



CITY COUNCIL AGENDA REPORT

MEETING DATE: MAY 15, 2012

ITEM NUMBER: CC-5

SUBJECT: AWARD CONTRACT FOR ANNUAL INDEPENDENT FINANCIAL AUDIT SERVICES

DATE: MAY 3, 2012

FROM: FINANCE DEPARTMENT

PRESENTATION BY: BOBBY YOUNG, FINANCE & I.T. DIRECTOR

**FOR FURTHER INFORMATION CONTACT: BOBBY YOUNG, FINANCE & I.T. DIRECTOR (714)
754-5243**

RECOMMENDATION

1. Award contract for annual independent financial audit services for fiscal years 2012, 2013 and 2014 to Mayer Hoffman McCann, P.C., in the amount of \$135,128 with an option to extend the contract in one-year periods, for a minimum of two fiscal years.
2. Authorize City Chief Executive Officer to sign and execute a professional services agreement with the selected audit firm.

BACKGROUND

On February 28, 2012, a RFP was released for financial audit services (see Attachment 1) with the following schedule:

- Release of RFP February 28, 2012
- Proposals Due March 27, 2012

In response to the City's RFP, proposals were received from five vendors. A four-person evaluation committee independently evaluated the five proposals and interviewed the top three firms on May 3, 2012.

The proposals were evaluated using the following criteria:

- Compliance with RFP requirements
- Understanding of the project
- Recent experience in conducting similar scope, complexity, and magnitude for other public agencies
- Educational background, work experience, and directly related consulting experiences
- Price
- References

And the three (3) firms interviewed were:

- Mayer Hoffman McCann, P.C.
- Moss, Levy & Hartzheim, LLP
- White Nelson Diehl Evans, LLP

In the evaluation team's ranking system, Mayer Hoffman McCann P.C., finished first with a score of 3,630 and White Nelson Diehl Evans, LLP placed second with a score of 3,245 and Moss, Levy & Hartzheim, LLP place third with a score of 2,780.

A copy of the cumulative evaluation score sheet can be seen on Attachment 2. Staff eliminated two firms due to their low tabulated score based on the submitted proposals.

ANALYSIS

The three firms under consideration offer exceptional audit services. The evaluation committee, however, found that the audit proposal received by Mayer Hoffman McCann, P.C was superior - most notably in the areas of actual field audit hours budgeted for this engagement, lowest annual audit fees, and the quality of the staff auditors that would be assigned to the Costa Mesa audit.

Among other attributes, the following list summarizes the advantages to the City for selecting the firm of Mayer Hoffman McCann P.C.

- The firm specializes in local government auditing. Currently, the firm serves as auditors to approximately eighty (80) municipalities.
- The firm takes a proactive leadership role in local government accounting and auditing issues, and are experts in issues of redevelopment agency compliance and OMB Circular A-133 single audit compliance.
- The firm has established a high level of responsiveness to staff's inquiries and does not bill for non-audit consultation and advisory services.
- The firm provides an annual Governmental Accounting Standards Board (GASB) Technical Update each spring for clients.
- Mayer Hoffman McCann, P.C. uses an electronic trial balance software and IDEA software which allows them to upload the trial balance and map it to the financial statements and create audit lead schedules, perform analytical reviews, perform ratio analysis and evaluate the data in other ways. The system provides a new tool for focusing audit efforts on transactions that could be more susceptible to fraud.
- While the firm was also the audit firm for the City of Bell, their management has implemented many additional internal control measures to further tighten the audit process.
- While Mayer Hoffman McCann, P.C. has been the auditor for the City of Costa Mesa since 1991 (20 years), they regularly rotate lead personnel to provide a different "look" at the City's financial statements. They are proposing new personnel with this contract.

ALTERNATIVES CONSIDERED

If City Council wishes to change the audit firm recommended by the review committee, the review committee would recommend awarding the audit services contract to White Nelson Diehl Evans, LLP. With proposed annual audit fees for a 3 year contract of

\$193,824.00, the proposed cost by White Nelson Diehl Evans, LLP for FY 12-13 is \$68,525. It should be noted, that while this proposal for 3 years is \$58,696 (\$19,565 per year on average) higher than that of Mayer Hoffman McCann, as part of the FY 12-13 Preliminary Budget, staff included an audit budget of \$75,000. Therefore, the proposed cost by White Nelson Diehl Evans, LLP would be \$6,475 less than the amount currently proposed as part of the City's budget.

City Council also may choose to expand the scope of the services, however those additional services may revise original prices proposed.

FISCAL REVIEW

An amount of \$75,000 is currently included as part of the FY 12-13 Preliminary Budget for financial audit services. As proposed, the cost of a three year contract with Mayer Hoffman McCann, P.C. would be \$135,128, with first year pricing of \$47,500. The audit fees are proposed to decrease to \$43,380 in 2012/13 due to the elimination of the ABLE audit, and increase approximately 2% the following year to \$44,248 in fiscal year 2013/14.

Should City Council choose White Nelson Diehl Evans, LLP as the alternative, first year pricing would be \$68,525, which is still less than the amount currently included in the preliminary budget.

LEGAL REVIEW

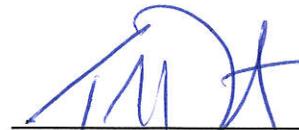
The professional service agreement (Attachment 4) has been reviewed and approved as to form.

RECOMMENDATION

Of the five firms submitting proposals, the four-person evaluation committee is recommending Mayer Hoffman McCann, P.C. because their proposal had the lowest annual audit fees for the 3 year contract of \$135,128 and were rated slightly higher for qualifications and experience. The firm has a solid understanding of the scope of the project; and has extensive auditing experience in municipal governments with similar scope and complexity as the City of Costa Mesa.



BOBBY YOUNG
Finance & I.T. Director



THOMAS DUARTE
City Attorney

Attachments:

1. RFP for Financial Audit Services
2. Cumulative Evaluation Score Sheet
3. Proposal
4. Professional Services Agreement



**REQUEST FOR PROPOSAL
FOR
AUDIT SERVICES**

**FINANCE DEPARTMENT
CITY OF COSTA MESA**

Released on February 28, 2012

AUDIT SERVICES REQUEST FOR PROPOSAL (RFP)

The City of Costa Mesa seeks proposals from qualified firms for Professional Auditing Services.

Responses must conform within the requirements of the Request for Proposal (RFP). The City reserves the right to waive any irregularity in any proposal or to reject any proposal that does not comply with this RFP. Selection of the proposer will be made solely by the City on criteria determined by the City.

The use of the term "firm" throughout this document means an individual proprietorship, a partnership, a limited liability company, a corporation or joint venture.

The successful proposer will be required to enter into a professional services agreement that will include the requirements of the RFP as well as other requirements. By submitting a proposal, the proposer agrees to all the terms of the RFP.

Other than as specified in the RFP, proposers may not contact individual City Council Members or the City's staff. To do so will disqualify the proposer. Except for questions of Kim Wilson, Purchasing Coordinator, proposers may only speak with staff or City Council Members in a setting that is part of the formal selection process. This is for the protection of all proposers so that all proposals will be submitted to the same evaluation process.

1. ABOUT THE CITY

The City of Costa Mesa is a general law city, which operates under the council/manager form of government with a General Fund budget of \$95 million and a total of \$115 million for fiscal year 2011-2012.

The City of Costa Mesa, incorporated in 1953, has an estimated population of 116,479 and has a land area of 16.8 square miles. It is located in the southern coastal area of Orange County, California, and is bordered by the cities of Santa Ana, Newport Beach, Huntington Beach, Fountain Valley and Irvine.

The City is a "full service city" and provides a wide range of services. These services include: police and fire protection; animal control; emergency medical aid; building safety regulation and inspection; street lighting; land use planning and zoning; housing and community development; maintenance and improvement of streets and related structures; traffic safety maintenance and improvement; and full range of recreational and cultural programs.

The City of Costa Mesa is home of the Segerstrom Center for the Arts, Orange County Fairgrounds, South Coast Repertory Theater and the South Coast Plaza Shopping Center, which is the single largest commercial activity center in the City. The volume of sales generated by South Coast Plaza secures its place as the highest volume regional shopping center in the nation.

The City has an exceptionally qualified Finance staff. The City utilizes Oracle's PeopleSoft HRMS 8.8 for its HR, Benefits, Time&Labor and Payroll functional applications and People Tools 8.42 for technical development and maintenance. In addition, the City utilizes Telestaff for Fire personnel time reporting and scheduling. Employees are paid on Friday on a bi-weekly payroll basis or 26 pay periods each year. The City currently has 468 Full-Time Employees which includes approximately 230 sworn personnel) and 102 Part-Time Employees (PTE).

