,331.00	\$ 11,809.00
Capital Assets	\$ 14,379.00	\$ 3,163.00	\$ 11,216.00
Cash Management	\$ 10,564.00	\$ 0.00	\$ 10,564.00
Contract Management	\$ 6,538.00	\$ 1,438.00	\$ 5,100.00
Inventory	\$ 14,379.00	\$ 3,163.00	\$ 11,216.00
Project & Grant Accounting	\$ 10,141.00	\$ 2,231.00	\$ 7,910.00
Purchasing	\$ 25,595.00	\$ 5,631.00	\$ 19,964.00

Human Resources Management			
Human Resources & Talent Management	\$ 5,705.00	\$ 1,255.00	\$ 4,450.00
Payroll with Employee Access	\$ 8,444.00	\$ 1,858.00	\$ 6,586.00
Time & Attendance w Mobile Access - Up to 750 Employees	\$ 23,000.00	\$ 0.00	\$ 23,000.00
Revenue Management			
Accounts Receivable	\$ 12,526.00	\$ 2,756.00	\$ 9,770.00
Cashiering	\$ 31,354.00	\$ 3,762.00	\$ 27,592.00
General Billing	\$ 6,797.00	\$ 1,495.00	\$ 5,302.00
Resident Access	\$ 14,400.00	\$ 0.00	\$ 14,400.00
Utility Billing CIS	\$ 30,550.00	\$ 4,583.00	\$ 25,967.00
Utility Billing Meter Interface	\$ 8,859.00	\$ 1,329.00	\$ 7,530.00
Content Management			
Content Manager Core includes Onboarding	\$ 21,305.00	\$ 0.00	\$ 21,305.00
Data Insights			
Enterprise Analytics and Reporting w Executive Insights	\$ 27,636.00	\$ 0.00	\$ 27,636.00
Open Finance	\$ 22,800.00	\$ 5,016.00	\$ 17,784.00
Additional			
Enterprise Forms Processing Software (including Common Form Set)	\$ 9,750.00	\$ 2,145.00	\$ 7,605.00
TOTAL	\$ 390,327.00	\$ 57,893.00	\$ 332,434.00

Comments

Tyler's quote contains estimates of the amount of services needed, based on our preliminary understanding of the scope, level of engagement, and timeline as defined in the Statement of Work (SOW) for your project. The actual amount of services required may vary, based on these factors.

Tyler's pricing is based on the scope of proposed products and services contracted from Tyler. Should portions of the scope of products or services be altered by the Client, Tyler reserves the right to adjust prices for the remaining scope accordingly.

Unless otherwise noted, prices submitted in the quote do not include travel expenses incurred in accordance with Tyler's then-current Business Travel Policy.

Tyler's prices do not include applicable local, city or federal sales, use excise, personal property or other similar taxes or duties, which you are responsible for determining and remitting. Installations are completed remotely but can be done onsite upon request at an additional cost.

In the event Client cancels services less than four (4) weeks in advance, Client is liable to Tyler for (i) all non-refundable expenses incurred by Tyler on

Client's behalf; and (ii) daily fees associated with the cancelled services if Tyler is unable to re-assign its personnel.

The Implementation Hours included in this quote assume a work split effort of 70% Client and 30% Tyler.

Implementation Hours are scheduled and delivered in four (4) or eight (8) hour increments.

Tyler provides onsite training for a maximum of 12 people per class. In the event that more than 12 users wish to participate in a training class or more than one occurrence of a class is needed, Tyler will either provide additional days at then-current rates for training or Tyler will utilize a Train-the-Trainer approach whereby the client designated attendees of the initial training can thereafter train the remaining users.

As a new Tyler client, you are entitled to a 14-day or a 30-day trial of the Managed Detection and Response cybersecurity service. Please reference <https://www.tylertech.com/services/tyler-detect> for more information on the service and contact CybersecuritySales@tylertech.com to initiate the trial.

Tyler currently supports the following identity providers (IdP's) for use with Tyler back-office solutions: Microsoft Active Directory through Azure AD, ADFS or Okta AD agent, Google Cloud Identity, Okta, and Identity Automation Rapid Identity. Any requirement by you to use an IdP not supported by Tyler will require additional costs, available upon request.

Content Manager Core includes up to 1TB of storage. Should additional storage be needed it may be purchased as needed at an annual fee of \$5,000 per TB.

The SaaS fees for product that are not named users are based on 150 concurrent users. Should the number of concurrent users be exceeded, Tyler reserves the right to re-negotiate the SaaS fees based upon any resulting changes in the pricing categories.

Financial library includes: standard A/P check, standard EFT/ACH, standard Purchase order, standard Contract, 1099M, 1099INT, 1099S, 1099NEC and 1099G.

General Billing library includes: standard invoice, standard statement, standard general billing receipt and standard miscellaneous receipt.

Personnel Actions Forms Library includes: standard Personnel Action form - New and standard Personnel Action Form - Change.

Your rights, and the rights of any of your end users, to use Tyler's Data & Insights SaaS Services, or certain Tyler solutions which include Tyler's Data & Insights data platform, are subject to the Terms of Services, available at <https://www.tylertech.com/terms/data-insights-saas-services-terms-of-service>. By signing this sales quotation, or accessing, installing, or using any of the Tyler solutions listed at the linked terms, you certify that you have reviewed, understand, and agree to said terms.

Payroll library includes: standard PR check, standard direct deposit, standard vendor from payroll check, standard vendor from payroll direct deposit, W2, W2c, ACA 1095B, ACA 1095C and 1099 R.

All hardware related to Assets Mobile and Inventory Mobile will be under a standard maintenance plan which starts when they are shipped. This includes replacement of your current hardware if it cannot be fixed through the standard helpdesk process.

Accounting conversion includes: Actuals (total balances only) up to 5 years, Budgets (total balances only) up to 5 years

Accounts Payable conversion includes: Standard - Vendors, Remit Addresses, 1099 Amounts, Check History(Header, Detail) - up to 5 years, Invoices (Header, Detail) - up to 5 years

Contracts conversion includes: Standard

General Billing conversion includes: Standard - CID, Recurring Invoices, Bills(Header, Detail), Payment History, Invoices - up to 5 years

Human Resources Management conversion includes: Standard - Employee Master, Address, Accumulators (Earnings & Deduction totals by period) - up to 5 years, Check History - up to 5 years, Earning/Deduction History - up to 5 years, PM Action History - up to 5 years, Certifications, Education

Project Accounting conversion includes: Standard, Actuals - up to 5 years, Budgets - up to 5 years

Purchase Orders conversion includes: Standard - Open POs, Closed POs - up to 5 years

In the event Client acquires from Tyler any edition of Content Manager software other than Enterprise Edition, the license for Content Manager is restricted to use with Tyler applications only. If Client wishes to use Content Manager software with non-Tyler applications, Client must purchase or upgrade to Content Manager Enterprise Edition.

Standard Project Management responsibilities include project plan creation, initial stakeholder presentation, bi-weekly status calls, updating of project plan task statuses, and go-live planning activities.

Inventory conversion includes: Standard - Master

Fees for year one of hardware maintenance are invoiced upon delivery of the hardware, with subsequent years' fees billed annually, in advance.

Your use of Payments and any related items included on this order is subject to the terms found at: <https://www.tylertech.com/terms/payment-card-processing-agreement>. By signing this order or the agreement in which it is included, you agree you have read, understand, and agree to such terms. Please see attached Payments fee schedule.

Utility billing library includes: standard Utility bill, standard UB receipt, standard UB delinquent notice, standard door hanger and standard final utility bill.



Exhibit A
Schedule 1
Migration Modules

GL/AP/PG
Forms
Accounts Receivable
LaserFiche interface
Site License
Advanced Budgeting
Contract Management
TOP Fax Output Channel
Bid & Quote
Payroll
Human Resources
Crystal Reports Site License
Report Views
State Package
Project Accounting
Inventory
Position Budgeting
Fixed Assets
Annual Comprehensive Financial Report



Exhibit B

Invoicing and Payment Policy

We will provide you with the software and services set forth in the Investment Summary of the Agreement. Capitalized terms not otherwise defined will have the meaning assigned to such terms in the Agreement.

Invoicing: We will invoice you for the applicable software and services in the Investment Summary as set forth below. Your rights to dispute any invoice are set forth in the Agreement.

1. **SaaS Fees.** SaaS Fees are invoiced on an annual basis, beginning on the commencement of the initial term as set forth in Section F (1) of this Agreement. Your annual SaaS fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual SaaS fees will be at our then-current rates. Beginning on the commencement of the initial term, Client shall no longer be required to pay annual support fees for the Migration Modules.
2. **Other Tyler Software and Services.**
 - 2.1 *VPN Device:* The fee for the VPN device will be invoiced upon installation of the VPN.
 - 2.2 *Implementation and Other Professional Services (including training):* Implementation and other professional services (including training) are billed and invoiced as delivered, at the rates set forth in the Investment Summary.
 - 2.3 *Consulting Services:* If you have purchased any Business Process Consulting services, if they have been quoted as fixed-fee services, they will be invoiced 50% upon your acceptance of the best practice recommendations, by module, and 50% upon your acceptance of custom desktop procedures, by module. If you have purchased any Business Process Consulting services and they are quoted as an estimate, then we will bill you the actual services delivered on a time and materials basis.
 - 2.4 *Conversions:* Fixed-fee conversions are invoiced 50% upon initial delivery of the converted Data, by conversion option, and 50% upon Client acceptance to load the converted Data into Live/Production environment, by conversion option. Where conversions are quoted as estimated, we will bill you the actual services delivered on a time and materials basis.
 - 2.5 *Requested Modifications to the Tyler Software:* Requested modifications to the Tyler Software are invoiced 50% upon delivery of specifications and 50% upon delivery of the applicable modification. You must report any failure of the modification to conform to the specifications within thirty (30) days of delivery; otherwise, the modification will be deemed to be in compliance with the specifications after the 30-day window has passed. You may still report Defects to us as set forth in this Agreement.

- 2.6 *Other Fixed Price Services*: Other fixed price services are invoiced as delivered, at the rates set forth in the Investment Summary. For the avoidance of doubt, where “Project Planning Services” are provided, payment will be due upon delivery of the Implementation Planning document. Dedicated Project Management services, if any, will be billed monthly in arrears, beginning on the first day of the month immediately following initiation of project planning.
- 2.7 *Annual Services*: Unless otherwise indicated in this Exhibit B, fees for annual services are due annually, in advance, commencing on the availability of the service. Your annual fees for the initial term are set forth in the Investment Summary. Upon expiration of the initial term, your annual fees will be at our then-current rates.
3. Third Party Products and Hardware.
- 3.1 *Third Party Software License Fees*: License fees for Third Party Software, if any, are invoiced when we make it available to you for downloading.
- 3.2 *Third Party Software Maintenance*: The first year maintenance fee for the Third Party Software is invoiced when we make it available to you for downloading. Subsequent annual maintenance fees for Third Party Software are invoiced annually, in advance, at then-current rates, upon each anniversary thereof.
- 3.3 *Hardware*: Third Party Hardware costs, if any, are invoiced upon delivery.
- 3.4 *Hardware Maintenance*: The first year maintenance fee for Hardware is invoiced upon delivery of the hardware. Subsequent annual maintenance fees for hardware are invoiced annually, in advance, at then-current rates, upon each anniversary thereof.
- 3.5 *Third Party Services*: Fees for Third Party Services, if any, are invoiced as delivered, along with applicable expenses, at the rates set forth in the Investment Summary. For the avoidance of doubt, Finite Matters will invoice Client directly for any services fees for Pattern Stream.
- 3.6 *Third Party SaaS*: Third Party SaaS Services fees, if any, are invoiced annually, in advance, commencing with availability of the respective Third Party SaaS Services. Pricing for the first year of Third Party SaaS Services is indicated in the Investment Summary. Pricing for subsequent years will be at the respective third party’s then-current rates.
4. Transaction Fees. Unless paid directly by an end user at the time of transaction, per transaction (call, message, etc.) fees are invoiced on a quarterly basis. Fees are indicated in Exhibit A and may be increased by Tyler upon notice of no less than thirty (30) days.
5. Expenses. The service rates in the Investment Summary do not include travel expenses. Expenses for Tyler delivered services will be billed as incurred and only in accordance with our then-current Business Travel Policy, plus a 10% travel agency processing fee. Our current Business Travel Policy is attached to this Exhibit B as Schedule 1. Copies of receipts will be provided upon request; we reserve the right to charge you an administrative fee depending on the extent of your requests. Receipts for miscellaneous items less than twenty-five dollars and

mileage logs are not available.

6. Credit for Prepaid Maintenance and Support Fees for Migration Modules. Client will receive a credit for the maintenance and support fees prepaid for the Migration Modules for the time period commencing on the first day of the initial term, as set forth in Section F (1) of this Agreement. Migration Modules are listed at Exhibit A, Schedule 1.

Payment. Payment for undisputed invoices is due within forty-five (45) days of the invoice date. We prefer to receive payments electronically. Our electronic payment information is available by contacting AR@tylertech.com.



Exhibit B
Schedule 1
Business Travel Policy

1. Air Travel

A. Reservations & Tickets

The Travel Management Company (TMC) used by Tyler will provide an employee with a direct flight within two hours before or after the requested departure time, assuming that flight does not add more than three hours to the employee's total trip duration and the fare is within \$100 (each way) of the lowest logical fare. If a net savings of \$200 or more (each way) is possible through a connecting flight that is within two hours before or after the requested departure time and that does not add more than three hours to the employee's total trip duration, the connecting flight should be accepted.

Employees are encouraged to make advanced reservations to take full advantage of discount opportunities. Employees should use all reasonable efforts to make travel arrangements at least two (2) weeks in advance of commitments. A seven (7) day advance booking requirement is mandatory. When booking less than seven (7) days in advance, management approval will be required.

Except in the case of international travel where a segment of continuous air travel is six (6) or more consecutive hours in length, only economy or coach class seating is reimbursable. Employees shall not be reimbursed for "Basic Economy Fares" because these fares are non-refundable and have many restrictions that outweigh the cost-savings.

B. Baggage Fees

Reimbursement of personal baggage charges are based on trip duration as follows:

- Up to five (5) days = one (1) checked bag
- Six (6) or more days = two (2) checked bags

Baggage fees for sports equipment are not reimbursable.

2. Ground Transportation

A. Private Automobile

Mileage Allowance – Business use of an employee’s private automobile will be reimbursed at the current IRS allowable rate, plus out of pocket costs for tolls and parking. Mileage will be calculated by using the employee’s office as the starting and ending point, in compliance with IRS regulations. Employees who have been designated a home office should calculate miles from their home.

B. Rental Car

Employees are authorized to rent cars only in conjunction with air travel when cost, convenience, and the specific situation reasonably require their use. When renting a car for Tyler business, employees should select a “mid-size” or “intermediate” car. “Full” size cars may be rented when three or more employees are traveling together. Tyler carries leased vehicle coverage for business car rentals; except for employees traveling to Alaska and internationally (excluding Canada), additional insurance on the rental agreement should be declined.

C. Public Transportation

Taxi or airport limousine services may be considered when traveling in and around cities or to and from airports when less expensive means of transportation are unavailable or impractical. The actual fare plus a reasonable tip (15-18%) are reimbursable. In the case of a free hotel shuttle to the airport, tips are included in the per diem rates and will not be reimbursed separately.

D. Parking & Tolls

When parking at the airport, employees must use longer term parking areas that are measured in days as opposed to hours. Park and fly options located near some airports may also be used. For extended trips that would result in excessive parking charges, public transportation to/from the airport should be considered. Tolls will be reimbursed when receipts are presented.

3. Lodging

Tyler’s TMC will select hotel chains that are well established, reasonable in price, and conveniently located in relation to the traveler’s work assignment. Typical hotel chains include Courtyard, Fairfield Inn, Hampton Inn, and Holiday Inn Express. If the employee has a discount rate with a local hotel, the hotel reservation should note that discount and the employee should confirm the lower rate with the hotel upon arrival. Employee memberships in travel clubs such as AAA should be noted in their travel profiles so that the employee can take advantage of any lower club rates.

“No shows” or cancellation fees are not reimbursable if the employee does not comply with the hotel’s cancellation policy.

Tips for maids and other hotel staff are included in the per diem rate and are not reimbursed separately.

Employees are not authorized to reserve non-traditional short-term lodging, such as Airbnb, VRBO, and HomeAway. Employees who elect to make such reservations shall not be reimbursed.

4. Meals and Incidental Expenses

Employee meals and incidental expenses while on travel status within the continental U.S. are in accordance with the federal per diem rates published by the General Services Administration. Incidental expenses include tips to maids, hotel staff, and shuttle drivers and other minor travel expenses. Per diem rates are available at www.gsa.gov/perdiem.

Per diem for Alaska, Hawaii, U.S. protectorates and international destinations are provided separately by the Department of State and will be determined as required.

A. Overnight Travel

For each full day of travel, all three meals are reimbursable. Per diems on the first and last day of a trip are governed as set forth below.

Departure Day

Depart before 12:00 noon	Lunch and dinner
Depart after 12:00 noon	Dinner

Return Day

Return before 12:00 noon	Breakfast
Return between 12:00 noon & 7:00 p.m.	Breakfast and lunch
Return after 7:00 p.m.*	Breakfast, lunch and dinner

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

The reimbursement rates for individual meals are calculated as a percentage of the full day per diem as follows:

Breakfast	15%
Lunch	25%
Dinner	60%

B. Same Day Travel

Employees traveling at least 100 miles to a site and returning in the same day are eligible to claim lunch on an expense report. Employees on same day travel status are eligible to claim dinner in the event they return home after 7:00 p.m.*

*7:00 p.m. is defined as direct travel time and does not include time taken to stop for dinner.