2. SCHEDULE OF EVENTS

This request for proposal will be governed by the following schedule:

Release of RFP	February 28, 2012
Deadline for Written Questions	March 13, 2012
Responses to Questions Posted on Web	March 20, 2012
Proposals are Due	March 27, 2012
Interviews (Tentative)	April 12, 2012
Approval of Contract (Tentative)	TBD

3. SCOPE OF WORK

The following is a summary of the City of Costa Mesa scope of audit for the years ended June 30, 2012, 2013, 2014, with options for 2015 and 2016:

A. Entities requiring separate reports prepared by the auditors:

- **City of Costa Mesa – Comprehensive Annual Financial Report**
The audit firm will perform an audit of all funds of the City's reporting entity. The audit will be conducted in accordance with auditing standards generally accepted in the United States and standards applicable to the financial audits contained in the Government Auditing Standards, issued by the Comptroller of the United States.
- **Costa Mesa Community Foundation**
The audit firm will conduct a financial audit of the Foundation. The Foundation was formed for the purpose of providing donors opportunity to contribute assets for the benefit of the community. The City provides the Foundation operational support. The Foundation qualifies as a tax-exempt organization under Section [501(c)(3)] of the Internal Revenue Code and Section 23701 (d) of the California Revenue and Taxation Code.
- **Costa Mesa Public Financing Authority**
The audit firm will conduct a financial audit of the City's Public Financing Authority. The Financing Authority was created for the purpose of providing financing for capital improvements and the purchase of local obligations. The audit will be performed in accordance with auditing standards generally accepted in the United States and Government Auditing Standards.
- **Costa Mesa Housing Authority**
The audit firm will conduct a financial and compliance audit of the newly created Costa Mesa Housing Authority. The compliance audit shall include the provisions of laws and regulations identified in the Guidelines for Compliance Audits of California Redevelopment Agencies, issued by the State Controller.

B. The City additionally requires the following annual reports prepared by the auditors:

- Single Audit
- Appropriation Limit Calculation
- Management Letter - The audit firm shall issue a separate “management letter” that includes recommendations for improvements in internal control that are considered to be non-reportable conditions.
- AB 2766 Audit Report

C. Entities requiring separate report prepared by the auditors for a single year:

- **Costa Mesa Redevelopment Agency (RDA)**
The audit firm will conduct a financial and compliance audit of the City’s Redevelopment Agency. The compliance audit shall include the provisions of laws and regulations identified in the Guidelines for Compliance Audits of California Redevelopment Agencies, issued by the State Controller. A one year audit of the RDA will be required due to the recent court rulings abolishing the California redevelopment agencies.
- **Airborne Law Enforcement Services (ABLE)**
The audit firm will perform an audit of the General and Capital Projects funds of the reporting entity. Airborne Law Enforcement Services was a joint venture between the City of Costa Mesa and the City of Newport Beach to provide regional law enforcement helicopter services to the respective jurisdictions. On July 1, 2011, the program was terminated. However, audited financial statements of the ABLE program will be required until all assets of the program are sold or auctioned which may take one or two years. The audit will be performed in accordance with auditing standards generally accepted in the United States and Government Auditing Standards, issued by the Comptroller of the United States.

D. Deliverables

- It is desired that the work contemplated under the Agreement commence the first week in September. Interim can start as early as April.
- It is desired that all auditor prepared financial statements, notes, and supplementary schedules along with an auditor report are due by December 1.

The accounting records will be ready for the final audit by September 1. City Finance staff will provide normal cooperation and assistance during the audit including typing of confirmation requests, pulling and refilling of supporting documents and reconciliation of major asset and liability balances. The audit staff will have inquiry access to all of the City’s financial systems during the audit.

All working papers and reports are to be retained at the auditors’ expense for a minimum of three years. The audit firm will be responsible for making working papers available to the City of Costa Mesa or any governmental agencies included in the Audit of Federal Grants.

The City’s CAFR (Comprehensive Annual Financial Report) and adopted budget may be accessed at the City’s website at:

www.costamesaca.gov

4. PROPOSAL FORMAT GUIDELINES

Interested contractors are to provide the City of Costa Mesa with a thorough proposal using the following guidelines:

Proposal should be typed and should contain no more than 20 typed pages using a 12-point font size, including the transmittal letter and resumes of key people, but excluding Index/Table of Contents, tables, charts, and graphic exhibits. Each proposal will adhere to the following order and content of sections. Proposal should be straightforward, concise and provide "layman" explanations of technical terms that are used. Emphasis should be concentrated on conforming to the RFP instructions, responding to the RFP requirements, and on providing a complete and clear description of the offer. Proposals, which appear unrealistic in the terms of technical commitments, lack of technical competence or are indicative of failure to comprehend the complexity and risk of this contract, may be rejected. The following proposal sections are to be included in the bidder's response:

A. Vendor Application Form and Cover Letter

Complete Appendix A, "Request for Proposal-Vendor Application Form" and attach this form to the cover letter. A cover letter, not to exceed three pages in length, should summarize key elements of the proposal. An individual authorized to bind the consultant must sign the letter. The letter must stipulate that the proposal price will be valid for a period of at least 180 days. Indicate the address and telephone number of the contractor's office located nearest to Costa Mesa, California and the office from which the project will be managed.

B. Background and Project Summary Section

The Background and Project Summary Section should describe your understanding of the City, the work to be done, and the objectives to be accomplished. Refer to Scope of Work of this RFP.

C. Methodology Section

Provide a detailed description of the approach and methodology to be used to accomplish the Scope of Work of this RFP. The Methodology Section should include:

- 1) An implementation plan that describes in detail (i) the methods, including controls by which your firm manages projects of the type sought by this RFP; (ii) methodology for soliciting and documenting views of internal and external stakeholders; (iii) and any other project management or implementation strategies or techniques that the respondent intends to employ in carrying out the work.
- 2) Detailed description of efforts your firm will undertake to achieve client satisfaction and to satisfy the requirements of the "Scope of Work" section.
- 3) Detailed project schedule, identifying all tasks and deliverables to be performed, durations for each task, and overall time of completion.
- 4) Detailed description of specific tasks you will require from City staff. Explain what the respective roles of City staff and your staff would be to complete the tasks specified in the Scope of Work.

D. Staffing

Provide a list of individual(s) who will be working on this project and indicate the functions that each will perform. Include a resume for each designated individual.

Upon award and during the contract period, if the contractor chooses to assign different personnel to the project, the Contractor must submit their names and qualifications including information listed above to the City for approval before they begin work.

E. Qualifications

The information requested in this section should describe the qualifications of the firm, key staff and sub-contractors performing projects within the past five years that are similar in size and scope to demonstrate competence to perform these services. Information shall include:

- 1) Names of key staff that participated on named projects and their specific responsibilities with respect to this scope of work.
- 2) A summary of your firm's demonstrated capability, including length of time that your firm has provided the services being requested in this Request for Proposal.
- 3) Provide at least five local references that received similar services from your firm. The City of Costa Mesa reserves the right to contact any of the organizations or individuals listed. Information provided shall include:
 - ◆ Client Name
 - ◆ Project Description
 - ◆ Project start and end dates
 - ◆ Client project manager name, telephone number, and e-mail address

F. Fee Proposal

The City desires a three-year cost proposal.

- **Fee Schedule**

Describe your fee schedule for each year of your proposal as follows for fiscal years 6/30/12, 6/30/13, and 6/30/14:

Description of Services Provided	Estimated Hours	Estimated Cost
Audit of the City		
Preparation of the CAFR		
Audit & Financial Report of the Costa Mesa Community Foundation		
Audit & Financial Report of the Costa Mesa Public Financing Authority		
Audit & Financial Report of the Costa Mesa Housing Authority		
OMB Circular A-133 Single Audit of Federal Grants of the City		
Other Reports		
Audit & Financial Report of the Costa Mesa Redevelopment Agency		
Audit & Financial Report of the Airborne Law Enforcement Agency (ABLE)		
Total \$ (Not to Exceed)		

- **Hourly Rates**

The firm should provide hourly rates of the firm's employees for services that may be requested outside the scope of the audits:

Classification	Hourly Rate
Partner	\$
Manager	
Senior Accountant	
Staff Accountant	

Note: The City of Costa Mesa fiscal year covers the period of July 1 through June 30

5. PROCESS FOR SUBMITTING PROPOSALS

- ◆ **Content of Proposal**

The proposal must be submitted using the format as indicated in the proposal format guidelines.

- ◆ **Preparation of Proposal**

Each proposal shall be prepared simply and economically, avoiding the use of elaborate promotional material beyond those sufficient to provide a complete, accurate and reliable presentation.

- ◆ **Number of Proposals**

Submit five (5) copies plus one (1) disk/flash drive copy of your proposal in sufficient detail to allow for thorough evaluation and comparative analysis.

- ◆ **Submission of Proposals**

Complete written proposals must be submitted in sealed envelopes and received no later than 4:00 p.m. (P.S.T) on March 27, 2012 to the address below. Proposals will not be accepted after this deadline. Faxed or e-mailed proposals will not be accepted.

Julie Folcik, City Clerk
 City of Costa Mesa
 77 Fair Drive
 Costa Mesa, CA 92626
 RE: RFP AUDIT SERVICES

- ◆ **Inquiries**

Questions about this RFP must be directed in writing, via e-mail to:

Kim Wilson
kimberly.wilson@costamesaca.gov

From the date that this RFP is issued until a firm is selected and the selection is announced, firms are not allowed to communicate for any reason with any City employee other than the contracting officer listed above regarding this RFP, except during the pre-proposal conference. Refer to the Schedule of Events of this RFP or the City webpage to determine if a pre-proposal conference has been scheduled. The City reserves the right to reject any proposal for violation of this provision. No questions other than written will be accepted, and no response other than written will be binding upon the City.

◆ **Conditions for Proposal Acceptance**

This RFP does not commit the City to award a contract or to pay any costs incurred for any services. The City, at its sole discretion, reserves the right to accept or reject any or all proposals received as a result of this RFP, to negotiate with any qualified source, or to cancel this RFP in part or in its entirety. All proposals will become the property of the City of Costa Mesa. If any proprietary information is contained in the proposal, it should be clearly identified.

6. EVALUATION CRITERIA

The City's consultant evaluation and selection process is based upon Qualifications Based Selection (QBS) for professional services. The City of Costa Mesa may use some or all of the following criteria in its evaluation and comparison of proposals submitted. The criteria listed are not necessarily an all-inclusive list. The order in which they appear is not intended to indicate their relative importance:

- A. Compliance with RFP requirements
- B. Understanding of the project
- C. Recent experience in conducting similar scope, complexity, and magnitude for other public agencies
- D. Educational background, work experience, and directly related consulting experiences
- E. Price
- F. References

The City may also contact and evaluate the bidder's and subcontractor's references; contact any bidder to clarify any response; contact any current users of a bidder's services; solicit information from any available source concerning any aspect of a proposal; and seek and review any other information deemed pertinent to the evaluation process. The evaluation committee shall not be obligated to accept the lowest priced proposal, but shall make an award in the best interests of the City.

After written proposals have been reviewed, discussions with prospective firms may or may not be required. If scheduled, the oral interview will be a question/answer format for the purpose of clarifying the intent of any portions of the proposal. The individual from your firm that will be directly responsible for carrying out the contract, if awarded, should be present at the oral interview.

A Notification of Intent to Award may be sent to the vendor selected. Award is contingent upon the successful negotiation of final contract terms. Negotiations shall be confidential and not subject to disclosure to competing vendors unless an agreement is reached. If contract negotiations cannot be concluded successfully, the City may negotiate a contract with the next highest scoring vendor or withdraw the RFP.

7. STANDARD TERMS AND CONDITIONS

◆ **Amendments**

The City reserves the right to amend this RFP prior to the proposal due date. All amendments and additional information will be posted to the City website:

www.costamesaca.gov

Also, you can sign up for email notifications at the City website.

◆ **Cost for Preparing Proposal**

The cost for developing the proposal is the sole responsibility of the bidder. All proposals submitted become the property of the City.

◆ **Contract Discussions**

Prior to award, the apparent successful firm may be required to enter into discussions with the City to resolve any contractual differences. These discussions are to be finalized and all exceptions resolved within one (1) week from notification. If no resolution is reached, the proposal may be rejected and discussions will be initiated with the second highest scoring firm. See Appendix B for a sample agreement.

◆ **Confidentiality Requirements**

The staff members assigned to this project may be required to sign a departmental non-disclosure statement. Proposals are subject to the Freedom of Information Act. The City cannot protect proprietary data submitted in proposals.

◆ **Financial Information**

The City is concerned about bidders' financial capability to perform, therefore, may ask you to provide sufficient data to allow for an evaluation of your firm's financial capabilities.

◆ **Insurance Requirements**

City requires that licensees, lessees, and vendors have an *approved* Certificate of Insurance and endorsement (not a declaration or policy) on file with the City for the issuance of a permit or contract. Within ten (10) consecutive calendar days of award of contract, successful bidder must furnish the City with the Certificates of Insurance proving coverage as specified in Professional Service Agreement, Section 5.0 in Appendix B.

Please carefully review the Sample Agreement and Insurance Requirements before responding to the Request for Proposal enclosed herein. The terms of the agreement, including insurance requirements have been mandated by City Council and can be modified only if extraordinary circumstances exist. Your response to the Request for Proposal must indicate if you are unwilling or unable to execute the agreement as drafted as well as providing the insurance requirements. The City will consider this in determining responsiveness to the Request for Proposal.

APPENDIX A



REQUEST FOR PROPOSAL

VENDOR APPLICATION FORM

TYPE OF APPLICANT: NEW CURRENT VENDOR

Legal Contractual Name of Corporation: _____

Contact Person for Agreement:

Corporate Mailing Address: _____

City, State and Zip Code: _____

E-Mail Address: _____

Phone: _____ Fax: _____

Contact Person for Proposals: _____

Title: _____ E-Mail Address: _____

Business Telephone: _____ Business Fax: _____

Is your business: (check one)

NON PROFIT CORPORATION FOR PROFIT CORPORATION

Is your business: (check one)

CORPORATION LIMITED LIABILITY PARTNERSHIP
 INDIVIDUAL SOLE PROPRIETORSHIP
 PARTNERSHIP UNINCORPORATED ASSOCIATION

Names & Titles of Corporate Board Members

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Federal Tax Identification Number: _____

City of Costa Mesa Business License Number: _____
(If none, you must obtain a Costa Mesa Business License upon award of contract.)

City of Costa Mesa Business License Expiration Date: _____

APPENDIX B

**PROFESSIONAL SERVICES AGREEMENT
CITY OF COSTA MESA**

THIS AGREEMENT is made and entered into this ___ day of _____, 20__ (“Effective Date”), by and between the CITY OF COSTA MESA, a municipal corporation (“City”), and _____, a California _____ (“Consultant”).

WITNESSETH:

- A. WHEREAS, City proposes to utilize the services of Consultant as an independent contract to _____ as more fully described in Consultant’s Proposal attached as Exhibit “A”; and
- B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit “A” (the “Project”) and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in Consultant’s Proposal, a copy of which is attached hereto as Exhibit “A” and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. It is understood that in the exercise of every aspect of its role, within the scope of work, consultant will be representing the City of Costa Mesa, and all of its actions, communications, or other work, during its employment, under this contract is under the direction of the department. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant’s performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Clerk or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;
- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. As compensation for the provision of services outlined in Exhibit "A" and in accordance with this agreement, Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "B," attached hereto and incorporated by reference. Consultant's total compensation shall not exceed _____ Dollars (\$ _____.00). Consultant shall devote xxx hours of staff time to complete the Project.

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal or in an amount exceeding \$____.00 unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City supervisor for approval on a progress basis, but no more often than two times a month. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction as of the date the invoice is created. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. Said services shall be performed in strict compliance with the Project Schedule approved by City as set forth in Exhibit "C," attached hereto and incorporated herein by this reference. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of _____ months ending on _____, 20__, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties. Paragraph 4 can simply be modified to provide receiver will secure a separate certificate and funding for any fees awarded...prior to discharge of the receiver for up to four (4) term periods of one (1) year each.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.

- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant.."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City.
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.

- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The Chief Executive Officer or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Tel: _____
Fax: _____
Attn: _____

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: 714-754-5219
Fax: 714-754-5040
Attn: _____

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "D" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only a writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. 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.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Chief Executive Officer, City of Costa Mesa

Date: _____

CONSULTANT

Signature

Date: _____

Name and Title

Social Security or Taxpayer ID Number

APPROVED AS TO FORM:

City Attorney

Date: _____

APPROVED AS TO INSURANCE:

Risk Management

Date: _____

APPROVED AS TO CONTENT:

Project Manager

Date: _____

EXHIBIT A
CONSULTANT'S PROPOSAL

EXHIBIT B
FEE SCHEDULE

EXHIBIT C
PROJECT SCHEDULE

EXHIBIT D

CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 - 1. Abide by the terms of the statement; and
 - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.