5. Internet Access – Hotels and Airports

Employees who travel may need to access their e-mail at night. Many hotels provide free high speed internet access and Tyler employees are encouraged to use such hotels whenever possible. If an employee's hotel charges for internet access it is reimbursable up to \$10.00 per day. Charges for internet access at airports are not reimbursable.

6. International Travel

All international flights with the exception of flights between the U.S. and Canada should be reserved through TMC using the "lowest practical coach fare" with the exception of flights that are six (6) or more consecutive hours in length. In such event, the next available seating class above coach shall be reimbursed.

When required to travel internationally for business, employees shall be reimbursed for photo fees, application fees, and execution fees when obtaining a new passport book, but fees related to passport renewals are not reimbursable. Visa application and legal fees, entry taxes and departure taxes are reimbursable.

The cost of vaccinations that are either required for travel to specific countries or suggested by the U.S. Department of Health & Human Services for travel to specific countries, is reimbursable.

Section 4, Meals & Incidental Expenses, and Section 2.b., Rental Car, shall apply to this section.



Exhibit C

SERVICE LEVEL AGREEMENT

I. Agreement Overview

This SLA operates in conjunction with, and does not supersede or replace any part of, the Agreement. It outlines the information technology service levels that we will provide to you to ensure the availability of the application services that you have requested us to provide. All other support services are documented in the Support Call Process. This SLA does not apply to any Third Party SaaS Services. All other support services are documented in the Support Call Process.

II. Definitions. Except as defined below, all defined terms have the meaning set forth in the Agreement.

Actual Attainment: The percentage of time the Tyler Software is available during a calendar month, calculated as follows: $(\text{Service Availability} - \text{Downtime}) \div \text{Service Availability}$.

Client Error Incident: Any service unavailability resulting from your applications, content or equipment, or the acts or omissions of any of your service users or third-party providers over whom we exercise no control.

Downtime: Those minutes during Service Availability, as defined below, when all users cannot launch, login, search or save primary data in the Tyler Software. Downtime does not include those instances in which only a Defect is present.

Emergency Maintenance Window: (1) maintenance that is required to patch a critical security vulnerability; (2) maintenance that is required to prevent an imminent outage of Service Availability; or (3) maintenance that is mutually agreed upon in writing by Tyler and the Client.

Planned Downtime: Downtime that occurs during a Standard or Emergency Maintenance window.

Service Availability: The total number of minutes in a calendar month that the Tyler Software is capable of receiving, processing, and responding to requests, excluding Planned Downtime, Client Error Incidents, denial of service attacks and Force Majeure. Service Availability only applies to Tyler Software being used in the live production environment.

Standard Maintenance: Routine maintenance to the Tyler Software and infrastructure. Standard Maintenance is limited to five (5) hours per week.

III. **Service Availability**

a. Your Responsibilities

Whenever you experience Downtime, you must make a support call according to the procedures outlined in the Support Call Process. You will receive a support case number.

b. Our Responsibilities



When our support team receives a call from you that Downtime has occurred or is occurring, we will work with you to identify the cause of the Downtime (including whether it may be the result of Planned Downtime, a Client Error Incident, denial of service attack or Force Majeure). We will also work with you to resume normal operations.

c. Client Relief

Our targeted Attainment Goal is 100%. You may be entitled to credits as indicated in the Client Relief Schedule found below. Your relief credit is calculated as a percentage of the SaaS Fees paid for the calendar month.

In order to receive relief credits, you must submit a request through one of the channels listed in our Support Call Process within fifteen days (15) of the end of the applicable month. We will respond to your relief request within thirty (30) day(s) of receipt.

The total credits confirmed by us will be applied to the SaaS Fee for the next billing cycle. Issuing of such credit does not relieve us of our obligations under the Agreement to correct the problem which created the service interruption.

Credits are only payable when Actual Attainment results in eligibility for credits in consecutive months and only for such consecutive months.

Client Relief Schedule	
Actual Attainment	Client Relief
99.99% - 98.00%	Remedial action will be taken
97.99% - 95.00%	4%
Below 95.00%	5%

IV. Maintenance Notifications

We perform Standard Maintenance during limited windows that are historically known to be reliably low-traffic times. If and when maintenance is predicted to occur during periods of higher traffic, we will provide advance notice of those windows and will coordinate to the greatest extent possible with you.

Not all maintenance activities will cause application unavailability. However, if Tyler anticipates that activities during a Standard or Emergency Maintenance window may make the Tyler Software unavailable, we will provide advance notice, as reasonably practicable, that the Tyler Software will be unavailable during the maintenance window.



Exhibit C Schedule 1 Support Call Process

Support Channels

Tyler Technologies, Inc. provides the following channels of software support for authorized users*:

- (1) On-line submission (portal) – for less urgent and functionality-based questions, users may create support incidents through the Tyler Customer Portal available at the Tyler Technologies website. A built-in Answer Panel provides users with resolutions to most “how-to” and configuration-based questions through a simplified search interface with machine learning, potentially eliminating the need to submit the support case.
- (2) Email – for less urgent situations, users may submit emails directly to the software support group.
- (3) Telephone – for urgent or complex questions, users receive toll-free, telephone software support.

** Channel availability may be limited for certain applications.*

Support Resources

A number of additional resources are available to provide a comprehensive and complete support experience:

- (1) Tyler Website – www.tylertech.com – for accessing client tools, documentation, and other information including support contact information.
- (2) Tyler Search -a knowledge based search engine that lets you search multiple sources simultaneously to find the answers you need, 24x7.
- (3) Tyler Community –provides a venue for all Tyler clients with current maintenance agreements to collaborate with one another, share best practices and resources, and access documentation.
- (4) Tyler University – online training courses on Tyler products.

Support Availability

Tyler Technologies support is available during the local business hours of 8 AM to 5 PM (Monday – Friday) across four US time zones (Pacific, Mountain, Central and Eastern). Tyler’s holiday schedule is outlined below. There will be no support coverage on these days.

New Year’s Day	Labor Day
Martin Luther King, Jr. Day	Thanksgiving Day
Memorial Day	Day after Thanksgiving
Independence Day	Christmas Day

For support teams that provide after-hours service, we will provide you with procedures for contacting support staff after normal business hours for reporting Priority Level 1 Defects only. Upon receipt of



such a Defect notification, we will use commercially reasonable efforts to meet the resolution targets set forth below.

We will also make commercially reasonable efforts to be available for one pre-scheduled Saturday of each month to assist your IT staff with applying patches and release upgrades, as well as consulting with them on server maintenance and configuration of the Tyler Software environment.

Incident Handling

Incident Tracking

Every support incident is logged into Tyler’s Customer Relationship Management System and given a unique case number. This system tracks the history of each incident. The case number is used to track and reference open issues when clients contact support. Clients may track incidents, using the case number, through Tyler’s Customer Portal or by calling software support directly.

Incident Priority

Each incident is assigned a priority level, which corresponds to the Client’s needs. Tyler and the Client will reasonably set the priority of the incident per the chart below. This chart is not intended to address every type of support incident, and certain “characteristics” may or may not apply depending on whether the Tyler software has been deployed on customer infrastructure or the Tyler cloud. The goal is to help guide the Client towards clearly understanding and communicating the importance of the issue and to describe generally expected response and resolution targets in the production environment only.

References to a “confirmed support incident” mean that Tyler and the Client have successfully validated the reported Defect/support incident.

Priority Level	Characteristics of Support Incident	Resolution Targets*
1 Critical	Support incident that causes (a) complete application failure or application unavailability; (b) application failure or unavailability in one or more of the client’s remote location; or (c) systemic loss of multiple essential system functions.	Tyler shall provide an initial response to Priority Level 1 incidents within one (1) business hour of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within one (1) business day. For non-hosted customers, Tyler’s responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.

Priority Level	Characteristics of Support Incident	Resolution Targets*
2 High	Support incident that causes (a) repeated, consistent failure of essential functionality affecting more than one user or (b) loss or corruption of data.	Tyler shall provide an initial response to Priority Level 2 incidents within four (4) business hours of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents or provide a circumvention procedure within ten (10) business days. For non-hosted customers, Tyler's responsibility for loss or corrupted data is limited to assisting the Client in restoring its last available database.
3 Medium	Priority Level 1 incident with an existing circumvention procedure, or a Priority Level 2 incident that affects only one user or for which there is an existing circumvention procedure.	Tyler shall provide an initial response to Priority Level 3 incidents within one (1) business day of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents without the need for a circumvention procedure with the next published maintenance update or service pack, which shall occur at least quarterly. For non-hosted customers, Tyler's responsibility for lost or corrupted data is limited to assisting the Client in restoring its last available database.
4 Non-critical	Support incident that causes failure of non-essential functionality or a cosmetic or other issue that does not qualify as any other Priority Level.	Tyler shall provide an initial response to Priority Level 4 incidents within two (2) business days of receipt of the incident. Once the incident has been confirmed, Tyler shall use commercially reasonable efforts to resolve such support incidents, as well as cosmetic issues, with a future version release.

**Response and Resolution Targets may differ by product or business need*

Incident Escalation

If Tyler is unable to resolve any priority level 1 or 2 defect as listed above or the priority of an issue has elevated since initiation, you may escalate the incident to the appropriate resource, as outlined by each product support team. The corresponding resource will meet with you and any Tyler staff to establish a mutually agreeable plan for addressing the defect.

Remote Support Tool

Some support calls may require further analysis of the Client's database, processes or setup to diagnose a problem or to assist with a question. Tyler will, at its discretion, use an industry-standard remote support tool. Tyler's support team must have the ability to quickly connect to the Client's system and view the site's setup, diagnose problems, or assist with screen navigation. More information about the remote support tool Tyler uses is available upon request.



Exhibit D Third Party Terms

ThinPrint Terms. Your use of Tyler Forms software and forms is subject to the End User License Agreement terms for ThinPrint Engine, ThinPrint License Server, and Connected Gateway found here: <https://www.thinprint.com/en/legal-notes/eula/>. By signing a Tyler Agreement or Order Form, or accessing, installing, or using Tyler Forms software or forms, you agree that you have read, understood, and agree to such terms.

DocOrigin Terms. Your use of Tyler Forms software and forms is subject to the DocOrigin End User License Agreement available for download here: <https://eclipsecorp.us/eula/>. By signing a Tyler Agreement or Order Form including Tyler forms software or forms, or accessing, installing, or using Tyler Forms software or forms, you agree that you have read, understood, and agree to such terms.



Exhibit E
Statement of Work

Statement of Work, if applicable, to be inserted prior to Agreement execution.



City of Orange, CA

SOW from Tyler Technologies, Inc.

11/16/2023

Presented to:

City of Orange CA
PO Box 449
Orange, CA 92856-9049

Contact:

Rich Boven
Email: richard.boven@tylertech.com
1 Tyler Drive Yarmouth, Maine 04096

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Part 1: Executive Summary

1. Project Overview

1.1 Introduction

Tyler Technologies (“Tyler”) is the largest and most established provider of integrated software and technology services focused solely on the public sector. Tyler’s end-to-end solutions empower public sector entities including local, state, provincial and federal government, to operate more efficiently and connect more transparently with their constituents and with each other. By connecting data and processes across disparate systems, Tyler’s solutions transform how clients gain actionable insights that solve problems in their communities.

1.2 Project Goals

This Statement of Work (“SOW”) documents the methodology, implementation stages, activities, and roles and responsibilities, and project scope listed in the Investment Summary of the Agreement between Tyler and the City (collectively the “Project”).

The overall goals of the project are to:

- Successfully implement the contracted scope on time and on budget
- Increase operational efficiencies and empower users to be more productive
- Improve accessibility and responsiveness to external and internal customer needs
- Overcome current challenges and meet future goals

1.3 Methodology

This is accomplished by the City and Tyler working as a partnership and Tyler utilizing its depth of implementation experience. While each Project is unique, all will follow Tyler’s six-stage methodology. Each of the six stages is comprised of multiple work packages, and each work package includes a narrative description, objectives, tasks, inputs, outputs/deliverables, assumptions, and a responsibility matrix.

Tailored specifically for Tyler’s public sector clients, the project methodology contains Stage Acceptance Control Points throughout each Phase to ensure adherence to scope, budget, timeline controls, effective communications, and quality standards. Clearly defined, the project methodology repeats consistently across Phases, and is scaled to meet the City’s complexity and organizational needs.

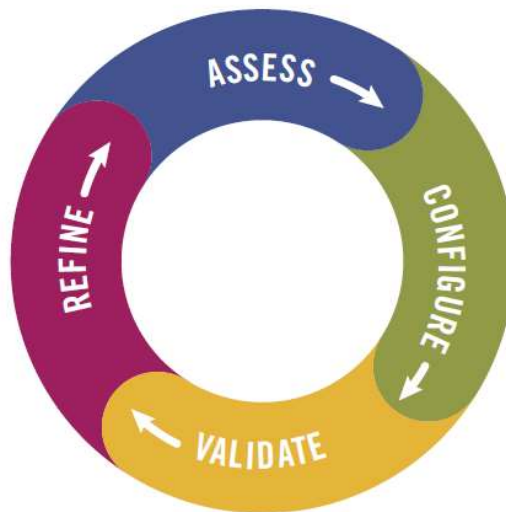
Tyler's Six Stage Project Methodology



The methodology adapts to both single-phase and multiple-phase projects.

To achieve Project success, it is imperative that both the City and Tyler commit to including the necessary leadership and governance. During each stage of the Project, it is expected that the City and Tyler Project teams work collaboratively to complete tasks. An underlying principle of Tyler's Implementation process is to employ an iterative model where the City's business processes are assessed, configured, validated, and refined cyclically in line with the project budget. This approach is used in multiple stages and work packages as illustrated in the graphic below.

Iterative Project Model



The delivery approach is systematic, which reduces variability and mitigates risks to ensure Project success. As illustrated, some stages, along with work packages and tasks, are intended to be overlapping by nature to complete the Project efficiently and effectively.

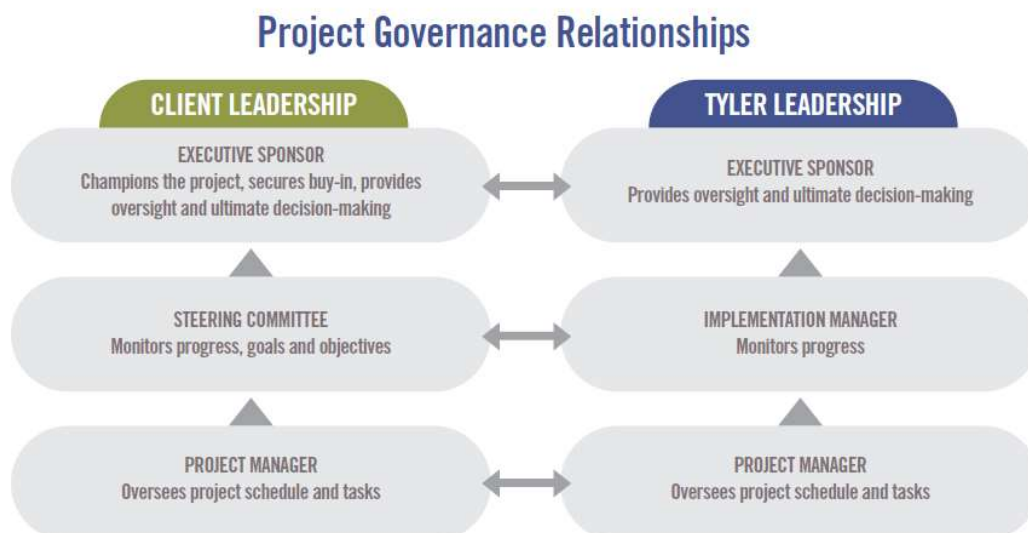
Part 2: Project Foundation

2. Project Governance

Project governance is the management framework within which Project decisions are made. The role of Project governance is to provide a decision-making approach that is logical, robust, and repeatable. This allows organizations to have a structured approach for conducting its daily business in addition to project related activities.

This section outlines the resources required to meet the business needs, objectives, and priorities for the Project, communicate the goals to other Project participants, and provide support and guidance to accomplish these goals. Project governance defines the structure for escalation of issues and risks, Change Control review and authority, and Organizational Change Management activities. Throughout the Statement of Work Tyler has provided RACI Matrices for activities to be completed throughout the implementation which will further outline responsibilities of different roles in each stage. Further refinement of the governance structure, related processes, and specific roles and responsibilities occurs during the Initiate & Plan Stage.

The chart below illustrates an overall team perspective where Tyler and the City collaborate to resolve Project challenges according to defined escalation paths. If project managers do not possess authority to determine a solution, resolve an issue, or mitigate a risk, Tyler implementation management and the City Steering Committee become the escalation points to triage responses prior to escalation to the City and Tyler executive sponsors. As part of the escalation process, each Project governance tier presents recommendations and supporting information to facilitate knowledge transfer and issue resolution. The City and Tyler executive sponsors serve as the final escalation point.