APPENDIX "C"

A. STATEMENT OF WORK: (Narrative of work to be performed)

B. CONSULTANT'S DUTIES AND RESPONSIBILITIES:

C. FEE PROPOSAL

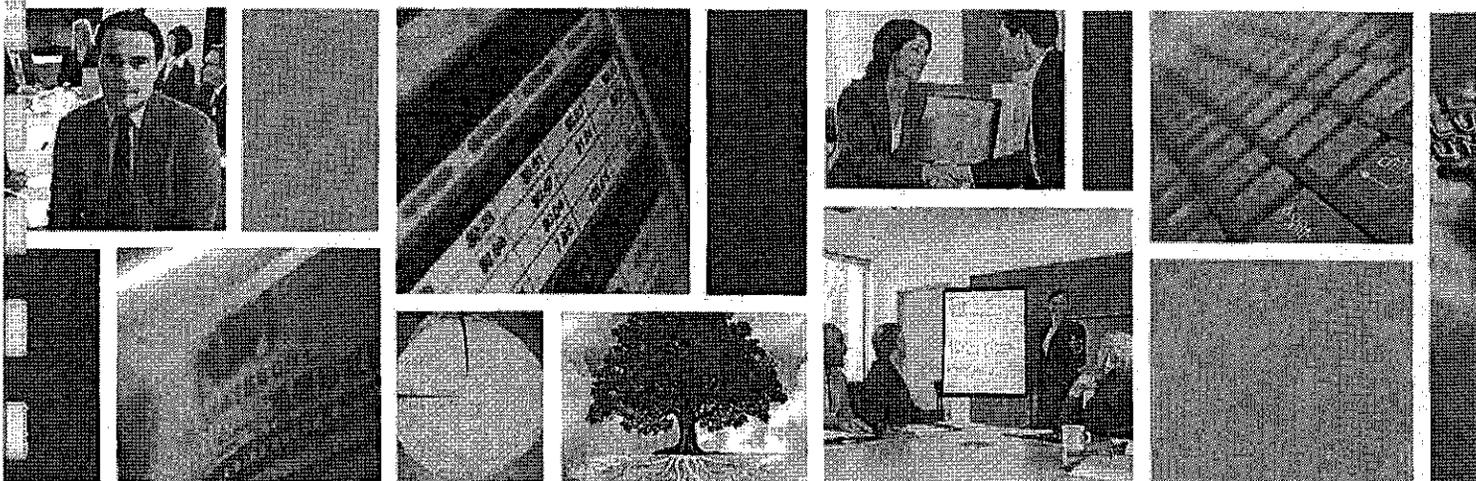
D. WORK PROGRAM/PROJECT SCHEDULE

AUDIT SERVICES

	1	2	3	4	Totals
15					
Grasp of Project					
White Nelson Diehl Evans, LLP	5	5	4	5	19
Mayer Hoffman McCann P.C.	5	5	4	5	19
Moss, Levy & Hartzheim, LLP	4	3	2	4	13
25					
Approach and Work plan					
White Nelson Diehl Evans, LLP	5	5	5	5	20
Mayer Hoffman McCann P.C.	5	5	4	5	19
Moss, Levy & Hartzheim, LLP	4	3	3	3	13
25					
Qualification and experience					
White Nelson Diehl Evans, LLP	5	5	4	5	19
Mayer Hoffman McCann P.C.	4	5	4	5	18
Moss, Levy & Hartzheim, LLP	4	4	4	4	16
20					
Communication / Presentation					
White Nelson Diehl Evans, LLP	4	4	3	5	16
Mayer Hoffman McCann P.C.	4	5	4	5	18
Moss, Levy & Hartzheim, LLP	3	3	4	3	13
15					
Quality of the overall Presentation					
White Nelson Diehl Evans, LLP	4	5	3	4	16
Mayer Hoffman McCann P.C.	4	5	5	5	19
Moss, Levy & Hartzheim, LLP	2	2	3	3	10
PROPOSERS					
	Interview	Proposal	Cumulative Scores	RANK	
White Nelson Diehl Evans, LLP	1820.00	1425.00	3245.00	2	
Mayer Hoffman McCann P.C.	1855.00	1775.00	3630.00	1	
Moss, Levy & Hartzheim, LLP	1330.00	1450.00	2780.00	3	

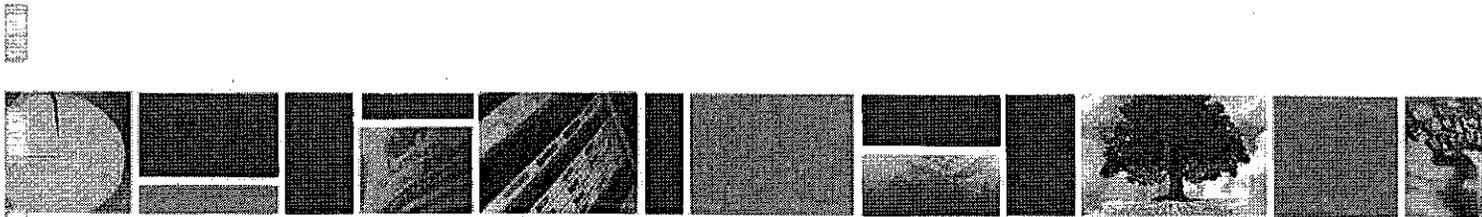


our roots
run deep



Prepared exclusively for:

**CITY OF COSTA MESA
CALIFORNIA**



TECHNICAL PROPOSAL OF INDEPENDENT AUDIT SERVICES

TO THE

CITY OF COSTA MESA, CALIFORNIA

RFP#: 012612

Submitted by:

**MAYER HOFFMAN McCANN P.C.
2301 DUPONT DR., SUITE 200
IRVINE, CALIFORNIA 92612**

March 23, 2012

**CONTACT PERSON – JENNIFER FARR, SHAREHOLDER
PHONE NO: (949) 474-2020, EXT. 301
FACSIMILE NO: (949) 263-5520
EMAIL: jfarr@cbiz.com
WEBSITE: www.mhm-pc.com**

**MAYER HOFFMAN McCANN P.C.
CALIFORNIA LICENSE NO. CORP 5091**

**MAYER HOFFMAN McCANN P.C.
FEDERAL IDENTIFICATION NO. 43-1947695**



Mayer
Hoffman
McCann P.C.
An Independent CPA Firm

our roots run deep



Mayer Hoffman McCann P.C.

An Independent CPA Firm

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949-474-2020 ph
949-263-5520 fx
www.mhm-pc.com

March 23, 2012

City of Costa Mesa
Julie Folcik, City Clerk
77 Fair Drive
Costa Mesa, CA 92626

Mayer Hoffman McCann P.C. is pleased to respond to your request to serve as the independent auditors for the City of Costa Mesa for the fiscal years ending June 30, 2012 through 2014, with optional extensions through 2016.

We are aware that while the City of Costa Mesa has solicited numerous proposals, Mayer Hoffman McCann P.C. (MHM) would be your best selection for the following reasons which are set forth in greater detail in our proposal:

- Mayer Hoffman McCann's past experience auditing the City of Costa Mesa coupled with a change in the audit team puts us in a position to provide you a "fresh look" at the audit while still retaining our institutional knowledge of your organization, your systems, and your processes. You will spend no time training our staff or accumulating permanent file records. Additionally, we understand your expectations and have a proven record of meeting your deadlines and providing excellent customer service.
- MHM takes a proactive leadership role in local government accounting and auditing issues. We serve on the Government Accounting and Audit Committee of the Cal CPA Society. MHM audits approximately 80 California municipal clients and are experts in issues of redevelopment agency compliance and OMB Circular A-133 single audit compliance.
- Mayer Hoffman McCann P.C. is a national CPA firm. In California, Mayer Hoffman McCann P.C. has offices in Los Angeles, Oxnard, Bakersfield, Irvine, San Diego and San Jose. More than 400 accounting and audit professionals serve clients from the California offices. The government services practice of Mayer Hoffman McCann P.C. is headquartered in Irvine, California and represents the former CPA practice of Conrad and Associates, L.L.P.
- MHM's audit team of Jennifer Farr, Engagement Shareholder, Ken Al-Imam, Technical Review Shareholder, Dean Votava, Engagement Manager, and Ryan Robinson, Field Manager, have a proven track record in serving California cities, redevelopment agencies, special districts and housing authorities.
- In addition to providing extensive local government and other audit and information technology training for our staff, Mayer Hoffman McCann provides an annual Governmental Accounting Standards Board (GASB) Technical Update each spring for our clients.

City of Costa Mesa
Page Two

- We believe our electronic trial balance software and IDEA software gives us a strategic advantage over our competitors. We have the ability to upload your detailed trial balance and map it to your financial statements. This allows us to create our own audit lead schedules, perform analytical reviews, perform ratio analysis and evaluate the data in other ways. Additionally, our new IDEA software allows us to upload data from your payroll, payables, general ledger, and billing systems to evaluate anomalies in the data (duplicate invoices, checks written on weekends, etc.). This system provides us with a new tool for focusing our audit efforts on transactions that could be more susceptible to fraud.
- Ms. Jennifer Farr, Shareholder and Mr. Ken Al-Imam, Shareholder are authorized shareholders of Mayer Hoffman and are authorized to bind our Firm in contractual matters with the City of Costa Mesa. Ms. Farr and Mr. Al-Imam are also authorized to make representations for the Firm to the City of Costa Mesa.

Mayer Hoffman McCann P.C. thanks the City of Costa Mesa for the opportunity to present our proposal qualifications and for the opportunity to be appointed as your independent auditors. Our proposal remains a firm and irrevocable offer for 180 days. I look forward to you contacting me so that I may answer further any questions which you may have. You may contact me at (949) 474-2020, Ext. 301.

Very truly yours,

MAYER HOFFMAN McCANN P.C.



Jennifer Farr, CPA
Shareholder



REQUEST FOR PROPOSAL

VENDOR APPLICATION FORM

TYPE OF APPLICANT: NEW CURRENT VENDOR

Legal Contractual Name of Corporation: Mayer Hoffman McCann P.C.

Contact Person for Agreement:
Jennifer Farr

Corporate Mailing Address: 2301 Dupont Drive, Suite 200

City, State and Zip Code: Irvine, CA 92612

E-Mail Address: JFarr@cbiz.com

Phone: 949-474-2020 X 301

Fax: 949-263-5520

Contact Person for Proposals: Jennifer Farr

Title: Shareholder

E-Mail Address: JFarr@cbiz.com

Business Telephone: Same

Business Fax: Same

Is your business: (check one)

NON PROFIT CORPORATION FOR PROFIT CORPORATION

Is your business: (check one)

CORPORATION LIMITED LIABILITY PARTNERSHIP
 INDIVIDUAL SOLE PROPRIETORSHIP
 PARTNERSHIP UNINCORPORATED ASSOCIATION

Names & Titles of Corporate Board Members

(Also list Names & Titles of persons with written authorization/resolution to sign contracts)

Names	Title	Phone
See Attached		

Federal Tax Identification Number: 43-1947695

City of Costa Mesa Business License Number: _____
(If none, you must obtain a Costa Mesa Business License upon award of contract.)

City of Costa Mesa Business License Expiration Date: _____

Mayer Hoffman McCann P.C.

Board Resolution

The undersigned, being all members of the Board of Directors of Mayer Hoffman McCann P.C., a Missouri professional corporation "the Corporation", do hereby approve and adopt the following resolution:

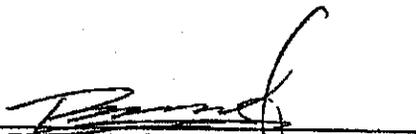
RESOLVED, that the shareholders of Mayer Hoffman McCann P.C. as listed below are hereby authorized to sign and execute contracts to provide professional services on behalf of the Corporation.

- | | |
|----------------------|------------------------|
| 1. Ken Al-Imam | 12. Jeffrey Baumgarten |
| 2. Michael Harrison | 13. James Comito |
| 3. Marcus Davis | 14. David Diamond |
| 4. Michael Gutierrez | 15. Steve Fanucchi |
| 5. Ron Rolwes | 16. Robert Gellman |
| 6. Jennifer Farr | 17. Mike Lichtenberger |
| 7. Matthew Lenton | 18. Jim Putt |
| 8. Jim Babcock | 19. Stuart Starr |
| 9. Benjamin Reyes | 20. Timothy Willis |
| 10. Sam Perera | 21. Laurie Hopkins |
| 11. Dana Basney | |

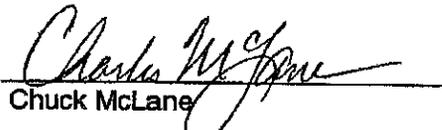
IN WITNESS WHEREOF, the undersigned have hereunto subscribed their names effective as of March 23, 2011.

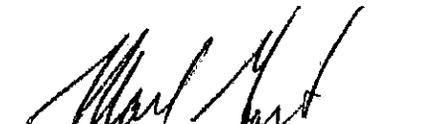

William L. Hancock

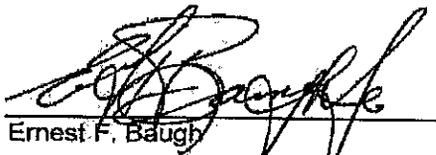

Frank Maughan


Richard A. Howard

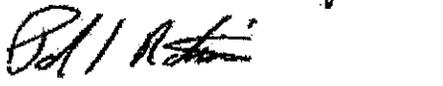

Jay Webber


Chuck McLane


Mark Garten


Ernest F. Baugh


Stephen Left


Paul E. Nation

**PROPOSAL OF AUDIT SERVICES
TO THE
CITY OF COSTA MESA**

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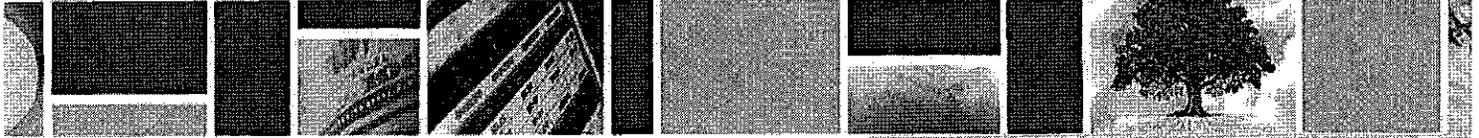
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APPENDIX

Mayer Hoffman McCann P.C. Peer Review Report

Mayer Hoffman McCann P.C. Peer Review Report –
California Local Government Audit Practice

Accounting Today's 2011 Top 100 Firms



**Mayer
Hoffman
McCann P.C.**



SECTION A

BACKGROUND AND PROJECT SUMMARY

Our understanding of the objectives and scope of the work to be performed is based upon your request for proposal.

Based upon the foregoing we understand the objectives and scope of work to be as follows:

1. We will perform an audit examination of the financial statements of the City of Costa Mesa for the fiscal years ending June 30, 2012 through 2014, with optional extensions through 2016. Our examination will be conducted in accordance with generally accepted auditing standards, State Controller audit guidelines, the AICPA Audit and Accounting Guide, *Audits of State and Local Government Units*, and the *Government Auditing Standards* issued by the Comptroller General of the United States. We will prepare the financial section of the financial statements. The City will prepare *management discussion and analysis*, the *introductory section* and the *statistical section* of the report. We will ensure that the CAFR is prepared in conformity with the most recent edition of the GAAFR, the GAAFR Update, and subsequent GASB pronouncements. We will be responsible for copying and binding the report. We will also provide the City with an electronic copy of the report.
2. For the fiscal year ended June 30, 2012 only, we will perform a financial and compliance audit of the governmental activities, each major fund and the aggregate remaining fund information of the Costa Mesa Redevelopment Agency and a financial and compliance audit of the Successor Agency activities for years subsequent to 2012. Our audit will be conducted in accordance with auditing standards generally accepted in the United States, *Government Auditing Standards* and the *Guidelines for Compliance Audits of California Redevelopment Agencies* and Successor Agency guidelines that may be issued in the future. We will draft and word process the Redevelopment Agency financial statements. We will provide the City with bound copies of the report and an electronic copy of the report in years that a report is required by the State Controller's Office.
3. We will perform a financial audit of the governmental activities, each major fund and the aggregate remaining fund information of the Costa Mesa Public Financing Authority for the year ended June 30, 2012 and subsequent years. Our audit will be conducted in accordance with auditing standards generally accepted in the United States, *Government Auditing Standards*. We will draft and word process the Public Financing Authority financial statements. We will provide the City with bound copies of the report and an electronic copy of the report.
4. We will perform a financial and compliance audit of the governmental activities, each major fund and the aggregate remaining fund information of the Costa Mesa Housing Authority for the year ended June 30, 2012 and subsequent years. Our audit will be conducted in accordance with auditing standards generally accepted in the United States, *Government Auditing Standards* and the *Guidelines for Compliance Audits of California Redevelopment Agencies* (for low and moderate income housing activities). We will draft and word process the Housing Authority financial statements. We will provide the City with bound copies of the report and an electronic copy of the report.
5. We will perform a financial audit of the Costa Mesa Community Foundation for the year ended June 30, 2012 and subsequent years. Our audit will be conducted in accordance with auditing standards generally accepted in the United States, *Government Auditing Standards*. We will draft and word process the Community Foundation financial

statements. We will provide the City with bound copies of the report and an electronic copy of the report.