3. Project Scope Control

3.1 Managing Scope and Project Change

Project Management governance principles contend that there are three connected constraints on a Project: budget, timeline, and scope. These constraints, known as the “triple constraints” or project management triangle, define budget in terms of financial cost, labor costs, and other resource costs. Scope is defined as the work performed to deliver a product, service or result with the specified features and functions, while time is simply defined as the schedule. The Triple Constraint theory states that if you change one side of the triangle, the other two sides must be correspondingly adjusted. For example, if the scope of the Project is increased, cost and time to complete will also need to increase. The Project and executive teams will need to remain cognizant of these constraints when making impactful decisions to the Project. A simple illustration of this triangle is included here, showing the connection of each item and their relational impact to the overall Scope.



A pillar of any successful project is the ability to properly manage scope while allowing the appropriate level of flexibility to incorporate approved changes. Scope and changes within the project will be managed using the change control process outlined in the following section.

3.2 Change Control

It may become necessary to change the scope of this Project due to unforeseeable circumstances (e.g., new constraints or opportunities are discovered). This Project is being undertaken with the understanding that Project scope, schedule, and/or cost may need to change to produce optimal results for stakeholders. Changes to contractual requirements will follow the change control process specified in the final contract, and as described below.

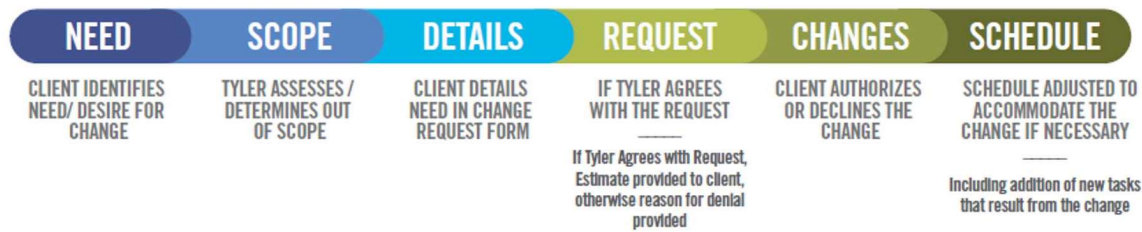
3.3 Change Request Management

Should the need for a change to Project scope, schedule, and/or cost be identified during the Project, the change will be brought to the attention of the Steering Committee and an assessment of the change will occur. While such changes may result in additional costs and delays relative to the schedule, some changes may result in less cost to the City; for example, the City may decide it no longer needs a deliverable originally defined in the Project. The Change Request will include the following information:

- The nature of the change.
- A good faith estimate of the additional cost or associated savings to the City, if any.
- The timetable for implementing the change.
- The effect on and/or risk to the schedule, resource needs or resource responsibilities.

The City will use its good faith efforts to either approve or disapprove any Change Request within ten (10) Business Days (or other period as mutually agreeable between Tyler and the City). Any changes to the Project scope, budget, or timeline must be documented and approved in writing using a Change Request form. These changes constitute a formal amendment to the Statement of Work and will supersede any conflicting term in the Statement of Work.

Change Request Process



4. Acceptance Process

The implementation of a Project involves many decisions to be made throughout its lifecycle. Decisions will vary from higher level strategy decisions to smaller, detailed Project level decisions. It is critical to the success of the Project that each City office or department designates specific individuals for making decisions on behalf of their offices or departments.

Both Tyler and the City will identify representative project managers. These individuals will represent the interests of all stakeholders and serve as the primary contacts between the two organizations.

The coordination of gaining City feedback and approval on Project deliverables will be critical to the success of the Project. The City project manager will strive to gain deliverable and decision approvals from all authorized City representatives. Given that the designated decision-maker for each department may not always be available, there must be a designated proxy for each decision point in the Project. Assignment of each proxy will be the responsibility of the leadership from each City department. The proxies will be named individuals that have the authorization to make decisions on behalf of their department.

The following process will be used for accepting Deliverables and Control Points:

- The City shall have five (5) business days from the date of delivery, or as otherwise mutually agreed upon by the parties in writing, to accept each Deliverable or Control Point. If the City does not provide acceptance or acknowledgement within five (5) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.
- If the City does not agree the Deliverable or Control Point meets requirements, the City shall notify Tyler project manager(s), in writing, with reasoning within five (5) business days, or the otherwise agreed-upon timeframe, not to be unreasonably withheld, of receipt of the Deliverable.
- Tyler shall address any deficiencies and redeliver the Deliverable or Control Point. The City shall then have two (2) business days from receipt of the redelivered Deliverable or Control Point to accept or again submit written notification of reasons for rejecting the milestone. If the City does not provide acceptance within two (2) business days, or the otherwise agreed upon timeframe, not to be unreasonably withheld, Tyler deems the Deliverable or Control Point as accepted.

5. Roles and Responsibilities

The following defines the roles and responsibilities of each Project resource for the City and Tyler. Roles and responsibilities may not follow the organizational chart or position descriptions at the City, but are roles defined within the Project. It is common for individual resources on both the Tyler and City project teams to fill multiple roles. Similarly, it is common for some roles to be filled by multiple people.

5.1 Tyler Roles & Responsibilities

Tyler assigns a project manager prior to the start of each Phase of the Project (some Projects may only be one Phase in duration). Additional Tyler resources are assigned as the schedule develops and as needs arise.

5.1.1 Tyler Executive Manager

Tyler executive management has indirect involvement with the Project and is part of the Tyler escalation process. This team member offers additional support to the Project team and collaborates with other Tyler department managers as needed to escalate and facilitate implementation Project tasks and decisions.

- Provides clear direction for Tyler staff on executing on the Project Deliverables to align with satisfying the City 's overall organizational strategy.
- Authorizes required Project resources.
- Resolves all decisions and/or issues not resolved at the implementation management level as part of the escalation process.
- Acts as the counterpart to the City 's executive sponsor.

5.1.2 Tyler Implementation Manager

- Tyler implementation management has indirect involvement with the Project and is part of the Tyler escalation process. The Tyler project managers consult implementation management on issues and outstanding decisions critical to the Project. Implementation management works toward a solution with the Tyler Project Manager or with City management as appropriate. Tyler executive management is the escalation point for any issues not resolved at this level.
- Assigns Tyler Project personnel.
- Provides support for the Project team.
- Provides management support for the Project to ensure it is staffed appropriately and staff have necessary resources.
- Monitors Project progress including progress towards agreed upon goals and objectives.

5.1.3 Tyler Project Manager

- The Tyler project manager(s) provides oversight of the Project, coordination of Tyler resources between departments, management of the Project budget and schedule, effective risk, and issue management, and is the primary point of contact for all Project related items. As requested by the City, the Tyler Project Manager provides regular updates to the City Steering Committee and other Tyler governance members. Tyler Project Manager's role includes responsibilities in the following areas:

5.1.3.1 Contract Management

- Validates contract compliance throughout the Project.
- Ensures Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions.
- Prepares and presents contract milestone sign-offs for acceptance by the City project manager(s).
- Coordinates Change Requests, if needed, to ensure proper Scope and budgetary compliance.

5.1.3.2 Planning

- Delivers project planning documents.
- Defines Project tasks and resource requirements.
- Develops initial Project schedule and Project Management Plan.
- Collaborates with the City project manager(s) to plan and schedule Project timelines to achieve on-time implementation.

5.1.3.3 Implementation Management

- Tightly manages Scope and budget of Project to ensure Scope changes and budget planned versus actual are transparent and handled effectively and efficiently.
- Establishes and manages a schedule and Tyler resources that properly support the Project Schedule and are also in balance with Scope/budget.
- Establishes risk/issue tracking/reporting process between the City and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to the City any items that may impact the outcomes of the Project.
- Collaborates with the City's project manager(s) to establish key business drivers and success indicators that will help to govern Project activities and key decisions to ensure a quality outcome of the project.
- Collaborates with the City's project manager(s) to set a routine communication plan that will aide all Project team members, of both the City and Tyler, in understanding the goals, objectives, status, and health of the Project.

5.1.3.4 Resource Management

- Acts as liaison between Project team and Tyler manager(s).
- Identifies and coordinates all Tyler resources across all applications, Phases, and activities including development, forms, installation, reports, implementation, and billing.
- Provides direction and support to Project team.
- Manages the appropriate assignment and timely completion of tasks as defined in the Project Schedule, task list, and Go-Live Checklist.
- Assesses team performance and adjusts as necessary.
- Consulted on in Scope 3rd party providers to align activities with ongoing Project tasks.

5.1.4 Tyler Implementation Consultant

- Completes tasks as assigned by the Tyler project manager(s).
- Documents activities for services performed by Tyler.
- Guides the City through software validation process following configuration.
- Assists during Go-Live process and provides support until the City transitions to Client Services.
- Facilitates training sessions and discussions with the City and Tyler staff to ensure adequate discussion of the appropriate agenda topics during the allotted time.
- May provide conversion review and error resolution assistance.

5.1.5 Tyler Sales

- Supports Sales to Implementation knowledge transfer during Initiate & Plan.
- Provides historical information, as needed, throughout implementation.
- Participates in pricing activities if additional licensing and/or services are needed.

5.1.6 Tyler Technical Services

- Maintains Tyler infrastructure requirements and design document(s).
- Involved in system infrastructure planning/review(s).
- Provides first installation of licensed software with initial database on servers.
- Supports and assists the project team with technical/environmental issues/needs.
- Deploys Tyler products.

5.2 City Roles & Responsibilities

City resources will be assigned prior to the start of each Phase of the Project. One person may be assigned to multiple Project roles.

5.2.1 City Executive Sponsor

The City executive sponsor provides support to the Project by providing strategic direction and communicating key issues about the Project and its overall importance to the organization. When called upon, the executive sponsor also acts as the final authority on all escalated Project issues. The executive sponsor engages in the Project, as needed, to provide necessary support, oversight, guidance, and escalation, but does not participate in day-to-day Project activities. The executive sponsor empowers the City steering committee, project manager(s), and functional leads to make critical business decisions for the City.

- Champions the project at the executive level to secure buy-in.
- Authorizes required project resources.
- Actively participates in organizational change communications.

5.2.2 City Steering Committee

The City steering committee understands and supports the cultural change necessary for the Project and fosters an appreciation for the Project's value throughout the organization. The steering committee oversees the City project manager and Project through participation in regular internal meetings. The City steering committee remains updated on all Project progress, Project decisions, and achievement of Project milestones. The City steering committee also serves as primary level of issue resolution for the Project.

- Works to resolve all decisions and/or issues not resolved at the project manager level as part of the escalation process.
- Attends all scheduled steering committee meetings.
- Provides support for the project team.
- Assists with communicating key project messages throughout the organization.
- Prioritizes the project within the organization.
- Ensures the project staffed appropriately and that staff have necessary resources.
- Monitors project progress including progress towards agreed upon goals and objectives.
- Has the authority to approve or deny changes impacting the following areas:
 - Cost
 - Scope
 - Schedule
 - Project Goals
 - City Policies
 - Needs of other client projects

5.2.3 City Project Manager

The City shall assign project manager(s) prior to the start of this project with overall responsibility and authority to make decisions related to Project Scope, scheduling, and task assignment. The City Project Manager should communicate decisions and commitments to the Tyler project manager(s) in a timely and efficient manner. When the City project manager(s) do not have the knowledge or authority to make decisions, he or she engages the necessary resources to participate in discussions and make decisions in a

timely fashion to avoid Project delays. The City project manager(s) are responsible for reporting to the City steering committee and determining appropriate escalation points.

5.2.3.1 Contract Management

- Validates contract compliance throughout the project.
- Ensures that invoicing and Deliverables meet contract requirements.
- Acts as primary point of contact for all contract and invoicing questions. Collaborates on and approves Change Requests, if needed, to ensure proper scope and budgetary compliance.

5.2.3.2 Planning

- Reviews and accepts project planning documents.
- Defines project tasks and resource requirements for the City project team.
- Collaborates in the development and approval of the project schedule.
- Collaborates with Tyler project manager(s) to plan and schedule project timelines to achieve on-time implementation.

5.2.3.3 Implementation Management

- Tightly manages project budget and scope.
- Collaborates with Tyler project manager(s) to establish a process and approval matrix to ensure that scope changes and budget (planned versus actual) are transparent and handled effectively and efficiently.
- Collaborates with Tyler project manager to establish and manage a schedule and resource plan that properly supports the project schedule as a whole and is also in balance with scope and budget.
- Collaborates with Tyler project manager(s) to establish risk and issue tracking and reporting process between the City and Tyler and takes all necessary steps to proactively mitigate these items or communicate with transparency to Tyler any items that may impact the outcomes of the project.
- Collaborates with Tyler project manager(s) to establish key business drivers and success indicators that will help to govern project activities and key decisions to ensure a quality outcome of the project.
- Routinely communicates with both the City staff and Tyler, aiding in the understanding of goals, objectives, current status, and health of the project by all team members.
- Manages the requirements gathering process and ensure timely and quality business requirements are being provided to Tyler.

5.2.3.4 Resource Management

- Acts as liaison between project team and stakeholders.
- Identifies and coordinates all City resources across all modules, phases, and activities including data conversions, forms design, hardware and software installation, reports building, and satisfying invoices.
- Provides direction and support to project team.
- Builds partnerships among the various stakeholders, negotiating authority to move the project forward.
- Manages the appropriate assignment and timely completion of tasks as defined.
- Assesses team performance and takes corrective action, if needed.
- Provides guidance to City technical teams to ensure appropriate response and collaboration with Tyler Technical Support Teams to ensure timely response and appropriate resolution.
- Owns the relationship with in-Scope 3rd party providers and aligns activities with ongoing project tasks.

- Ensures that users have appropriate access to Tyler project toolsets as required.
- Conducts training on proper use of toolsets.
- Validates completion of required assignments using toolsets.

5.2.4 City Functional Leads

- Makes business process change decisions under time sensitive conditions.
- Communicates existing business processes and procedures to Tyler consultants.
- Assists in identifying business process changes that may require escalation.
- Contributes business process expertise for Current & Future State Analysis.
- Identifies and includes additional subject matter experts to participate in Current & Future State Analysis.
- Validates that necessary skills have been retained by end users.
- Provides End Users with dedicated time to complete required homework tasks.
- Acts as an ambassador/champion of change for the new process and provide business process change support.
- Identifies and communicates any additional training needs or scheduling conflicts to the City project manager.
- Actively participates in all aspects of the implementation, including, but not limited to, the following key activities:
 - Task completion
 - Stakeholder Meeting
 - Project Management Plan development
 - Schedule development
 - Maintenance and monitoring of risk register
 - Escalation of issues
 - Communication with Tyler project team
 - Coordination of City resources
 - Attendance at scheduled sessions
 - Change management activities
 - Modification specification, demonstrations, testing and approval assistance
 - Data analysis assistance
 - Decentralized end user training
 - Process testing
 - Solution Validation

5.2.5 City Power Users

- Participate in project activities as required by the project team and project manager(s).
- Provide subject matter expertise on the City business processes and requirements.
- Act as subject matter experts and attend Current & Future State Analysis sessions as needed.
- Attend all scheduled training sessions.
- Participate in all required post-training processes as needed throughout project.
- Test all application configuration to ensure it satisfies business process requirements.
- Become application experts.
- Participate in Solution Validation.
- Adopt and support changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Demonstrate competency with Tyler products processing prior to Go-live.
- Provide knowledge transfer to the City staff during and after implementation.

- Participate in conversion review and validation.

5.2.6 City End Users

- Attend all scheduled training sessions.
- Become proficient in application functions related to job duties.
- Adopt and utilize changed procedures.
- Complete all deliverables by the due dates defined in the project schedule.
- Utilize software to perform job functions at and beyond Go-live.

5.2.7 City Technical Lead

- Coordinates updates and releases with Tyler as needed.
- Coordinates the copying of source databases to training/testing databases as needed for training days.
- Coordinates and adds new users, printers and other peripherals as needed.
- Validates that all users understand log-on process and have necessary permission for all training sessions.
- Coordinates interface development for City third party interfaces.
- Develops or assists in creating reports as needed.
- Ensures on-site system meets specifications provided by Tyler.
- Assists with software installation as needed.
- Extracts and transmits conversion data and control reports from the City's legacy system per the conversion schedule set forth in the project schedule.

5.2.7.1 City Upgrade Coordination

- Becomes familiar with the software upgrade process and required steps.
- Becomes familiar with Tyler's releases and updates.
- Utilizes Tyler resources to stay abreast of the latest Tyler releases and updates, as well as the latest helpful tools to manage the City's software upgrade process.
- Assists with the software upgrade process during implementation.
- Manages software upgrade activities post-implementation.
- Manages software upgrade plan activities.
- Coordinates software upgrade plan activities with City and Tyler resources.
- Communicates changes affecting users and department stakeholders.
- Obtains department stakeholder acceptance to upgrade production environment.

5.2.8 City Change Management Lead

- Validates that users receive timely and thorough communication regarding process changes.
- Provides coaching to supervisors to prepare them to support users through the project changes.
- Identifies the impact areas resulting from project activities and develops a plan to address them proactively.
- Identifies areas of resistance and develops a plan to reinforce the change.
- Monitors post-production performance and new process adherence.

Part 3: Project Plan

6. Project Stages

Work Breakdown Structure

The Work Breakdown Structure (WBS) is a hierarchical representation of a Project or Phase broken down into smaller, more manageable components. The top-level components are called “Stages” and the second level components are called “Work Packages”. The work packages, shown below each stage, contain the high-level work to be done. The detailed Project Schedule, developed during Project/Phase Planning and finalized during subsequent stages, lists the tasks to be completed within each work package. Each stage ends with a “Control Point”, confirming the work performed during that stage of the Project has been accepted by the City.

Work Breakdown Structure (WBS)

1. Initiate & Plan	2. Assess & Define	3. Prepare Solution	4. Production Readiness	5. Production	6. Close
1.1 Initial Coordination	2.1 Solution Orientation	3.1 Initial System Deployment	4.1 Solution Validation	5.1 Go Live	6.1 Phase Close Out
1.2 Project/Phase Planning	2.2 Current & Future State Analysis	3.2 Configuration	4.2 Go Live Readiness	5.2 Transition to Client Services	6.2 Project Close Out
1.3 GIS Planning*	2.3 Modification Analysis	3.3 Process Refinement	4.3 End User Training	5.3 Post Go Live Activities	
1.4 Infrastructure Planning	2.4 Conversion Assessment	3.4 Conversion Delivery			
1.5 Stakeholder Meeting	2.5 Data Assessment	3.5 Data Delivery			
		3.6 Modifications*			

**Items noted with an asterisk in the graphic above relate to specific products and services. If those products and services are not included in the scope of the contract, these specific work packages will be noted as “Intentionally Left Blank” in Section 6 of the Statement of Work.*

6.1 Initiate and Plan

The Initiate and Plan stage involves Project initiation, infrastructure, and planning. This stage creates a foundation for the Project by identifying and establishing sequence and timing for each Phase as well as verifying scope for the Project. This stage will be conducted at the onset of the Project, with a few unique items being repeated for the additional Phases as needed.

6.1.1 Initial Coordination

Prior to Project commencement, Tyler management assigns project manager(s). Additional Project resources will be assigned later in the Project as a Project schedule is developed. Tyler provides the City with initial Project documents used to gather names of key personnel, their functional role as it pertains to the Project, as well as any blackout dates to consider for future planning. The City gathers the information requested by the provided deadline ensuring preliminary planning and scheduling can be conducted moving the Project forward in a timely fashion. Internally, the Tyler Project Manager(s) coordinate with sales to ensure transfer of vital information from the sales process prior to scheduling a Project Planning Meeting with the City’s team. During this step, Tyler will work with the City to establish the date(s) for the Project and Phase Planning session.

Objectives:

- Formally launch the project.
- Establish project governance.
- Define and communicate governance for Tyler.
- Identify City project team.

STAGE 1	Initial Coordination																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Tyler project team is assigned	A	R	C	I	I	I	I		I		I						
City project team is assigned									A	I	R	I	I	I			
Provide initial project documents to the City		A	R	C			C		I		I						
Gather preliminary information requested			I						A		R	C		C		C	C
Sales to implementation knowledge transfer		A	R	I	I	I	I				I						
Create Project Portal to store project artifacts and facilitate communication		A	R								I						

Inputs	Contract documents
	Statement of Work

Outputs/Deliverables	Working initial project documents
	Project portal

Work package assumptions:

- Project activities begin after the agreement has been fully executed.

6.1.2 Project/Phase Planning

Project and Phase planning provides an opportunity to review the contract, software, data conversions and services purchased, identify applications to implement in each Phase (if applicable), and discuss implementation timeframes.

During this work package Tyler will work with the City to coordinate and plan a formal Project planning meeting(s). This meeting signifies the start of the Project and should be attended by all City Project team members and the Tyler Project Manager. The meeting provides an opportunity for Tyler to introduce its implementation methodology, terminology, and Project management best practices to the City’s Project Team. This will also present an opportunity for project managers and Project sponsors to begin to discuss Project communication, metrics, status reporting and tools to be used to measure Project progress and manage change.

Tyler will work with the City Project Team to prepare and deliver the Project Management Plan as an output of the planning meeting. This plan will continue to evolve and grow as the Project progresses and will describe how the project will be executed, monitored, and controlled.

During project planning, Tyler will introduce the tools that will be used throughout the implementation. Tyler will familiarize the City with these tools during project planning and make them available for review and maintenance as applicable throughout the project. Some examples are Solution validation plan, issue log, and go-live checklist.

STAGE 1	Project/Phase Planning																
	Tyler								City								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Schedule and conduct planning session(s)		A	R						I		C	C	I				

Develop Project Management Plan		A	R						I		C	C	I				
Develop initial project schedule		A	R	I	I	I	I		I	I	C	C	I	I	C		I

Inputs	Contract documents
	Statement of Work
	Guide to Starting Your Project

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Project Management Plan	Delivery of document
	Project Operational Plan	Delivery of document
	Initial Project Schedule	City provides acceptance of schedule based on resource availability, project budget, and goals.

Work package assumptions:

- City has reviewed and completed the Guide to Starting Your Project document.

6.1.3 Infrastructure Planning

Procuring required hardware and setting it up properly is a critical part of a successful implementation. This task is especially important for Tyler-hosted/SaaS deployment models. Tyler will be responsible for building the environments for a hosted/SaaS deployment, unless otherwise identified in the Agreement. Tyler will install Licensed Software on application server(s) or train the City to install License Software. The City is responsible for the installation and setup of all peripheral devices.

Objectives:

- Ensure the City’s infrastructure meets Tyler’s application requirements.
- Ensure the City’s infrastructure is scheduled to be in place and available for use on time.

STAGE 1	Infrastructure Planning																
	Tyler								City								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts	Department Heads	End Users	Technical Leads
Provide Infrastructure Requirements and Design Document		A	R		C		C				I						I
Initial Infrastructure Meeting		A	R		C		C				C						C

Schedule SaaS Environment Availability		A	R					C			I						
Schedule Installation of All Licensed Software		A	R					C			I						I
Infrastructure Audit		A	R					C			I						C

Inputs	Initial Infrastructure Requirements
--------	-------------------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Completed Infrastructure Requirements	Delivery of Requirements
	Infrastructure Audit	System Passes Audit Criteria

6.1.4 Stakeholder Meeting

Communication of the Project planning outcomes to the City Project team, executives and other key stakeholders is vital to Project success. The Stakeholder meeting is a strategic activity to inform, engage, gain commitment, and instill confidence in the City team. During the meeting, the goals and objectives of the Project will be reviewed along with detail on Project scope, implementation methodology, roles and responsibilities, Project timeline and schedule, and keys to Project success.

Objectives:

- Formally present and communicate the project activities and timeline.
- Communicate project expectations.

STAGE 1	Stakeholder Meeting																
	Tyler								City								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Create Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C		I				
Review Stakeholder Meeting Presentation		I	C						A		R		C				
Perform Stakeholder Meeting Presentation	I	A	R	I	I				I	I	C	I	I	I	I	I	I

Inputs	Agreement
	SOW

	Project Management Plan	
Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Stakeholder Meeting Presentation	

Work package assumptions:

- None

6.1.5 Intentionally left blank.

6.1.6 Control Point 1: Initiate & Plan Stage Acceptance

Acceptance criteria for this stage includes completion of all criteria listed below.

Note: Advancement to the Assess & Define stage is not dependent upon Tyler's receipt of this stage acceptance.

Initiate & Plan Stage Deliverables:

- Project Management Plan
- Initial Project Schedule

Initiate & Plan stage acceptance criteria:

- All stage deliverables accepted based on acceptance criteria previously defined
- Project governance defined
- Project portal made available to the City
- Stakeholder meeting complete

6.2 Assess & Define

The Assess & Define stage will provide an opportunity to gather information related to current City business processes. This information will be used to identify and define business processes utilized with Tyler software. The City collaborates with Tyler providing complete and accurate information to Tyler staff and assisting in analysis, understanding current workflows and business processes.

6.2.1 Solution Orientation

The Solution Orientation provides the Project stakeholders a high-level understanding of the solution functionality prior to beginning the current and future state analysis. The primary goal is to establish a foundation for upcoming conversations regarding the design and configuration of the solution.

Tyler utilizes a variety of tools for the Solution Orientation, focusing on City team knowledge transfer such as: eLearning, documentation, or walkthroughs. The City team will gain a better understanding of the major processes and focus on data flow, the connection between configuration options and outcome, integration, and terminology that may be unique to Tyler's solution.

Objectives:

- Provide a basic understanding of system functionality.
- Prepare the City for current and future state analysis.

STAGE 2	Solution Orientation																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Provide pre-requisites			A	R							I	I		I	I		I
Complete pre-requisites											A	R		C			C
Conduct orientation			A	R							I	I		I	I		I

Inputs	Solution orientation materials
	Training Plan

6.2.2 Current & Future State Analysis

The Current & Future State Analysis provides the Project stakeholders and Tyler an understanding of process changes that will be achieved with the new system.

The City and Tyler will evaluate current state processes, options within the new software, pros and cons of each based on current or desired state and make decisions about the future state configuration and processing. This may occur before or within the same timeframe as the configuration work package. The options within the new software will be limited to the scope of this implementation and will make use of standard Tyler functionality.

The City will adopt the existing Tyler solution wherever possible to avoid project schedule and quality risk from over customization of Tyler products. It is the City’s responsibility to verify that in-scope requirements are being met throughout the implementation if functional requirements are defined as part of the contract. The following guidelines will be followed when evaluating if a modification to the product is required:

- A reasonable business process change is available.
- Functionality exists which satisfies the requirement.
- Configuration of the application satisfies the requirement.
- An in-scope modification satisfies the requirement.

Requirements that are not met will follow the agreed upon change control process and can have impacts on the project schedule, scope, budget, and resource availability.

STAGE 2	Current & Future State Analysis	
	Tyler	City

<p> RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed </p>	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Current State process review			A	R	I	I	I				C	C	C	C			C
Discuss future-state options			A	R	C	C	C				C	C	C	C			C
Make future-state decisions (non-COTS)			C	C	C	C	C				A	R	I	C			C
Document anticipated configuration options required to support future state			A	R	C	C	C				I	I	I	I			I

Inputs	City current state documentation
	Solution Orientation completion

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Documentation that describes future-state decisions and configuration options to support future-state decisions.	Delivery of document

Work package assumptions:

- City attendees possess sufficient knowledge and authority to make future state decisions.
- The City is responsible for any documentation of current state business processes.
- The City can effectively communicate current state processes.

6.2.3 Conversion Assessment

Data Conversions are a major effort in any software implementation. Tyler’s conversion tools facilitate the predictable, repeatable conversion process that is necessary to support a successful transition to the Tyler system. The first step in this process is to perform an assessment of the existing (“legacy”) system(s), to better understand the source data, risks, and options available. Once the data has been analyzed, the plan for data conversion is completed and communicated to the appropriate stakeholders.

Objectives:

- Communicate a common understanding of the project goals with respect to data.
- Ensure complete and accurate source data is available for review/transfer.
- If source data is a Tyler legacy system, Tyler performs the data mappings. If source data is from a third-party, client is responsible for mapping the data from the source to the Tyler system.
- Document the data conversion/loading approach.

STAGE 2	Data Conversion Assessment																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Extract Data from Source Systems			I		C						A						R
Review and Scrub Source Data			I	I	I						A	R		C			I
Build/Update Data Conversion Plan			R	C	C						C	I	I	I			I

Inputs	City Source data
	City Source data Documentation (if available)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data Conversion Plan built/updated	City Acceptance of Data Conversion Plan, if Applicable

Work package assumptions:

- If the source data is a Tyler system Tyler's Conversion Engineers extract and map the data into the standard Munis conversion format. If the source data is from a third-party the client will provide Tyler with the data in a mutually agreed upon format.
- Tyler will work with the City representatives to identify business rules before writing the conversion.
- City subject matter experts and resources most familiar with the current data will be involved in the data conversion planning effort.

6.2.4 Intentionally left blank.

6.2.5 Intentionally left blank.

6.2.6 Control Point 2: Assess & Define Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Note: Advancement to the Prepare Solution Stage is dependent upon Tyler’s receipt of the Stage Acceptance.

Assess & Define Stage Deliverables:

- Documentation of future state decisions and configuration options to support future state decisions.
- Modification specification document.
- Assess & Define Stage Acceptance Criteria:
- All stage deliverables accepted based on criteria previously defined.
- Solution Orientation is delivered.
- Conversion data extracts are received by Tyler.
- Data conversion plan built.

6.3 Prepare Solution

During the Prepare Solution stage, information gathered during the Initiate & Plan and Assess & Define stages will be used to install and configure the Tyler software solution. Software configuration will be validated by the City against future state decisions defined in previous stages and processes refined as needed to ensure business requirements are met.

6.3.1 Initial System Deployment

The timely availability of the Tyler Solution is important to a successful Project implementation. The success and timeliness of subsequent work packages are contingent upon the initial system deployment of Tyler Licensed Software on an approved network and infrastructure. Delays in executing this work package can affect the project schedule.

Objectives:

- All licensed software is installed and operational.
- The City can access the software.

STAGE 3	Initial System Deployment (Hosted/SaaS)*																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Prepare hosted environment			A				R				I						C
Install Licensed Software with Initial Database on Server(s) for Included Environments			A				R				I						C
Install Licensed Software on City			I				C				A						R

Devices (if applicable)																	
Tyler System Administration Training (if applicable)			A					R				I					C

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Licensed Software is Installed on the Server(s)	Software is accessible
	Licensed Software is Installed on City Devices (if applicable)	Software is accessible
	Installation Checklist/System Document	System meets prescribed checklist
	Infrastructure Design Document (C&J – If Applicable)	

Work package assumptions:

- The most current available version of the Tyler Licensed Software will be installed.
- The City will provide network access for Tyler modules, printers, and Internet access to all applicable City and Tyler Project staff.

6.3.2 Configuration

The purpose of Configuration is to prepare the software product for validation.

Tyler staff collaborates with the City to complete software configuration based on the outputs of the future state analysis performed during the Assess and Define Stage. The City collaborates with Tyler staff iteratively to validate software configuration.

Objectives:

- Software is ready for validation.
- Educate the City Power User how to configure and maintain software.
- Prepare standard interfaces for process validation (if applicable).

STAGE 3	Configuration																
	Tyler								City								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power	Department Heads	End Users	Technical Leads

Conduct configuration training			A	R							I	C		C			
Complete Tyler configuration tasks (where applicable)			A	R							I	I		I			
Complete City configuration tasks (where applicable)			I	C							A	R		C			
Standard interfaces configuration and training (if applicable)			A	R							I	C		C			C
Updates to Solution Validation testing plan			C	C							A	R		C			C

Inputs	Documentation that describes future state decisions and configuration options to support future state decisions.
--------	--

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Configured System	

Work package assumptions:

- Tyler provides guidance for configuration options available within the Tyler software. The City is responsible for making decisions when multiple options are available.

6.3.3 Process Refinement

Tyler will educate the City users on how to execute processes in the system to prepare them for the validation of the software. The City collaborates with Tyler staff iteratively to validate software configuration options to support future state.

Objectives:

- Ensure that the City understands future state processes and how to execute the processes in the software.
- Refine each process to meet the business requirements.
- Validate standard interfaces, where applicable.
- Validate forms and reports, where applicable.

STAGE 3	Process Refinement	
	Tyler	City

RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
	Conduct process training			A	R						I	C	I	C			
	Confirm process decisions			I	C					A	R	C	I	C			
	Test configuration			I	C						A	R		C			
	Refine configuration (City Responsible)			I	C						A	R		C			
	Refine configuration (Tyler Responsible)			A	R						I	I		I			
	Validate interface process and results			I	C			C			A	R		C			C
	Update City-specific process documentation (if applicable)			I	C						A	R		C			
	Updates to Solution Validation testing plan			C	C						A	R		C			C

Inputs	Initial Configuration
	Documentation that describes future state decisions and configuration options to support future state decisions.
	Solution validation test plan

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated solution validation test plan	
	Completed City-specific process documentation (completed by City)	

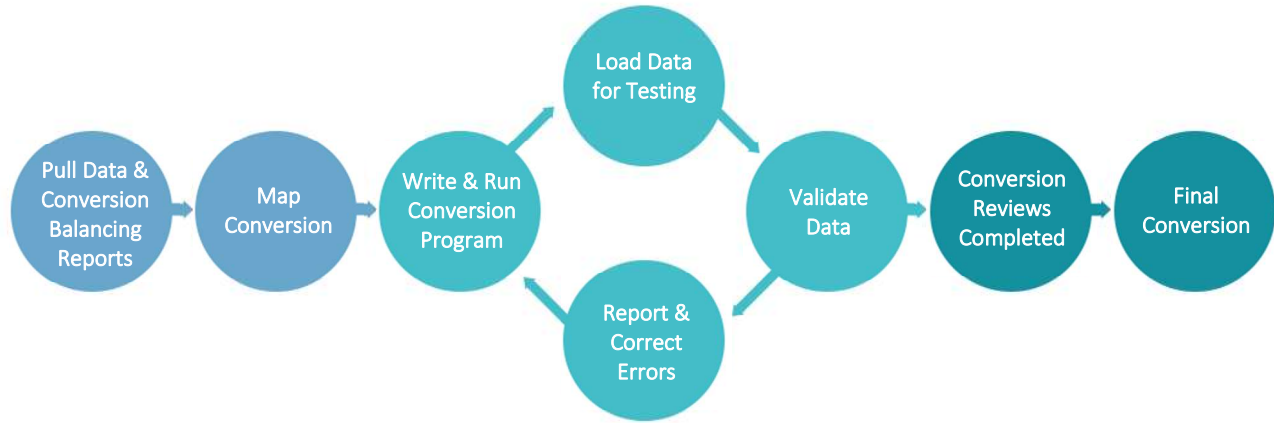
Work package assumptions:

- None

6.3.4 Conversion Delivery

The purpose of this task is to transition the City’s data from their source (“legacy”) system(s) to the Tyler system(s). The data will need to be mapped from the legacy system into the new Tyler system format. A well-executed data conversion is key to a successful cutover to the new system(s).