6. We will perform a financial audit of the Airborne Law Enforcement Services for the year ended June 30, 2012 through the termination of the entity. Our audit will be conducted in accordance with auditing standards generally accepted in the United States, *Government Auditing Standards*. We will draft and word process the ABLE financial statements. We will provide the City with bound copies of the report and an electronic copy of the report.
7. We will perform a "Single Audit" of the City of Costa Mesa in accordance with the *Single Audit Act Amendments of 1996* (Public Law 104-156) and OMB Circular A-133 entitled *Audits of States, Local Governments, and Non-Profits Organizations*. Our single audit will cover all federal grants received by the City and its component units either as a primary or secondary recipient for fiscal year ended June 30, 2012 and subsequent years. The City will provide to the Auditors the Schedule of Federal Financial Assistance encompassing all direct and pass-through federal funds received by the City and component units. We will render our reports on the single audit in accordance with the single audit requirements. We will copy and bind copies of the report and provide an electronic copy. We will also prepare the Data Collection Form and process the electronic filing of the report.
8. We will perform agreed-upon procedures to test and report on the City's Gann Limit for the year ended June 30, 2012 and subsequent years. We will provide the City with copies of the report.
9. We will test for compliance with AB 2766 and prepare a report on compliance for the year ended June 30, 2012 and subsequent years. We will provide the City with copies of the report.
10. We will prepare a letter to the City Council reporting matters dealing with internal control that meet the threshold of being a *significant deficiency* or *material weakness*, as defined by SAS No. 115. We will immediately report any irregularities or illegal acts that come to our attention to the City Council.
11. We will also prepare a letter to City management that will provide other recommendations to the City ensuing from our review of the City's internal control procedures. This letter will address nonreportable conditions (those constructive comments not required to be included in the letter of significant deficiencies to City Council.
12. We will meet with the City Council or a committee of City Council to discuss the results of the audit.
13. We desire to keep its local government clients abreast of new developments affecting local government finance. We will also advise City staff of new accounting developments during the interim/planning stage of each year's audit. We plan on providing additional client training to our clients in our annual client training conference with respect to new GASB pronouncements.
14. Finally, we perceive the scope of our work as being advisors to the City of Costa Mesa regarding generally accepted accounting principles. Throughout the year, Bobby Young, Finance Director and other finance personnel of the City, will have access to Ms. Farr, Engagement Partner, Mr. Votava, Engagement Manager, and Mr. Robinson, Engagement

Senior, to seek advice in the application of generally accepted accounting principles, the establishment and segregation of funds, advice regarding debt issuance, financial statement preparation and content and other matters relating to the City.

IMPLEMENTATION OF NEW ACCOUNTING STANDARDS

Over the term of the contract, the City will be required to implement the following accounting standards. Part of our service to you includes consulting on these new auditing standards. A sampling of significant new GASB pronouncements planned or proposed for local governments are listed below (**already implemented Statements are not listed**):

GASB No. 57 – The major impacts of this Statement are to require that all employers that share the same OPEB trust administrator must have their actuarial valuations performed as of the same two year cycle. This Statement also permits an agent employer that has an individual-employer OPEB plan with fewer than 100 total plan members to use the alternative measurement method, at its option, regardless of the number of total plan members in the agent multiple-employer OPEB plan in which it participates. This Statement is required to be effective for fiscal years ending June 30, 2012.

GASB No. 60 – The major impacts of this Statement are to provide guidance for certain types of situations where the government contracts with another party to provide certain government services. This Statement is required to be effective for fiscal years ending June 30, 2013.

GASB No. 61 – The primary impacts of this Statement are to change the circumstances in which a potential component unit would be considered for inclusion in the reporting entity of a local government when the primary government does not appoint a voting majority of the potential component unit's governing body. Such organizations would generally be considered for inclusion only if they were fiscally dependent upon the primary government and there was a potential for the unit to provide financial benefits to, or impose financial burdens on, the primary government. However, this does not preclude a local government from including a potential component unit that did not meet any of the established criteria for inclusion if, in the professional judgment of the local government, it would be misleading to exclude that potential component unit based on the nature and significance of its relationship to the primary government.

This Statement also amends the criteria for blended component units. To be blended the following criteria must generally be met: (1) the primary government and the component unit must have a financial benefit or burden relationship or (2) management (below the level of the elected officials) of the primary government must have operational responsibility for the activities of the component unit.

Certain other technical modifications to the reporting entity rules are addressed in this Statement as well. This Statement is required to be effective for fiscal years ending June 30, 2013.

GASB No. 62 – formally incorporates into the GASB's authoritative literature certain private sector accounting and financial reporting guidance that were included in the private sector pronouncements issued on or before November 30, 1989, but which do not conflict with or contradict GASB pronouncements. This Statement is required to be effective for fiscal years ending June 30, 2013.

GASB No. 63 - This Statement renames the *Statement of Net Assets* as *Statement of Net Position* and provides for separate sections after assets and liabilities for *deferred inflows and outflows of resources*. This Statement is required to be effective for fiscal years ending June 30, 2013.

GASB No. 64 – Allows hedge accounting to continue for swap agreements for which the counterparty is replaced because it committed an act of default or caused a termination event (if certain specified conditions are met). This Statement is required to be effective for fiscal years ending June 30, 2012.

GASB Exposure Draft on Certain Deferred Items - Under this proposed new pronouncement, most deferred revenues, deferred refunding charges, debt issuance costs, the deferred elements of the proposed new pension standard, and the deferred effects of hedging derivatives, will be included in the two new sections on the statement of net position that were established by the issuance of GASB No. 63.

GASB Pension Project – The GASB has issued an exposure draft proposing major changes that would affect how local governments report their obligation for pension benefits. Under current standards, no liability is recognized for a local government's obligation for pension benefits earned by employees as long as the local government has paid the actuarially determined annual required contribution (ARC) for funding. Under the changes proposed by the GASB, beginning with fiscal years ending June 30, 2014, most governments would begin reporting a liability in their government-wide financial statements in an amount equal to the present value of projected pension benefits attributable to employee service to date, less the fair value of assets held by the pension plan as of the balance sheet date. Annual changes in this liability would affect the determination of pension expense recognized in the government-wide financial statements, except for certain changes associated with investment market fluctuations and certain actuarial adjustments.

GASB Project to Consider Requiring Financial Projections in Financial Statements (RSI) – The GASB issued a preliminary views document to consider requiring that state and local governments present five-year projections of cash inflows, cash outflows, and financial obligations that would accompany their financial statements as *required supplementary information*.

SECTION B

METHODOLOGY AND AUDIT APPROACH

The audit approach of Mayer Hoffman McCann P.C. is unique with regard to the following:

- Our firm is sensitive to the priorities and work requirements of our clients. We work around the schedules of our clients when scheduling segments of the audit or requesting documentation in order to minimize disruption in the Finance Department.
- Whenever possible, we use accounting support already prepared by the Finance Department in order to avoid duplication or unnecessary requests for audit supporting schedules.
- Because of our firm's expertise in local governmental auditing, our staff are trained and familiar with local government accounting. You will spend no time in training our personnel.
- Throughout the year we are a resource to our clients in providing accounting advice, researching technical questions, dealing with tax problems, and helping with other problems as they arise.

BENEFITS OF MHM AUDIT SOFTWARE

Mayer Hoffman McCann P.C. utilizes Caseware audit software for the electronic organization of workpapers. We have the ability to accept audit documentation in either hard copy or electronic format. Caseware allows us the ability to import trial balances that can be provided in either excel or a text document. Some of the benefits of using Caseware trial balance software are as follows:

- We can create our own lead sheets (for example, a schedule Due to/Due from other funds). This limits the amount of time City staff spends creating audit schedules.
- We can link CAFR schedules directly to the Caseware trial balances. As a result, we can provide the City with fund financial statements almost immediately after receiving the trial balance from the City. Additionally, journal entries are easy to post to the CAFR schedules and the risk of data entry error is minimized.
- We can provide the City with reports showing the coding of the CAFR schedules for ease of review by City staff. These reports show each account coded to a specific CAFR line item as well as journal entries that are posted during the audit.
- Our software automatically generates analytical review reports by account number for ease of analyzing significant fluxuations between fiscal years.
- Creating color PDF's of final reports is a seamless process for our audit staff.
- We can provide the City with draft audit reports soon after audit fieldwork is completed.