With guidance from Tyler, the City will review specific data elements within the system and identify / report discrepancies. Iteratively, Tyler will collaborate with the City to address conversion discrepancies. This process will allow for clean, reconciled data to transfer from the source system(s) to the Tyler system(s). Reference Conversion Appendix for additional detail.



Objectives:

- Data is ready for production (Conversion).

STAGE 3	Data Delivery & Conversion																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Provide data crosswalks/code mapping tool			A	C	R						I	I		I			
Populate data crosswalks/code mapping tool			I	C	C						A	R		C			
Iterations: Conversion Development			A	C	R						I						I
Iterations: Deliver converted data			A		R		I				I						I
Iterations: Proof/Review			C	C	C						A	R		C			C

data and reconcile to source system																	
-------------------------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Inputs	
	Data Conversion Plan
	Configuration

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Code Mapping Complete / Validated	
	Conversion Iterations / Reviews Complete	Conversion complete, verified, and ready for final pass

Work package assumptions:

- The City will provide a single file layout per source system as identified in the investment summary.
- The City subject matter experts and resources most familiar with the current data will be involved in the data conversion effort.
- The City project team will be responsible for completing the code mapping activity, with assistance from Tyler.

6.3.5 Intentionally left blank.

6.3.6 Intentionally left blank.

6.3.7 Control Point 3: Prepare Solution Stage Acceptance

Acceptance criteria for this Stage includes all criteria listed below in each Work Package.

Note: Advancement to the Production Readiness Stage is dependent upon Tyler’s receipt of the Stage Acceptance.

Prepare Solution Stage Deliverables:

- Licensed software is installed.
- Installation checklist/system document.
- Conversion iterations and reviews complete.

Prepare Solution Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Software is configured.
- Solution validation test plan has been reviewed and updated if needed.

6.4 Production Readiness

Activities in the Production Readiness stage will prepare the City team for go-live through solution validation, the development of a detailed go-live plan and end user training. A readiness assessment will be conducted with the City to review the status of the project and the organizations readiness for go-live.

6.4.1 Solution Validation

Solution Validation is the end-to-end software testing activity to ensure that the City verifies all aspects of the Project (hardware, configuration, business processes, etc.) are functioning properly, and validates that all features and functions per the contract have been deployed for system use.

Objectives:

- Validate that the solution performs as indicated in the solution validation plan.
- Ensure the City organization is ready to move forward with go-live and training (if applicable).

STAGE 4	Solution Validation																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Update Solution Validation plan			A	R	C						C	C		C			
Update test scripts (as applicable)			C	C	C						A	R		C			
Perform testing			C	C	C						A	R		C			
Document issues from testing			C	C	C						A	R		C			
Perform required follow-up on issues			A	R	C						C	C		C			

Inputs	Solution Validation plan
	Completed work product from prior stages (configuration, business process, etc.)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Solution Validation Report	City updates report with testing results

Work package assumptions:

- Designated testing environment has been established.
- Testing includes current phase activities or deliverables only.

6.4.2 Go-Live Readiness

Tyler and the City will ensure that all requirements defined in Project planning have been completed and the Go-Live event can occur, as planned. A go-live readiness assessment will be completed identifying risks or actions items to be addressed to ensure the City has considered its ability to successfully Go-Live. Issues and

concerns will be discussed, and mitigation options documented. Tyler and the City will jointly agree to move forward with transition to production. Expectations for final preparation and critical dates for the weeks leading into and during the Go-Live week will be planned in detail and communicated to Project teams.

Objectives:

- Action plan for go-live established.
- Assess go-live readiness.
- Stakeholders informed of go-live activities.

STAGE 4	Go-Live Readiness																
	Tyler								City								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Perform Readiness Assessment	I	A	R	C	C	I	C	I	I	I	I		I				I
Conduct Go-Live planning session		A	R	C							C	C	C	C	C		C
Order peripheral hardware (if applicable)			I							A	R						C
Confirm procedures for Go-Live issue reporting & resolution		A	R	I	I	I	I				C	C	I	I	I	I	I
Develop Go-Live checklist		A	R	C	C						C	C	I	C			C
Final system infrastructure review (where applicable)			A				R				C						C

Inputs	Future state decisions
	Go-live checklist

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated go-live checklist	Updated Action plan and Checklist for go-live delivered to the City

Work package assumptions:

- None

6.4.3 End User Training

End User Training is a critical part of any successful software implementation. Using a training plan previously reviewed and approved, the Project team will organize and initiate the training activities.

Train the Trainer: Tyler provides one occurrence of each scheduled training or implementation topic. City users who attended the Tyler sessions may train additional users. Additional Tyler led sessions may be contracted at the applicable rates for training.

Tyler will provide standard application documentation for the general use of the software. It is not Tyler’s responsibility to develop City specific business process documentation. City-led training labs using City specific business process documentation if created by the City can be added to the regular training curriculum, enhancing the training experiences of the end users.

Objectives:

- End users are trained on how to use the software prior to go-live.
- The City is prepared for on-going training and support of the application.

STAGE 4	End User Training																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Update training plan		A	R	C							C		I		C		
End User training (Tyler-led)		A	R	C							C	C	I	C	C	C	
Train-the-trainer		A	R	C							C	C	I	C			
End User training (City-led)			C	C							A	R	I	C	C	C	

Inputs	Training Plan
	List of End Users and their Roles / Job Duties
	Configured Tyler System

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	End User Training	City signoff that training was delivered

Work package assumptions:

- The City project team will work with Tyler to jointly develop a training curriculum that identifies the size, makeup, and subject-area of each of the training classes.
- Tyler will work with the City as much as possible to provide end-user training in a manner that minimizes the impact to the daily operations of City departments.
- The City will be responsible for training new users after go-live (exception—previously planned or regular training offerings by Tyler).

6.4.4 Control Point 4: Production Readiness Stage Acceptance

Acceptance criteria for this stage includes all criteria listed below. Advancement to the Production stage is dependent upon Tyler’s receipt of the stage acceptance.

Production Readiness stage deliverables:

- Solution Validation Report.
- Update go-live action plan and/or checklist.
- End user training.

Production Readiness stage acceptance criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live planning session conducted.

6.5 Production

Following end user training the production system will be fully enabled and made ready for daily operational use as of the scheduled date. Tyler and the City will follow the comprehensive action plan laid out during Go-Live Readiness to support go-live activities and minimize risk to the Project during go-live. Following go-live, Tyler will work with the City to verify that implementation work is concluded, post go-live activities are scheduled, and the transition to Client Services is complete for long-term operations and maintenance of the Tyler software.

6.5.1 Go-Live

Following the action plan for Go-Live, defined in the Production Readiness stage, the City and Tyler will complete work assigned to prepare for Go-Live.

The City provides final data extract and Reports from the Legacy System for data conversion and Tyler executes final conversion iteration, if applicable. If defined in the action plan, the City manually enters any data added to the Legacy System after final data extract into the Tyler system.

Tyler staff collaborates with the City during Go-Live activities. The City transitions to Tyler software for day-to day business processing.

Some training topics are better addressed following Go-Live when additional data is available in the system or based on timing of applicable business processes and will be scheduled following Go-Live per the Project Schedule.

Objectives:

- Execute day to day processing in Tyler software.
- City data available in Production environment.

STAGE 5	Go-Live	
	Tyler	City

<p>RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed</p>	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Provide final source data extract, if applicable			C		C						A						R
Final source data pushed into production environment, if applicable			A	C	R						I	C		C			C
Proof final converted data, if applicable			C	C	C						A	R		C			
Complete Go-Live activities as defined in the Go-Live action plan			C	C	C					A	R	C	I	C			
Provide Go-Live assistance			A	R	C	C		I			C	C	I	C		I	C

Inputs	Comprehensive Action Plan for Go-Live
	Final source data (if applicable)

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Data is available in production environment	City confirms data is available in production environment

Work package assumptions:

- The City will complete activities documented in the action plan for Go-Live as scheduled.
- External stakeholders will be available to assist in supporting the interfaces associated with the Go-Live live process.
- The City business processes required for Go-Live are fully documented and tested.
- The City Project team and subject matter experts are the primary point of contact for the end users when reporting issues during Go-Live.
- The City Project Team and Power User’s provide business process context to the end users during Go-Live.
- The Tyler Go-Live support team is available to consult with the City teams as necessary.
- The Tyler Go-Live support team provides standard functionality responses, which may not be tailored to the local business processes.

6.5.2 Transition to Client Services

This work package signals the conclusion of implementation activities for the Phase or Project with the exception of agreed-upon post Go-Live activities. The Tyler project manager(s) schedules a formal transition

of the City onto the Tyler Client Services team, who provides the City with assistance following Go-Live, officially transitioning the City to operations and maintenance.

Objectives:

- Ensure no critical issues remain for the project teams to resolve.
- Confirm proper knowledge transfer to the City teams for key processes and subject areas.

STAGE 5	Transition to Client Services																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Transfer City to Client Services and review issue reporting and resolution processes	I	I	A	I	I			R	I	I	C	C		C			
Review long term maintenance and continuous improvement			A					R			C	C		C			

Inputs	Open item/issues List
--------	-----------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Client Services Support Document	

Work package assumptions:

- No material project issues remain without assignment and plan.

6.5.3 Post Go-Live Activities

Some implementation activities are provided post-production due to the timing of business processes, the requirement of actual production data to complete the activities, or the requirement of the system being used in a live production state.

Objectives:

- Schedule activities that are planned for after Go-Live.
- Ensure issues have been resolved or are planned for resolution before phase or project close.

STAGE 5	Post Go-Live Activities																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Schedule contracted activities that are planned for delivery after go-live		A	R	C	C	C	C	I			C	C	I	C			C
Determine resolution plan in preparation for phase or project close out		A	R	C	C	C		I			C	C	I	C			

Inputs	List of post Go-Live activities
--------	---------------------------------

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Updated issues log	

Work package assumptions:

- System is being used in a live production state.

6.5.4 Control Point 5: Production Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below:

- Advancement to the Close stage is not dependent upon Tyler’s receipt of this Stage Acceptance.
- Converted data is available in production environment.

Production Stage Acceptance Criteria:

- All stage deliverables accepted based on criteria previously defined.
- Go-Live activities defined in the Go-Live action plan completed.
- Client services support document is provided.

6.6 Close

The Close stage signifies full implementation of all products purchased and encompassed in the Phase or Project. The City transitions to the next cycle of their relationship with Tyler (next Phase of implementation or long-term relationship with Tyler Client Services).

6.6.1 Phase Closeout

This work package represents Phase completion and signals the conclusion of implementation activities for the Phase. The Tyler Client Services team will assume ongoing support of the City for systems implemented in the Phase.

Objectives:

- Agreement from Tyler and the City teams that activities within this phase are complete.

STAGE 6	Phase Close Out																
	Tyler							City									
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power Users)	Department Heads	End Users	Technical Leads
Reconcile project budget and status of contract Deliverables	I	A	R						I	I	C						
Hold post phase review meeting		A	R	C	C	C	C				C	C	C	C			C
Release phase-dependent Tyler project resources	A	R	I								I						

Participants	Tyler	City
	Project Leadership	Project Manager
	Project Manager	Project Sponsor(s)
	Implementation Consultants	Functional Leads, Power Users, Technical Leads
	Technical Consultants (Conversion, Deployment, Development)	
	Client Services	

Inputs	
	Contract
	Statement of Work
	Project artifacts

Outputs / Deliverables	Acceptance Criteria [only] for Deliverables
Final action plan (for outstanding items)	
Reconciliation Report	
Post Phase Review	

Work package assumptions:

- Tyler deliverables for the phase have been completed.

6.6.2 Project Closeout

Completion of this work package signifies final acceptance and formal closing of the Project.

At this time the City may choose to begin working with Client Services to look at continuous improvement Projects, building on the completed solution.

Objectives:

- Confirm no critical issues remain for the project teams to resolve.
- Determine proper knowledge transfer to the City teams for key processes and subject areas has occurred.
- Verify all deliverables included in the Agreement are delivered.

STAGE 6	Project Close Out																
	Tyler								City								
RACI MATRIX KEY: R = Responsible A = Accountable C = Consulted I = Informed	Executive Manager	Implementation Manager	Project Manager	Implementation Consultant	Data Experts	Modification Services	Technical Services	Client Services	Executive Sponsor	Steering Committee	Project Manager	Functional Leads	Change Management Leads	Subject Matter Experts (Power)	Department Heads	End Users	Technical Leads
Conduct post project review		A	R	C	C	C	C				C	C	C	C			C
Deliver post project report to City and Tyler leadership	I	A	R						I	I	C						
Release Tyler project resources	A	R	I								I						

Inputs	Contract
	Statement of Work

Outputs / Deliverables		Acceptance Criteria [only] for Deliverables
	Post Project Report	City acceptance; Completed report indicating all project Deliverables and milestones have been completed

Work package assumptions:

- All project implementation activities have been completed and approved.

- No critical project issues remain that have not been documented and assigned.
- Final project budget has been reconciled and invoiced.
- All Tyler deliverables have been completed.

6.6.3 Control Point 6: Close Stage Acceptance

Acceptance criteria for this Stage includes completion of all criteria listed below.

Close Stage Deliverables:

- Post Project Report.

Close Stage Acceptance Criteria:

- Completed report indicating all Project deliverables and milestones have been completed.

7. General Assumptions

Tyler and the City will use this SOW as a guide for managing the implementation of the Tyler Project as provided and described in the Agreement. There are a few assumptions which, when acknowledged and adhered to, will support a successful implementation. Assumptions related to specific work packages are documented throughout the SOW. Included here are general assumptions which should be considered throughout the overall implementation process.

7.1 Project

- Project activities will begin after the Agreement has been fully executed.
- The City Project Team will complete their necessary assignments in a mutually agreed upon timeframe to meet the scheduled go-live date, as outlined in the Project Schedule.
- Sessions will be scheduled and conducted at a mutually agreeable time.
- Additional services, software modules and modifications not described in the SOW or Agreement will be considered a change to this Project and will require a Change Request Form as previously referenced in the definition of the Change Control Process.
- Tyler will provide a written agenda and notice of any prerequisites to the City project manager(s) ten (10) business days or as otherwise mutually agreed upon time frame prior to any scheduled on-site or remote sessions, as applicable.
- Tyler will provide guidance for configuration and processing options available within the Tyler software. If multiple options are presented by Tyler, the City is responsible for making decisions based on the options available.
- Implementation of new software may require changes to existing processes, both business and technical, requiring the City to make process changes.
- The City is responsible for defining, documenting, and implementing their policies that result from any business process changes.

7.2 Organizational Change Management

Unless otherwise contracted by Tyler, City is responsible for managing Organizational Change. Impacted City resources will need consistent coaching and reassurance from their leadership team to embrace and accept the changes being imposed by the move to new software. An important part of change is ensuring that impacted City resources understand the value of the change, and why they are being asked to change.

7.3 Resources and Scheduling

- City resources will participate in scheduled activities as assigned in the Project Schedule.
- The City team will complete prerequisites prior to applicable scheduled activities. Failure to do so may affect the schedule.
- Tyler and the City will provide resources to support the efforts to complete the Project as scheduled and within the constraints of the Project budget.
- Abbreviated timelines and overlapped Phases require sufficient resources to complete all required work as scheduled.
- Changes to the Project Schedule, availability of resources or changes in Scope will be requested through a Change Request. Impacts to the triple constraints (scope, budget, and schedule) will be assessed and documented as part of the change control process.
- The City will ensure assigned resources will follow the change control process and possess the required business knowledge to complete their assigned tasks successfully. Should there be a change in resources, the replacement resource should have a comparable level of availability, change control process buy-in, and knowledge.
- The City makes timely Project related decisions to achieve scheduled due dates on tasks and prepare for subsequent training sessions. Failure to do so may affect the schedule, as each analysis and implementation session is dependent on the decisions made in prior sessions.
- The City will respond to information requests in a comprehensive and timely manner, in accordance with the Project Schedule.
- The City will provide adequate meeting space or facilities, including appropriate system connectivity, to the project teams including Tyler team members.
- For on-site visits, Tyler will identify a travel schedule that balances the needs of the project and the employee.

7.4 Data

- Data will be converted as provided and Tyler will not create data that does not exist.
- The City is responsible for the quality of legacy data and for cleaning or scrubbing erroneous legacy data.
- Tyler will work closely with the City representatives to identify business rules before writing the conversion. The City must confirm that all known data mapping from source to target have been identified and documented before Tyler writes the conversion.
- All in-scope source data is in data extract(s).
- Each legacy system data file submitted for conversion includes all associated records in a single approved file layout.
- The City will provide the legacy system data extract in the same format for each iteration unless changes are mutually agreed upon in advance. If not, negative impacts to the schedule, budget and resource availability may occur and/or data in the new system may be incorrect.
- The City Project Team is responsible for reviewing the converted data and reporting issues during each iteration, with assistance from Tyler.
- The City is responsible for providing or entering test data (e.g., data for training, testing interfaces, etc.)

7.5 Facilities

- The City will provide dedicated space for Tyler staff to work with City resources for both on-site and remote sessions. If Phases overlap, City will provide multiple training facilities to allow for independent sessions scheduling without conflict.
- The City will provide staff with a location to practice what they have learned without distraction.

8. Glossary

Word or Term	Definition
Acceptance	Confirming that the output or deliverable is suitable and conforms to the agreed upon criteria.
Accountable	The one who ultimately ensures a task or deliverable is completed; the one who ensures the prerequisites of the task are met and who delegates the work to those responsible. [Also see RACI]
Application	A computer program designed to perform a group of coordinated functions, tasks, or activities for the benefit of the user.
Application Programming Interface (API)	A defined set of tools/methods to pass data to and received data from Tyler software products
Agreement	This executed legal contract that defines the products and services to be implemented or performed.
Business Process	The practices, policy, procedure, guidelines, or functionality that the client uses to complete a specific job function.
Business Requirements Document	A specification document used to describe Client requirements for contracted software modifications.
Change Request	A form used as part of the Change Control process whereby changes in the scope of work, timeline, resources, and/or budget are documented and agreed upon by participating parties.
Change Management	Guides how we prepare, equip and support individuals to successfully adopt change in order to drive organizational success & outcomes
Code Mapping [where applicable]	An activity that occurs during the data conversion process whereby users equate data (field level) values from the old system to the values available in the new system. These may be one to one or many to one. Example: Old System [Field = eye color] [values = BL, Blu, Blue] maps to New Tyler System [Field = Eye Color] [value = Blue].
Consulted	Those whose opinions are sought, typically subject matter experts, and with whom there is two-way communication. [Also see RACI]
Control Point	This activity occurs at the end of each stage and serves as a formal and intentional opportunity to review stage deliverables and required acceptance criteria for the stage have been met.
Data Mapping [where applicable]	The activity determining and documenting where data from the legacy system will be placed in the new system; this typically involves prior data analysis to understand how the data is currently used in the legacy system and how it will be used in the new system.
Deliverable	A verifiable document or service produced as part of the Project, as defined in the work packages.
Go-Live	The point in time when the Client is using the Tyler software to conduct daily operations in Production.
Informed	Those who are kept up-to-date on progress, often only on completion of the task or deliverable, and with whom there is just one-way communication. [Also see RACI]

Infrastructure	The composite hardware, network resources and services required for the existence, operation, and management of the Tyler software.
Interface	A connection to and potential exchange of data with an external system or application. Interfaces may be one way, with data leaving the Tyler system to another system or data entering Tyler from another system, or they may be bi-directional with data both leaving and entering Tyler and another system.
Integration	A standard exchange or sharing of common data within the Tyler system or between Tyler applications
Legacy System	The software from which a client is converting.
Modification	Custom enhancement of Tyler's existing software to provide features or functions to meet individual client requirements documented within the scope of the Agreement.
On-site	Indicates the work location is at one or more of the client's physical office or work environments.
Organizational Change	The process of changing an organization's strategies, processes, procedures, technologies, and culture, as well as the effect of such changes on the organization.
Output	A product, result or service generated by a process.
Peripheral devices	An auxiliary device that connects to and works with the computer in some way. Some examples: scanner, digital camera, printer.
Phase	A portion of the Project in which specific set of related applications are typically implemented. Phases each have an independent start, Go-Live and closure dates but use the same Implementation Plans as other Phases of the Project. Phases may overlap or be sequential and may have different Tyler resources assigned.
Project	The delivery of the software and services per the agreement and the Statement of Work. A Project may be broken down into multiple Phases.
RACI	A matrix describing the level of participation by various roles in completing tasks or Deliverables for a Project or process. Individuals or groups are assigned one and only one of the following roles for a given task: Responsible (R), Accountable (A), Consulted (C), or Informed (I).
Remote	Indicates the work location is at one or more of Tyler's physical offices or work environments.
Responsible	Those who ensure a task is completed, either by themselves or delegating to another resource. [Also see RACI]
Scope	Products and services that are included in the Agreement.

Solution	The implementation of the contracted software product(s) resulting in the connected system allowing users to meet Project goals and gain anticipated efficiencies.
Stage	The top-level components of the WBS. Each Stage is repeated for individual Phases of the Project.
Standard	Software functionality that is included in the base software (off-the-shelf) package; is not customized or modified.
Statement of Work (SOW)	Document which will provide supporting detail to the Agreement defining Project-specific activities, services, and Deliverables.
System	The collective group of software and hardware that is used by the organization to conduct business.
Test Scripts	The steps or sequence of steps that will be used to validate or confirm a piece of functionality, configuration, enhancement, or Use Case Scenario.
Training Plan	Document(s) that indicate how and when users of the system will be trained relevant to their role in the implementation or use of the system.
Validation (or to validate)	The process of testing and approving that a specific Deliverable, process, program, or product is working as expected.
Work Breakdown Structure (WBS)	A hierarchical representation of a Project or Phase broken down into smaller, more manageable components.
Work Package	A group of related tasks within a project.

Part 4: Appendices

9. Conversion

9.1 Enterprise ERP Conversion Summary

9.1.1 Accounting

9.1.1.1 Accounting - Actuals

- Summary account balances
- Up to 5 years

9.1.1.2 Accounting - Budgets

- Original budget, budget adjustments, revised budget summaries for accounts
- Up to 5 years

9.1.2 Accounts Payable

9.1.2.1 Vendors

- Vendor Master file including names, addresses, SSN/FID, contacts, phone numbers
- Multiple remittance addresses
- Year-to-date 1099 amounts

9.1.2.2 Accounts Payable - Checks

- Check header data including vendor, warrant, check number, check date, overall check amount, GL cash account and clearing information
- Check detail data including related document and invoice numbers for each check
- Up to 5 years

9.1.2.3 Accounts Payable - Invoices

- Invoice header data containing general information for the invoice
- Invoice detail data containing line-specific information for the invoice
- Up to 5 years

9.1.3 Contracts

- Contract header detail with many fields available to convert including fiscal year and period, vendor number, department code, description, enforcement method code, dates for award, approval, entry and expiration, retention information, user-defined type and review codes, status code, user id for entry and approver. Additional fields are also available. A balance forward contract amount is converted, if original amount is required there will be an additional charge and contracts, po's and invoices must be converted together.

9.1.4 Project Accounting

9.1.4.1 Project Accounting Master Tables

- Segments, account strings and fund string allocation table
- Requires the use of a Tyler provided (Chart of Accounts) spreadsheet for design and entry of the data to be converted

9.1.4.2 Project Accounting - Actuals

- Summary project ledger string balances. If linking to GL, must be converted at the same time.
- Up to 3 years

9.1.4.3 Project Accounting – Budget

- Original project ledger budget amounts. If linking to GL, must be converted at the same time.
- Up to 3 years

9.1.5 Purchase Orders

- Open purchase orders header data including vendor, buyer, date, accounting information, etc.
- Open purchase orders detail data including line-item descriptions, quantities, amounts, etc.
- Closed purchase orders detail data, up to 5 years, including line-item descriptions, quantities, amounts, etc.

9.1.6 Human Resources Management

9.1.6.1 HRM Employee Master Information

- Payroll Employee Master data including data such as name, address, SSN, legacy employee ID, date of birth, hire date, activity status (such as active/inactive), leave/termination code and date, phone(s), e-address, marital status, gender, race, personnel status (such as full-time, part-time, etc.), highest degree, advice-delivery (print/email/both) and check location, plus primary group, job, location, and account information

9.1.6.2 Accumulators

- YTD, QTD, MTD amounts for employee pay and deductions
- Needed for mid-calendar-year go-live
- May not be needed if converting earnings/deductions history
- Up to 5 years
- Accumulators are converted with check history and earning/deduction history as a default. No accumulator files are necessary to submit when converting history.

9.1.6.3 Check History

- Up to 5 years, additional years must be quoted. We convert amounts for earnings and deductions in employee check history, check number and date.

9.1.6.4 Earning/Deduction Hist.

- Up to 5 years, additional years must be quoted. Earning and deduction history broken down by individual codes (earnings and deduction) and amounts per pay period, the detail of these lines, sums the check history in opt 4.

9.1.6.5 Personnel Action History

- A variety of Personnel actions, such as job or salary changes and dates these events occurred.
- Up to 5 years

9.1.6.6 Certifications

- Certification area and certification type codes, certification number and effective date, expiration date, and required-by date, codes for certification level and subjects

9.1.6.7 Education

- Codes, for institution, type of degree, and area(s) of study

9.1.7 General Billing

9.1.7.1 Customer Master Files

- Customer information

9.1.7.2 General Billing – Recurring Invoices

- General Billing Invoices that are sent on a regular basis
- Header records with general information about the invoice
- Detail records with line-specific information

9.1.7.3 General Billing – Bills

- 5 years of open and closed invoices
- General Ledger information so open invoices can be processed in Enterprise ERP

10. Additional Appendices

11. Project Timeline

11.1 ERP Project Timeline

The Project Timeline establishes a target duration for each phase of the project. The timeline needs to account for resource availability, business goals, size and complexity of the project, and task duration requirements. These will be reviewed and adjusted, if needed, during the Initiate and Plan Stage. Refer to the Project Stages section of this SOW for information on work packages associated with each stage of the implementation. Durations may be revised when the Agreement is signed and further refined during the project.

Eden to Enterprise ERP project start dates are dependent on wave availability. Waves are a common implementation start month for a group of Eden clients. Each wave has a designated number of slots available for clients to sign up – once those slots are full you must choose an alternate wave with availability. A signed agreement is required to reserve your spot in a specific wave.

Phase	Functional Area(s)	Modules	Duration
1	Financials	<ul style="list-style-type: none"> Accounting Accounts Payable Assets Mobile Budgeting Capital Assets Cash Management Contract Management Inventory Project & Grant Accounting Purchasing Accounts Receivable General Billing Cashiering Open Finance 	<p>12 Months</p> <p>or as defined in the Project Plan and mutually agreed upon</p> <p>Average Days/Month: 14</p>
	System Wide	<ul style="list-style-type: none"> Analytics & Reporting w Executive Insights Enterprise Forms Content Manager Core includes Onboarding Enterprise ERP and Utility Access Payments 	
2	Utility Billing	<ul style="list-style-type: none"> Utility Billing CIS Utility Billing Meter Interface Resident Access 	<p>12 Months</p> <p>or as defined in the Project Plan and mutually agreed upon</p> <p>Average Days/Month: 7</p>

3	Human Resources Management	<ul style="list-style-type: none">• Payroll with Employee Access• Human Resources & Talent Management• Time & Attendance w Mobile Access	12 Months or as defined in the Project Plan and mutually agreed upon Average Days/Month: 7
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Agenda Item

City Council

Item #: 7.2.

2/27/2024

File #: 24-0081

TO: Honorable Mayor and Members of the City Council

THRU: Tom Kisela, City Manager

FROM: Christopher Cash, Public Works Director

1. SUBJECT

Approval of plans and specifications for the demolition of the Old Fire Station Headquarters as part of the Grand Street Parking Lot Project; authorization to advertise for bids; and finding of CEQA exemption.

2. SUMMARY

Plans and specifications have been completed, and the project is ready to be advertised for bids.

3. RECOMMENDED ACTION

1. Approve plans and specifications and authorize advertising for Bid No. 23-24.30 (SP-4282).
2. Find the proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15332 (Class 32 - In-Fill Development Projects).

4. FISCAL IMPACT

Funds are currently budgeted in the Capital Bonds Proceeds (553) fund. Once bids have been opened and construction costs determined, staff will return to the City Council to request additional funds should there be a need.

5. STRATEGIC PLAN GOALS

Goal 1: Provide for a safe community

- b: Provide and maintain infrastructure necessary to ensure the safety of the public.

Goal 4: Provide outstanding public service

- b: Provide facilities and services to meet customer expectations.

6. DISCUSSION AND BACKGROUND

With the relocation of Fire Station No. 1 and Headquarters (Fire HQ) to the new location on Water Street, the old Fire HQ currently sits empty. The former Fire HQ building is more than 50 years old and is seismically deficient. The City completed a historic resource assessment in April 2022 and found the Fire HQ building does not have historic significance and is not a contributor to an existing or future historic district. Its original utilitarian use as a fire station is not economically feasible for other commercial uses. The City had previously created a capital improvement project in anticipation of utilizing the former Fire HQ site, along with the adjacent existing public parking areas, for a bigger parking lot. The study of the site utilization as a consolidated parking lot is now complete and staff is

seeking approval to demolish the existing Fire HQ building now and to proceed with finalizing the plan for parking lot expansion later this spring.

The project site encompasses most of the west side of Grand Street from Almond Avenue to the public parking lot just south of the city owned apartment building. The proposed parking lot improvements will be completed in 2 phases for the Grand Street site. Phase I will be the demolition of the Fire HQ building. During Phase I staff will, on a parallel track, finalize the plan for the proposed parking lot expansion (Phase II). The proposed parking lot will have a total of 119 parking spaces, which is a gain of 77 parking spaces from the existing city parking lot just north of the Fire HQ site. Another four on-street parking spaces will also be added due to the consolidation of driveway approaches along Grand Street. This project will maximize parking space and overall circulation of the Grand Street Parking Lot. The additional parking spaces created will increase parking availability for the Old Towne/Plaza area.

The expanded parking lot will require demolition of the Old Fire Headquarters building including the basement (Phase I). The engineer's estimate for the construction is about \$650,000 including contingency and construction engineering cost.

7. ENVIRONMENTAL REVIEW

The proposed project is categorically exempt from the provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines 15332 (Class 32 - In-Fill Development Projects) in that it involves demolition of an existing non-historic building on a city right-of-way site less than five acres and has no impact on endangered, rare, or threatened species. No public review is required.

8. ATTACHMENTS

- Parking Lot Layout



Agenda Item

City Council

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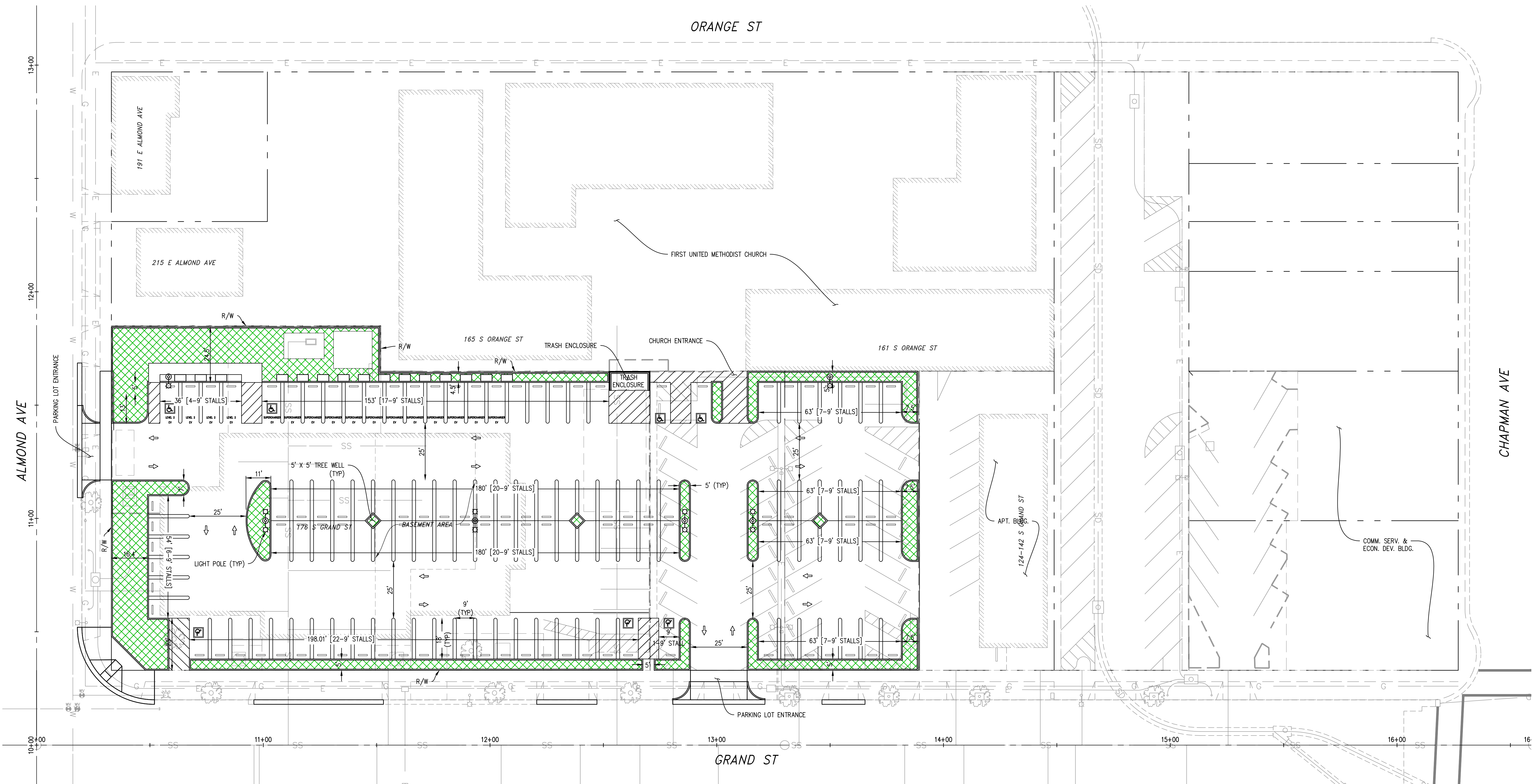
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8. ATTACHMENTS

- Parking Lot Layout



LEGEND
 LANDSCAPE AREA

CITY OF ORANGE
 OFFICE OF THE CITY ENGINEER
IMPROVEMENTS PLAN
GRAND STREET PARKING LOT
 LAYOUT

APPROVED: _____ DATE: _____
 ASSISTANT PUBLIC WORKS DIRECTOR/CITY ENGINEER PUBLIC WORKS DIRECTOR

SCALE:	HORIZ. AS NOTED	F.B.	PG.	SHEET	OF	SHEET:
VERT. AS NOTED						

DRAWN	NAME	DATE
DESIGNED	K.Y.	11/15/21
CHECKED	K.Y.	11/15/21

N:\Public Works\ENGINEERING\Drawings\SP-4180_Grand Street Parking
 Layout_Engineering\Drawings\SP-4180_Alt.dwg
 By: Youichi Nakagawa on 2/14/2024 9:33 AM



Agenda Item

City Council

Item #: 7.3.