Additionally, we are excited to utilize our new IDEA software in FY 11/12 that will take source data from your accounting system and scan the data for anomalies such as duplicate invoices and checks written on non-payroll processing or cash disbursement processing days.

INTERNAL CONTROLS AND MANAGEMENT LETTER COMMENTS

During the interim audit for the year ended June 30, 2012, we plan to evaluate internal controls over the following primary transaction areas:

- Cash Receipting at City Hall locations
- Investment Management
- Infrastructure and Capitalization of Assets
- Purchasing
- Accounts Payable and Cash Disbursements Cycle
- Payroll Cycle/Human Resources
- Federal Grant Management
- Information Systems

In future years, we plan to follow up on changes in the above internal control areas and begin to evaluate additional internal control areas based on risks identified by City Finance Staff, the City Manager, and City Council. Some examples of additional areas we review are as follows:

- Cash receipting at offsite locations:
 - Parks and recreation locations
 - Police department
 - Parking
 - Library
 - Senior center
 - Community center
 - Other offsite locations
- Petty cash
- Credit card or Purchasing cards
- Administration of loan programs
- Internal service fund allocations and overhead cost reimbursements
- Debt compliance monitoring procedures

There are three categories of internal control recommendations. We work carefully with City staff to ensure our classification of indentified weaknesses is correct. The categories are as follows:

Control deficiency – these are minor internal control weaknesses that can be communicated either verbally to City Finance management or in writing, if preferred.

Significant deficiency – these internal control weaknesses must be communicated in writing.

Material weakness – these internal control weaknesses must be communicated in writing.

When formulating internal control recommendations, we obtain a thorough understanding of the specific circumstances at your City in order to provide a tailored, practical recommendation. We understand that there is commonly more than one acceptable way to correct an internal control weakness. We work with City staff to ensure the recommendation is practical to implement.

KEY AUDIT PROCEDURES

Following our appointment as auditors of the City, Ms. Farr, Engagement Shareholder, and Mr. Votava, Engagement Manager, will meet with Mr. Bobby Young, Finance Director and other key Finance Department staff for the purpose of planning the audit of the City. Ms. Farr will also communicate with City Council/Audit Committee during the planning stages of the audit in accordance with SAS 114. In addition to establishing an effective and efficient communication link with City personnel, the following will be accomplished:

- Dates for audit field work of the various audit examinations will be finalized.
- Arrangements will be made with City personnel for the typing of confirmation requests.
- We will determine a materiality level for the financial statements
- We will perform a risk assessment of the City of Costa Mesa
- Review minutes of the City Council
- We will perform tests of investment compliance
- Review important contracts and agreements. We will ensure these agreements have been properly recorded under Government accounting standards.
- Testing of purchase orders and contract management.
- Performing testing of cash disbursements to determine adherence to policies and internal controls
- We will perform an IT risk assessment of the City's information systems used by the Finance Department.
- Testing the accuracy of water bills
- Performing test of payroll transactions to ensure amounts paid agree to personnel action forms and that there are no unusual compensation practices
- Performing required compliance and internal control testing relating to the federal grant programs of the City

In September (after the final closing of the books and preparation of final trial balances by City personnel), we will commence performing our *year-end substantive audit*. Our final examination will include tests which we deem necessary, including:

- Confirmation of cash and investment balances.
- Testing of bank reconciliations.
- Testing of GASB 40 investment disclosures.
- Testing of allocations of interest income to the various funds.
- Examination of support and subsequent receipt (if any) of significant receivable balances.

- Analytical review of receivable balances
- Testing of interfund borrowings.
- Examination of interfund transfers and testing of transfers out of restricted funds.
- Performing a search for unrecorded liabilities.
- Testing of significant accrued liability accounts.
- Testing of long term debt balances and debt covenants.
- External verifications of bond compliance through the Electronic Municipal Market Access (EMMA) database.
- Analytical review of interest expense.
- Consideration of support for compensated absences.
- Testing of actuarial valuations related to OPEB obligations.
- Examination of the valuation of claims and judgments.
- Testing of additions and deletions to capital assets, including infrastructure.
- Analysis of construction in process balances.
- Testing of support for other significant assets and liabilities of the City.
- Testing for the proper establishment of fund balance restricted, committed, and assigned balances.
- Review of significant events after year end (through the completion of our audit).
- Review of attorney letters for significant legal matters affecting the City's financial position.
- Testing of revenues and expenditures and lesser significant asset and liability balances through analytical procedures and other substantive procedures as necessary.
- In cases where there are sensitive public policy issues, we modify planning materiality in those areas to perform more extensive auditing procedures
- Procedures with respect to the risk of management override of internal controls

The aforementioned tests are only a few of the tests performed during the examination and by no means is it meant to be all inclusive. During the audit, Ms. Farr and Mr. Votava will meet with Mr. Bobby Young to review our audit findings, any adjusting journal entries, and pending audit issues.

REDEVELOPMENT AGENCY/SUCCESSOR AGENCY AUDIT APPROACH

Recent legislation related to Redevelopment Agencies will have an impact on our approach to auditing Redevelopment Agency transactions during the audit contract. For the year ended June 30, 2012, we will perform the following procedures:

- Review agreed-upon-procedures report for the dissolution of the redevelopment agency and Enforceable Obligations schedule.

- Review journal entries to move assets and liabilities of the Redevelopment Agency to the successor agency to ensure they agree with the findings in the above mentioned agreed-upon-procedures report.
- Testing of transactions recorded prior to January 31, 2012 to determine compliance with redevelopment law.
- Testing of transactions recorded after January 31, 2012 to determine allowability based on the approved Enforceable Obligations schedule.
- Review City Council actions and Oversight Committee actions related to the dissolution of the redevelopment agency.
- Audit the cash, investments, receivables, payables, and long-term liabilities, using similar procedures noted on the previous page.
- Obtain City attorney guidance on areas that are unclear in the law
- Prepare audited financial statements for the successor agency, if required by the State Controller's Office.

For fiscal years ending June 30, 2013 and later, our procedures will be modified as follows:

- Review activities of the successor agency to ensure they are in compliance with state laws and regulations.
- Audit the cash, investments, receivables, payables, and long-term liabilities, using similar procedures noted above.
- Perform analytical procedures of the revenues and expenses of the successor agency.
- Prepare audited financial statements for the successor agency, if required by the State Controller's Office

OMB A-133 SINGLE AUDIT PROCEDURES

As a part of our Single Audit for the years in which the entity expends greater than \$500,000 in federal funding, we would supplement our approach with the following procedures in performing the single audit. We understand there is an outstanding OMB proposal to increase the Single Audit threshold to \$1,000,000.

- Review all pertinent federal and AICPA publications including recent changes and updates.
- Perform a major program determination based on federal expenditures during the audit period and the results of the last two single audits. This evaluation will involve consideration of the complexity of the program, prior audit findings, changes in personnel, the competency of personnel, the extent to which sub-recipients are used, the extent of overview and monitoring by granting agencies, the extent of recent changes in program requirements, the newness of the program, the size of the program, and the inherent risk of the program.
- Perform an online search for American Recovery Act Grants that have been awarded to the District.

- Identify and obtain the major program compliance supplements and all up to date grant compliance guidance available from the federal granting agency or other sources.
- Review internal controls for each of the 14 applicable compliance areas for each major program
- Select a sample of transactions to test for each of the 14 applicable compliance areas.
- Test the entity's indirect cost rate, if applicable.
- Review monitoring reports for noncompliance and follow up on the resolution of the noncompliance, if any.
- Prepare the single audit report and data collection form.

Extent of Sampling

Our approach for audit sampling will vary depending on the transactions tested. When there are a significant number of transactions, we will generally use a random sample generator to select a sample of 40 transactions. At times, we will select the largest transactions in a given class of transactions to ensure that all material transactions have been tested. Other times, the audit risk for a particular class of transactions is such that only certain transactions are susceptible to that risk. In those cases, we will identify the transactions at greatest risk, and test those transactions.

Timing of the FY 11/12 Audit

Planning meeting	End of April
Interim audit	End of April
Confirmations and detailed audit plan	Early May
Final fieldwork	Weeks of Sept 3 rd , 10 th , and 17 th
Report preparation (in office)	Week of Sept 24 th
Draft reports	By October 19 th
Final reports	After approval of drafts
Meeting with City Council members	As scheduled

Segmentation of the Audit

Professional Hours and Segmentation of Audit

	<u>Interim</u>	<u>Final</u>	<u>Total</u>	<u>Percentage</u>
Partner	20	40	60	12%
Manager	30	50	80	16%
Senior Auditor	70	130	200	40%
Staff Auditors	<u>50</u>	<u>110</u>	<u>160</u>	<u>32%</u>
Total	170	330	500	100%

SECTION C

STAFFING

The successful outcome of any audit requires personnel with the managerial and technical skills to perform the work required. The engagement team who will serve the City of Costa Mesa have served together as a team of professionals on numerous financial audit examinations of local government entities, including complex governmental agencies.