2/27/2024

File #: 24-0089

TO: Honorable Mayor and Members of the City Council

FROM: Tom Kisela, City Manager

1. SUBJECT

Presentation from Fairbank, Maslin, Maullin, Metz & Associates on the results from a citywide survey that studied the feasibility of potential revenue measures and identified budget/service priorities.

2. SUMMARY

On October 24, 2023, the Orange City Council approved an agreement with Fairbank, Maslin, Maullin, Metz & Associates to conduct a citywide survey to determine the viability of two potential revenue measures as well as identifying community budget/service priorities. This presentation will review the citywide survey results while providing the City Council the opportunity to discuss the results and provide direction to City staff.

3. RECOMMENDED ACTION

1. Receive and file a presentation from Fairbank, Maslin, Maullin, Metz & Associates on the results of a citywide survey that studied the feasibility of potential revenue measures and identified budget/service priorities.
2. Discuss the results from the citywide survey and provide direction to City staff.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 4: Provide Outstanding Public Services

- e. Obtain, implement, and evaluate public input into our services and programs.

6. DISCUSSION AND BACKGROUND

At the October 3, 2023, City Council meeting, the City Council directed staff to perform feasibility studies of three potential revenue measures - a sales tax increase, transient occupancy tax (TOT) increase, and a utility user tax increase. On October 24, 2023, the City Council approved an agreement with Fairbank, Maslin, Maullin, Metz & Associates (FM3) to conduct a statistically valid community survey measuring the feasibility of the three potential revenue measures as well as identifying budget/service priorities.

In drawing from City Council discussions at the October 24, 2023, City Council meeting, it was clarified at the November 14, 2023, City Council meeting that the survey would only measure the feasibility of a potential sales tax increase and TOT increase (as well as identifying budget/service priorities). Both potential measures were studied independently from one another. FM3 released the survey in mid-December, collected/analyzed the results, and Dr. Richard Bernard of FM3 has

prepared a presentation detailing the survey's findings. At the conclusion of the presentation, it is recommended the City Council discuss the results and provide direction to City staff.

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 7.3.

2/27/2024

File #: 24-0089

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1. Receive and file a presentation from Fairbank, Maslin, Maullin, Metz & Associates on the results of a citywide survey that studied the feasibility of potential revenue measures and identified budget/service priorities.
2. Discuss the results from the citywide survey and provide direction to City staff.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 4: Provide Outstanding Public Services

- e. Obtain, implement, and evaluate public input into our services and programs.

6. DISCUSSION AND BACKGROUND

At the October 3, 2023, City Council meeting, the City Council directed staff to perform feasibility studies of three potential revenue measures - a sales tax increase, transient occupancy tax (TOT) increase, and a utility user tax increase. On October 24, 2023, the City Council approved an agreement with Fairbank, Maslin, Maullin, Metz & Associates (FM3) to conduct a statistically valid community survey measuring the feasibility of the three potential revenue measures as well as identifying budget/service priorities.

In drawing from City Council discussions at the October 24, 2023, City Council meeting, it was clarified at the November 14, 2023, City Council meeting that the survey would only measure the feasibility of a potential sales tax increase and TOT increase (as well as identifying budget/service priorities). Both potential measures were studied independently from one another. FM3 released the survey in mid-December, collected/analyzed the results, and Dr. Richard Bernard of FM3 has

prepared a presentation detailing the survey's findings. At the conclusion of the presentation, it is recommended the City Council discuss the results and provide direction to City staff.

7. ATTACHMENTS

- None



Agenda Item

City Council

Item #: 9.1.

2/27/2024

File #: 24-0115

TO: Honorable Mayor and Members of the City Council

FROM: Tom Kisela, City Manager

1. SUBJECT

Investment and Audit Committee's separation and related changes to Orange Municipal Code Title 2. Resolution No. 11522 and Ordinance Nos. 01-24, 02-24, and 03-24.

2. SUMMARY

City Council Resolution No. 11387 merged the previously separated Audit Committee and Investment Advisory Committee. Resolution No. 11522 rescinds Resolution No. 11387 while Ordinance Nos. 01-24, 02-24, and 03-24 make related changes to Orange Municipal Code Title 2. Taken together, the resolution and three ordinances eliminate the Investment and Audit Committee, make necessary changes to the Orange Municipal Code, and create two independent committees - the Investment Advisory Committee and Audit Advisory Committee.

3. RECOMMENDED ACTION

1. Introduce and conduct First Reading of Ordinance No. 01-24. An Ordinance of the City Council of the City of Orange amending section 2.26.010 of the Orange Municipal Code Related to the Duties of the City Treasurer.
2. Introduce and conduct First Reading of Ordinance No. 02-24. An Ordinance of the City Council of the City of Orange adding Chapter 2.50 to Title 2 of the Orange Municipal Code (Administration and Personnel) establishing the Audit Advisory Committee.
3. Introduce and conduct First Reading of Ordinance No. 03-24. An Ordinance of the City Council of the City of Orange adding Chapter 2.51 to Title 2 of the Orange Municipal Code (Administration and Personnel) establishing the Investment Advisory Committee.
4. Adopt Resolution No. 11522. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11387.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

a: Expend fiscal resources responsibly.

6. DISCUSSION AND BACKGROUND

On April 12, 2022, the Orange City Council adopted Resolution No. 11387. The resolution combined the Audit Committee and Investment Advisory Committee, creating the Investment and Audit Committee.

After reviewing the duties and functions of both boards (as previously existed) it is recommended that the Committees again be separated. Having two separate committees comprised of experts in the same field will provide greater insight and citizen participation. Restoring the previous committees will again allow each committee to focus on important City matters within their area of expertise.

It is recommended that the City Council approve the introduction of Ordinance No. 01-24, amending the City Treasurer's duties prescribed in Orange Municipal Code (OMC) Section 2.26.010. Ordinance No. 01-24 removes references to the Investment and Audit Committee and provides minor clean-up provisions.

It is also recommended that the City Council adopt Resolution No. 11522 and approve the introduction of Ordinance Nos. 02-24 and 03-24. Collectively, the resolution and two ordinances eliminate the Investment and Audit Committee (Resolution No. 11522) and re-establish the Audit Advisory Committee (Ordinance No. 02-24) and Investment Advisory Committee (Ordinance No. 03-24). All other modifications are intended to promote efficiency, reflect contemporary municipal finance procedures, and encourage collaboration among the committees, staff, and outside consultants (e.g., third-party City auditor).

7. ATTACHMENTS

- Ordinance No. 01-24
- Ordinance No. 01-24 (Redlined)
- Ordinance No. 02-24
- Ordinance No. 03-24
- Resolution No. 11522
- Resolution No. 11387 (Resolution proposed to be rescinded)



Agenda Item

City Council

Item #: 9.1.

2/27/2024

File #: 24-0115

TO: Honorable Mayor and Members of the City Council

FROM: Tom Kisela, City Manager

1. SUBJECT

Investment and Audit Committee's separation and related changes to Orange Municipal Code Title 2. Resolution No. 11522 and Ordinance Nos. 01-24, 02-24, and 03-24.

2. SUMMARY

City Council Resolution No. 11387 merged the previously separated Audit Committee and Investment Advisory Committee. Resolution No. 11522 rescinds Resolution No. 11387 while Ordinance Nos. 01-24, 02-24, and 03-24 make related changes to Orange Municipal Code Title 2. Taken together, the resolution and three ordinances eliminate the Investment and Audit Committee, make necessary changes to the Orange Municipal Code, and create two independent committees - the Investment Advisory Committee and Audit Advisory Committee.

3. RECOMMENDED ACTION

1. Introduce and conduct First Reading of Ordinance No. 01-24. An Ordinance of the City Council of the City of Orange amending section 2.26.010 of the Orange Municipal Code Related to the Duties of the City Treasurer.
2. Introduce and conduct First Reading of Ordinance No. 02-24. An Ordinance of the City Council of the City of Orange adding Chapter 2.50 to Title 2 of the Orange Municipal Code (Administration and Personnel) establishing the Audit Advisory Committee.
3. Introduce and conduct First Reading of Ordinance No. 03-24. An Ordinance of the City Council of the City of Orange adding Chapter 2.51 to Title 2 of the Orange Municipal Code (Administration and Personnel) establishing the Investment Advisory Committee.
4. Adopt Resolution No. 11522. A Resolution of the City Council of the City of Orange rescinding Resolution No. 11387.

4. FISCAL IMPACT

None.

5. STRATEGIC PLAN GOALS

Goal 2: Be a fiscally healthy community

a: Expend fiscal resources responsibly.

6. DISCUSSION AND BACKGROUND

On April 12, 2022, the Orange City Council adopted Resolution No. 11387. The resolution combined the Audit Committee and Investment Advisory Committee, creating the Investment and Audit Committee.

After reviewing the duties and functions of both boards (as previously existed) it is recommended that the Committees again be separated. Having two separate committees comprised of experts in the same field will provide greater insight and citizen participation. Restoring the previous committees will again allow each committee to focus on important City matters within their area of expertise.

It is recommended that the City Council approve the introduction of Ordinance No. 01-24, amending the City Treasurer's duties prescribed in Orange Municipal Code (OMC) Section 2.26.010. Ordinance No. 01-24 removes references to the Investment and Audit Committee and provides minor clean-up provisions.

It is also recommended that the City Council adopt Resolution No. 11522 and approve the introduction of Ordinance Nos. 02-24 and 03-24. Collectively, the resolution and two ordinances eliminate the Investment and Audit Committee (Resolution No. 11522) and re-establish the Audit Advisory Committee (Ordinance No. 02-24) and Investment Advisory Committee (Ordinance No. 03-24). All other modifications are intended to promote efficiency, reflect contemporary municipal finance procedures, and encourage collaboration among the committees, staff, and outside consultants (e.g., third-party City auditor).

7. ATTACHMENTS

- Ordinance No. 01-24
- Ordinance No. 01-24 (Redlined)
- Ordinance No. 02-24
- Ordinance No. 03-24
- Resolution No. 11522
- Resolution No. 11387 (Resolution proposed to be rescinded)

ORDINANCE NO. 01-24

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF ORANGE AMENDING
SECTIONS 2.26.010 OF THE ORANGE
MUNICIPAL CODE RELATED TO THE
DUTIES OF THE CITY TREASURER.**

**THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS
FOLLOWS:**

SECTION I:

The subject Ordinance is not subject to the provisions of the California Environmental Quality Act (CEQA) because it is not a "project" as defined in Guideline 15378.

SECTION II:

Section 2.26.010, "Administration and Personnel – Department of the Treasury – Duties of City Treasurer" of the Orange Municipal Code is hereby amended to read as follows:

2.26.010 – Duties of City Treasurer

Department of the Treasury, supervised by the City Treasurer, who shall:

A. Carry out all responsibilities and duties required of the Treasurer in the California Government Code;

B. Carry out all responsibilities and duties assigned by ordinance or otherwise delegated by the City Council from time to time;

C. Under Section 2.45.020(B), the Finance Director shall receive, hold, deposit, disburse and account for the funds of the City. However, to the extent that any duties of the Treasurer involve the holding, safe-keeping or possession of any City Funds or accounts, or any funds intended to become City Funds:

1. Keep in proper books, a full and accurate account of all the monies received and disbursed by him or her on behalf of the City, specifying the time of receipt and disbursement, from who received and to who disbursed, and on what account received and disbursed, and how paid;

2. Make a daily settlement and reconciliation with the Director of Finance of the amounts received and paid out during the day for which settlement is being made. Once each month the City Treasurer shall balance and reconcile accounts with the Director of Finance, which monthly settlement shall show the balance to the credit of the several funds for which the Treasurer is responsible;

3. Make a detailed report to the Director of Finance, on the fifth business day of each month, as to the business of the office during the month preceding, showing the balance on hand to the credit of the different funds at the time of his or her last report, the amounts received during the month, and on what account, together with such other items and facts as the Director of Finance may require;

D. Immediately deposit to the City's account any funds received by the Treasurer which are not specifically required to be held by the Treasurer under subsections B or C above;

E. Submit to the City Attorney, for approval as to form, and then to the City Council for prior approval any and all agreements or contracts proposed by the Treasurer, other than acknowledgements, authorizations, and similar documents, in the normal course of municipal investment, necessary to the completion of individual investment transactions authorized under the City Council's adopted Statement of Investment Policy;

F. Be responsible for carrying out and complying with the City Council's Statement Policy. The Treasurer shall act in consultation with the Finance Director in making all investment decisions and shall be assisted by the Finance Director in carrying out the duties hereunder. Finance Department personnel who do not have responsibility for effecting investment transactions as designated by the Finance Director shall be responsible for maintaining internal audit controls on all cash management and investment activities in compliance with the City's Cash Investment Policy and generally accepted accounting practices. The Treasurer shall make all original investment, confirmation, audit and other records under the Treasurer's control available to the Finance Director or the Finance Director's designee for such purposes, who shall independently review, verify and confirm the accuracy of such records on a monthly basis.

SECTION III:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION IV:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2024.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Mike Vigliotta, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ___ day of _____, 2023, and thereafter at the regular meeting of said City Council duly held on the ___ day of _____, 2023, was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

ORDINANCE NO. 01-24

**AN ORDINANCE OF THE CITY COUNCIL
OF THE CITY OF ORANGE AMENDING
SECTIONS 2.26.010 OF THE ORANGE
MUNICIPAL CODE RELATED TO THE
DUTIES OF THE CITY TREASURER.**

~~[Pertinent Provisions Only]~~

**THE CITY COUNCIL OF THE CITY OF ORANGE DOES ORDAIN AS
FOLLOWS:**

SECTION II:

Section 2.26.010, “Administration and Personnel – Department of the Treasury – Duties of City Treasurer” of the Orange Municipal Code is hereby amended to read as follows:

2.26.010 – Duties of City Treasurer

Department of the Treasury, supervised by the City Treasurer, who shall:

~~A. Serve as the Chairperson of the Investment and Audit Committee;~~

~~B. A. Shall~~ Carry out all responsibilities and duties required of the Treasurer in the California **Government Code**;

~~C. B. Shall~~ Carry out all responsibilities and duties assigned by ordinance or otherwise delegated by the City Council from time to time;

~~D. C. Under Section 2.45.020(B), the Finance Director shall receive, hold, deposit, disburse and account for the funds of the City. However, to the extent that any duties of the Treasurer involve the holding, safe-keeping or possession of any City Funds or accounts, or any funds intended to become City Funds:~~

1. Keep in proper books, a full and accurate account of all the monies received and disbursed by him or her on behalf of the City, specifying the time of receipt and disbursement, from who received and to who disbursed, and on what account received and disbursed, and how paid;

2. Make a daily settlement and reconciliation with the Director of Finance of the amounts received and paid out during the day for which settlement is being made. Once each month the City Treasurer shall balance and reconcile accounts with the Director of Finance,

which monthly settlement shall show the balance to the credit of the several funds for which the Treasurer is responsible;

3. Make a detailed report to the Director of Finance, on the fifth business day of each month, as to the business of the office during the month preceding, showing the balance on hand to the credit of the different funds at the time of his or her last report, the amounts received during the month, and on what account, together with such other items and facts as the Director of Finance may require;

~~E.~~ **D.** Immediately deposit to the City's account any funds received by the Treasurer which are not specifically required to be held by the Treasurer under subsections **B** or **C** above;

~~F.~~ **E.** Submit to the City Attorney, for approval as to form, and then to the City Council for prior approval any and all agreements or contracts proposed by the Treasurer, other than acknowledgements, authorizations, and similar documents, in the normal course of municipal investment, necessary to the completion of individual investment transactions authorized under the City Council's adopted Statement of Investment Policy;

~~G.~~ **F.** Be responsible for carrying out and complying with the City Council's Statement Policy. The Treasurer shall act in consultation with the Finance Director in making all investment decisions and shall be assisted by the Finance Director in carrying out the duties hereunder. Finance Department personnel who do not have responsibility for effecting investment transactions as designated by the Finance Director shall be responsible for maintaining internal audit controls on all cash management and investment activities in compliance with the City's Cash Investment Policy and generally accepted accounting practices. The Treasurer shall make all original investment, confirmation, audit and other records under the Treasurer's control available to the Finance Director or the Finance Director's designee for such purposes, who shall independently review, verify and confirm the accuracy of such records on a monthly basis.

ORDINANCE NO. 02-24

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ORANGE ADDING CHAPTER 2.50 TO TITLE 2 OF THE ORANGE MUNICIPAL CODE (ADMINISTRATION AND PERSONNEL) ESTABLISHING THE AUDIT ADVISORY COMMITTEE

WHEREAS, in April 2022, the City Council adopted Resolution No. 11387, merging the previously separated Audit Committee and Investment Advisory Committee thereby creating the Investment and Audit Committee; and

WHEREAS, although the Investment and Audit Committee has provided a great service to the City of Orange, both audit and investment functions are distinct from one another; and

WHEREAS, in recognizing that both functions require specific skill sets, experience, education, and expertise, the City of Orange stands to benefit by separating both functions thereby creating separate committees comprised of experts within their respective fields; and

WHEREAS, it is the desire of the City Council to create an Audit Advisory Committee to assist in the overall stewardship of the City’s financial affairs, including reviewing financial information and ascertaining the adequacy of accounting and internal control systems.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION I:

The Ordinance is not a “project” subject to provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378 because it involves an organizational and administrative activity of the City of Orange that will not result in direct or indirect physical changes in the environment.

SECTION II:

The recitals and findings contained in herein are true and correct and incorporated herein

SECTION III:

Chapter 2.50 (Administration and Personnel – Audit Advisory Committee) is hereby added to the Orange Municipal Code to read as follows:

Chapter 2.50 Audit Advisory Committee

- 2.50.010 – Established
- 2.50.020 - Powers and Duties
- 2.50.030 – Appointments and Terms
- 2.50.040 – Election of Officers
- 2.50.050 – Regular Meetings
- 2.50.060 – Quorum-Voting
- 2.50.070 – Absence of Voting Members
- 2.50.080 – Action by Voting Members – Authority Required
- 2.50.090 – Communication from the Committee

2.50.010 – Established.

There is established in the City an Audit Advisory Committee consisting of seven voting members to act in an advisory capacity to the City Council regarding the City's accounting and internal control systems and provide advice to the City Council regarding safeguards over City assets, including but not limited to:

- A. Reporting to the City Council annually on Committee proceedings.
- B. Conduct planning and exit meetings as it relates to the annual financial audit.

2.50.020 – Powers and Duties.

The Committee shall have the following duties:

- A. Conduct a planning meeting with the City's auditors to address any questions or concerns as the audit and internal controls test is prepared.
- B. At the conclusion of the audit, conduct an exit meeting to evaluate results of the financial statement audit.
- C. Report to the City Council on the results of the planning and exit meetings as well as the final audit results.

2.50.030 – Appointments and Terms.

The Mayor, with approval of the City Council, will appoint each voting member of the Audit Advisory Committee. The term of office shall be for two years and thereafter until a successor for the voting member whose term is expiring has been appointed.

2.50.040 – Election of Officers.

The Committee shall elect at its first meeting of the calendar year, from its voting members, a Chairperson and Vice Chairperson. The terms of office for these offices shall be for one year.

2.50.050 – Regular Meetings.

The Committee shall meet in regular session on dates and at times to be determined from time to time by resolution of the City Council. All meetings shall be open to the public, and the Brown Act shall apply.

2.50.060 - Quorum-Voting.

A majority of at least four voting members shall constitute a quorum. A majority vote of the voting members present (at least 4 voting members, vacancies shall not count toward establishing a quorum) shall be required to carry a motion.

2.50.070 - Absence of Voting Members.

Absence from three consecutive meetings without formal notice to the Committee will be deemed to constitute the resignation of such voting member, and the position declared vacant. In the event of a vacancy, either by because of absence or otherwise, may be filled by the Mayor subject to ratification by the City Council.

2.50.080 - Action by Voting Members-Authority Required.

No voting member shall take any action or make any statement committing the Committee unless given express authority to do so by a majority vote of the Committee’s entire seven voting members.

2.50.090 - Communications from the Committee.

All recommendations and updates of the Committee to the City Council for its consideration or action shall be transmitted in writing.

SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2024.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Mike Vigliotta, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2024, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2024 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

ORDINANCE NO. 03-24

**AN ORDINANCE OF THE CITY COUNCIL OF
THE CITY OF ORANGE ADDING CHAPTER 2.51
TO TITLE 2 OF THE ORANGE MUNICIPAL
CODE (ADMINISTRATION AND PERSONNEL)
ESTABLISHING THE INVESTMENT ADVISORY
COMMITTEE**

WHEREAS, in April 2022, the City Council adopted Resolution No. 11387, merging the previously separated Audit Committee and Investment Advisory Committee thereby creating the Investment and Audit Committee; and

WHEREAS, although the Investment and Audit Committee has provided a great service to the City of Orange, both audit and investment functions are nevertheless distinct and separate from one another; and

WHEREAS, in recognizing that both functions require specific skill sets, experience, education, and expertise, the City of Orange stands to benefit by separating both functions thereby creating separate committees comprised of experts within their respective fields; and

WHEREAS, it is the desire of the City Council to create an Investment Advisory Committee to assist in discharging the overall stewardship of the City’s financial affairs.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE DOES
HEREBY ORDAIN AS FOLLOWS:**

SECTION I:

The Ordinance is not a “project” subject to provisions of the California Environmental Quality Act (CEQA) per State CEQA Guidelines Section 15378 because it involves an organizational and administrative activity of the City of Orange that will not result in direct or indirect physical changes in the environment.

SECTION II:

The recitals and findings contained herein are true and correct and incorporated herein.

SECTION III:

Chapter 2.51 (Administration and Personnel – Investment Advisory Committee) is hereby added to the Orange Municipal Code to read as follows:

Chapter 2.51 Investment Advisory Committee

- 2.51.010 – Established
- 2.51.020 - Powers and Duties
- 2.51.030 – Appointments and Terms
- 2.51.040 – Election of Officers
- 2.51.050 – Regular Meetings
- 2.51.060 – Quorum-Voting
- 2.51.070 – Absence of Voting Members
- 2.51.080 – Action by Voting Members – Authority Required
- 2.51.090 – Communication from the Committee

2.51.010 – Established.

There is established in the City an Investment Advisory Committee consisting of seven voting members to act in an advisory capacity and provide recommendations on matters that include, but are not limited to:

- A. General advice to the City Council regarding the City’s Investment Policy.
- B. Compliance with applicable California laws and regulations.
- C. Review of the City’s investment strategy.

2.51.020 – Powers and Duties.

The Committee shall have the following duties:

- A. Review the City’s Investment Policy annually.
- B. Review the Treasurer’s Report to ensure conformance with the City’s Statement of Investment Policy and review related factors such as risk, diversification, and maturity.
- C. Provide advice regarding potential investment strategies and suitability of pools such as Local Agency Investment Fund.
- D. Provide written recommendations as applicable to the City Council regarding A, B, and C.

2.51.030 – Appointments and Terms.

The Mayor, with approval of the City Council, will appoint each voting member of the Investment Advisory Committee. The term of office shall be for two years and thereafter until a successor for the voting member whose term is expiring has been appointed.

2.51.040 – Election of Officers.

The Committee shall elect at its first meeting of the calendar year, from its voting members, a Chairperson and Vice Chairperson. The terms of office for these offices shall be for one year.

2.51.050 – Regular Meetings.

The Committee shall meet in regular session on dates and at times to be determined from time to time by resolution of the City Council. All meetings shall be open to the public, and the Brown Act shall apply.

2.51.060 - Quorum-Voting.

A majority of at least four voting members shall constitute a quorum. A majority vote of the voting members present (at least 4 voting members, vacancies shall not count toward establishing a quorum) shall be required to carry a motion; provided, however, that all recommendations to the City Council must have the approval of at least four voting members.

2.51.070 - Absence of Voting Members.

Absence from three consecutive meetings without formal notice to the Committee will be deemed to constitute the resignation of such voting member, and the position declared vacant. In the event of a vacancy, either by because of absence or otherwise, may be filled by the Mayor subject to ratification by the City Council.

2.51.080 - Action by Voting Members-Authority Required.

No voting member shall take any action or make any statement committing the Committee unless given express authority to do so by a majority vote of the Committee’s entire seven voting members.

2.51.090 - Communications from the Committee.

All recommendations of the Committee to the City Council for its consideration and action shall be transmitted in writing.

SECTION IV:

If any section, subdivision, paragraph, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have passed this Ordinance, and each section, subdivision, paragraph, sentence, clause and phrase thereof, irrespective of the fact that any one (or more) section, subdivision, paragraph, sentence, clause or phrase had been declared invalid or unconstitutional.

SECTION V:

The City Clerk is hereby directed to certify the adoption of this Ordinance and cause the same to be published as required by law. This Ordinance shall take effect thirty (30) days from and after the date of its final passage.

ADOPTED this ____ day of _____, 2024.

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Mike Vigliotta, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Ordinance was introduced at the regular meeting of the City Council held on the ____ day of _____, 2024, and thereafter at the regular meeting of said City Council duly held on the ____ day of _____, 2024 was duly passed and adopted by the following vote, to wit:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

RESOLUTION NO. 11522

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF ORANGE RESCINDING RESOLUTION
NO. 11387**

WHEREAS, the City Council of the City of Orange creates boards, committees, and commissions and appoints members thereof to assist in carrying out the City’s business and to further the public interest; and

WHEREAS, Resolution No. 11387 merged the previously separated Audit Committee and Investment Advisory Committee; and

WHEREAS, both audit and investment advisory functions are imperative to promote the City’s fiscal health; and

WHEREAS, the City Council recognizes the unique components of both Committees regarding financial management fields; and

WHEREAS, the City Council desires to separate the Investment and Audit Committee, and establish the Investment Advisory Committee and Audit Advisory Committee by adopting new Orange Municipal Code sections.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Orange as follows:

- That Resolutions No. 11387 is hereby repealed in its entirety.

ADOPTED this ____ day of _____, 2024

Daniel R. Slater, Mayor, City of Orange

ATTEST:

Pamela Coleman, City Clerk, City of Orange

APPROVED AS TO FORM:

Mike Vigliotta, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)
CITY OF ORANGE)

I, PAMELA COLEMAN, City Clerk of the City of Orange, California, do hereby certify that the foregoing Resolution was duly and regularly adopted by the City Council of the City of Orange at a regular meeting thereof held on the _____ day of _____, 2024 by the following vote:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:

Pamela Coleman, City Clerk, City of Orange

RESOLUTION NO. 11387

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE ELIMINATING THE AUDIT COMMITTEE AND THE INVESTMENT ADVISORY COMMITTEE, ESTABLISHING A NEW INVESTMENT AND AUDIT COMMITTEE, REPEALING RESOLUTION NOS. 10166 AND 11356, AND STATING QUALIFICATIONS FOR APPOINTMENT TO ALL CITY COUNCIL CREATED COMMITTEES.

WHEREAS, the City Council of the City of Orange creates boards, commissions, and committees to assist in the carrying out of the City's business and to further the public interest; and

WHEREAS, on September 14, 2021 by Resolution No. 11356, the City Council established criteria for such boards, commissions, and committees; and

WHEREAS, the City Council established the Audit Committee and the Investment Advisory Committee in July 1997 to provide advice and recommendations and to assist the City Council in discharging its responsibility for the overall stewardship of the City's financial affairs including review of City investments; and

WHEREAS, despite efforts by the City to find qualified candidates, the Audit Committee and the Investment Advisory Committee currently have vacancies that remain unfilled and, in some cases, are unable to establish a quorum; and

WHEREAS, the purposes of the existing Audit Committee and Investment Advisory Committee are vital to the proper oversight of the City's financial affairs; and

WHEREAS, the City Council has determined that combining the functions of these two Committees into one, named the Investment and Audit Committee, will ensure that the purposes of each Committee are carried out in an effective manner by a full Committee of qualified members; and

WHEREAS, the City Council desires to revise and update the membership criteria for citizen appointment to such boards, commissions, and committees to reflect the elimination of the Audit Committee and the Investment Advisory Committee and creation of the Investment and Audit Committee.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Orange as follows:

1. That Resolution Nos. 10166 and 11356 are hereby repealed in their entirety.

EXHIBIT A

QUALIFICATIONS FOR CITY COUNCIL CREATED COMMITTEES

1. Community Development Block Grant Program Committee

- Number: The Committee shall consist of five members
- Qualifications: Members shall have their primary residence in the City. Members should show an interest in and knowledge of housing and community development issues, especially as they relate to affordable housing and public service for residents of low and moderate income.
- Purpose: To provide a public engagement process in the allocation of CDBG funds as required by 24 C.F.R. Part 91.105
- Duties: Duties are set forth in the CDBG Program Policies and Procedures Manual maintained by the City.
- Compensation: None.

2. Design Review Committee

- Number: The Committee shall consist of five members.
- Qualifications: Members shall have their primary residence or primary place of employment in the City. Members shall be qualified to analyze and interpret architectural and site planning information, including, but not limited to, licensed landscape architects, architects, urban planners, engineers and licensed general contractors. At least two members shall have professional experience in urban planning, architectural history or historic preservation and possess a general knowledge of architecture in the Old Towne Historic District.
- Purpose: As set forth in Section 17.08.020.D of the Orange Municipal Code.
- Duties: Duties are set forth in Section 17.08.020.D of the Orange Municipal Code.
- Compensation: As determined by Resolution of the City Council.

3. Investment and Audit Committee

- Number: The Committee shall consist of five members: the City Treasurer and four citizen representatives.
- Term: Two years with staggered terms. For the initial Committee, two of the four citizen representatives shall be appointed to a one-year term, then henceforth those two seats shall be appointed every two years.
- Qualifications: The qualifications of the applicants for the citizen representatives will be reviewed by the City Manager, the Finance Director, and an outside expert in finance, investments, or auditing. Those candidates passing the qualification review process will be presented to the Mayor. These citizen Committee members shall then be appointed by the City Council in accordance with procedures established for appointing members of the City's commissions, boards, and committees. The citizen representatives must reside or be permanently employed in the City of

Orange. In addition, they must meet at least one of the following criteria: (a) have the designation of Certified Public Accountant (CPA) or other business-related experience; and/or (b) have substantial education and demonstrated managerial experience [of no less than five years] in one or more of the following areas: investment banking, investment brokerage and sales, investment management, financial management and planning, or commercial banking. The City Council shall endeavor to ensure that there is at least one citizen representative that meets the qualifications of criteria (a) above, and one citizen representative that meets the qualifications of criteria (b) above. No member of the Committee shall be financially interested in any contract, or otherwise conduct any business with any member of the City Council, the City Manager, the Finance Director, the City Treasurer, or the City or any of its agencies, either on an individual basis or as a partner, major shareholder, member, or employee of any firm.

- Purpose: The primary purpose of the Committee is to assist the City Council in discharging its responsibility for the overall stewardship of the City's financial affairs, including determining that the City's investments are consistent with the City's investment policy's principal objectives of safety first, liquidity second, and total rate of return third.
- Duties: The Investment and Audit Committee reports to and acts as an advisory body to the City Council, and is to augment management's accountability to the City Council. The Committee shall act solely as an advisory body and shall not exercise decision-making authority, nor shall it be involved in day-to-day financial and accounting operations of the City. The Committee shall not make, or direct City staff to make, any particular investment, purchase any particular investment products, or do business with any particular investment companies, brokers, or advisors.
- Its duties shall consist of the following:
 - Select the independent financial auditor for the financial statement audit;
 - Monitor the progress and evaluate the results of the financial statement audit;
 - Ensure the prompt and effective remedy of any control weaknesses and legal compliance violations identified in the course of the financial statement audit;
 - Serve as a direct communications link between the City Council and the independent auditor;
 - Monitor the adequacy of the City's internal control structure on an ongoing basis, such as cash disbursements, cash receipting, treasury transactions, etc., as examined by the internal audit function and the independent financial auditor;
 - Review results of contract compliance audits and financial statement reviews conducted by the City's internal audit function, such as trash contracts, internal controls, and revenue audits;
 - Review results of compliance audits and reviews conducted by outside agencies, such as Department of Transportation grants, M2

- o Review the City's Investment Policy annually and recommend revisions as necessary;
 - o Review the Treasurer's Report as defined by the State of California Government Code Section 53646 to ensure conformance with the City's Statement of Investment Policy and review related factors such as risk, diversification, and maturity;
 - o Provide advice regarding potential investment, potential investment strategies, and suitability of pools such as the Local Agency Investment Fund (LAIF);
 - o Provide written recommendations to the City Council;
 - o Maintain minutes of the Committee proceedings and report to the City Council quarterly.
- Compensation: None.
- Meetings: The Committee will meet at least once each quarter and shall hold other meetings on an as needed basis. Meetings will be conducted in compliance with the Brown Act. Meeting days and times shall be established by separate Resolution of the City Council.

4. Park Planning and Community Events Commission

- Number: The Commission shall consist of seven members.
- Qualifications: Members shall have their primary residence in the City. Committee members shall have knowledge of sports complexes and/or park development, and knowledge of City-sponsored events.
- Duties: Duties are set forth in Chapter 2.60 of the Orange Municipal Code.
- Compensation: None.

5. Planning Commission

- Number: The Commission shall consist of five members.
- Qualifications: Members shall have their primary residence in the City. Members shall have general knowledge of land use and development.
- Purpose: As set forth in Section 17.08.020.B
- Duties: Duties are set forth in Section 17.08.020 of the Orange Municipal Code.
- Compensation: As determined by Resolution of the City Council.

6. Traffic Commission

- Number: The Commission shall consist of five members.
- Qualifications: The Commission members shall have their primary residence in the City. One member shall be submitted to the Mayor for appointment by the Orange Unified School District. The Chief of Police or designee and the City Traffic Engineer or designee, shall be non-voting members of the Commission.
- Duties: Duties are set forth in Chapter 10.06 of the Orange Municipal Code.
- Compensation: None.