We believe that efficient administrative management and supervision of the audits is an extremely critical factor in achieving the desired results for the City Council of the City of Costa Mesa. In that regard, our proposal organizational structure for providing independent auditing services is as follows:

**City of Costa Mesa
City Council**

**Engagement Partner
Jennifer Farr, CPA, MBA**

**Technical Review Partner
Ken Al-Imam, CPA**

**Engagement Manager
Dean Votava, CPA**

**Field Manager
Ryan Robinson, CPA**

Staff Auditor

Each of the individuals proposed on the City of Costa Mesa audit work at least 75% of the time on local government audit engagements.

Resumes of key audit team members are included on the following pages.

**JENNIFER FARR, CPA, MBA
ENGAGEMENT SHAREHOLDER**

California CPA Certificate No. 76292, October 1998

ROLE ON PROJECT

Ms. Farr will serve as the Engagement Shareholder on this project. She will oversee the project to ensure all required deadlines are met, provide technical assistance to the audit teams, and review the final reports before they are released. Ms. Farr is a Certified Public Accountant with over 15 years experience in local government auditing. Ms. Farr has been a speaker on matters pertaining to technical issues and new GASB pronouncements. Ms. Farr is also responsible for the firm-wide training for the Government Services Division of MHM in the area of local governmental accounting and auditing.



PROFESSIONAL EXPERIENCE

- 15 years - Mayer Hoffman McCann P.C. (formerly Conrad and Associates, LLP)
- 1 ½ Years - Ronald Blue and Co.

PROFESSIONAL AFFILIATIONS

- American Institute of Certified Public Accountants
- California Society of Certified Public Accountants
- California Society of Municipal Finance Officers

EDUCATION

- Bachelor of Arts - Business Administration/Accounting (California State University, Fullerton)
- Bachelor of Arts - English (California State University, Fullerton)
- Masters of Business Administration (California State University, Fullerton)

AUDITS OF CALIFORNIA CITIES

City of Benicia	City of Burbank
City of Campbell	City of Culver City
City of Hayward	City of Half Moon Bay
City of Commerce	City of Indian Wells
City of Fountain Valley	City of Mission Viejo
City of Orange	City of Palm Springs
City of Pasadena	City of Rosemead
City of San Bruno	City of Santee
City of Upland	City of Walnut Creek
City of Whittier	City of West Covina

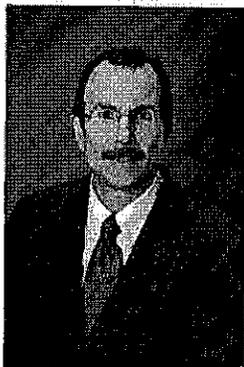
AUDITS OF SPECIAL DISTRICTS

Coachella Valley Assoc of Governments	Inland Empire Utilities Agency
Irvine Ranch Water District	Orange County Sanitation District
Mesa Consolidated Water District	Moulton Niguel Water District
Vista Irrigation District	Los Angeles Homeless Services Authority
San Diego Assoc of Governments	Southern California Assoc of Governments

KEN AL-IMAM, CPA
TECHNICAL REVIEW SHAREHOLDER
California CPA Certificate No. 32377E, July, 1981

ROLE ON PROJECT

Mr. Al-Imam will serve as the Technical Review Shareholder on the engagement. Mr. Al-Imam is an active member and past president of CCMA (California Committee on Municipal Accounting). He has made presentations in public hearings before the Governmental Accounting Standards Board (GASB) and has been part of the committee contributing to the past two GASB implementation guides.



PROFESSIONAL EXPERIENCE

- 30 Years - Mayer Hoffman McCann P.C.
(formerly Conrad & Associates LLP)

EDUCATION

- Bachelor of Arts - Business Administration (Accounting)
California State University, Fullerton

PROFESSIONAL AFFILIATIONS

- American Institute of Certified Public Accountants
- California Society of Certified Public Accountants
- California Society of Municipal Finance Officers
- Governmental Accounting and Auditing Committee of the Long Beach/Orange County Chapter of Cal-Society of CPA's

AUDITS OF CALIFORNIA CITIES

City of Torrance
City of Pasadena
City of Costa Mesa
City of Upland
City of Laguna Beach
City of Buena Park
Town of Yucca Valley
City of Carson
City of El Cajon
City of Rialto
City of Rancho Mirage
City of Carlsbad
City of San Marcos
City of La Verne
City of Escondido
City of Lake Forest

City of Newport Beach
City of La Quinta
City of Laguna Hills
City of Santa Ana
City of Downey
City of Norwalk
City of Hemet
City of San Gabriel
City of Gilroy
City of Santee
City of Whittier
City of La Puente
City of Orange
City of Palm Springs
City of Burbank
City of Indian Wells

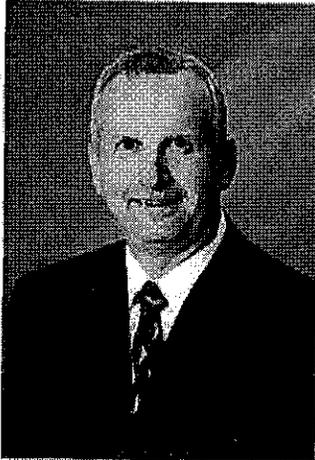
AUDITS OF WATER/SEWER AGENCIES

Orange County Sanitation District
Rancho California Water District
Santa Margarita Water District
Coachella Valley Water District

West Basin Municipal Water District
Eastern Municipal Water District
Cucamonga Valley Water District
Big Bear Regional Wastewater Authority

**DEAN VOTAVA, CPA
SENIOR MANAGER**

California CPA Certificate 64413E



EDUCATION AND EXPERIENCE

- Bachelor of Business Administration Degree (BBA) - Accounting – University of North Dakota, Grand Forks, North Dakota
- Over 20 years government auditing experience Mayer Hoffman McCann P.C. (previously Conrad and Associates, LLP)
- Member of California Society of CPA's
- Member of American Institute of CPA's
- Associate Member of California Society of Municipal Finance Officers

Mr. Votava spends the majority of his time managing audits in the local government and grants area. He has twenty-four years of audit experience. The types of audits Mr. Votava manages include: financial audits of cities, housing authorities, redevelopment agencies and special districts; grant specific audits of funds awarded by Federal, state, and county governments; Single Audits in accordance with OMB Circular A-133; and project specific audits for certain properties owned or managed by individual housing authorities.

During his twenty-four years of experience, Mr. Votava had managed financial statements audit and OMB Circular A-133 Single Audits for a number of significant local government entities. Some of the more significant audit engagements managed by Mr. Votava include the following:

City of Riverside

City of Orange

City of Santa Ana

Coachella Valley Water District

City of Carlsbad

City of Norwalk

City of San Bernardino

City of Costa Mesa

City of Palm Springs

Santa Margarita Water District

City of Indio

City of Pomona

He also has significant experience working with federal grant programs typically awarded to local governments. These federal programs include: Community Development Block Grant; Federal Asset Forfeiture; Highway Planning and Construction; HOME Program; Section 8 Tenant Based programs; Section 8 Project Based programs; Low Rent Conventional Housing; and Capital Grants.

Mr. Votava has also performed and managed a variety of other governmental audits including audits of Job Training Partnership Act (JTPA) service providers, audits of Office of Criminal Justice Planning Recipients (OCJP), financial and compliance audits performed for the U.S. Department of Health and Human Services and the County of Orange alcohol and drug abuse service contractors.

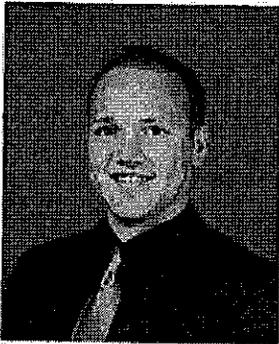
Mr. Votava regularly participates in the activities sponsored by the California Society of Municipal Finance Officers and has performed as a reviewer of Cities submitting under the CSMFO Award Program for Excellence in Financing Reporting. He also serves as an instructor at the Mayer Hoffman McCann P.C. National Governmental Audit Training Courses.

RYAN ROBINSON, CPA
FIELD MANAGER

California CPA Certificate No. 105429, July 2009

ROLE ON PROJECT

Mr. Robinson would serve as the In-Charge of the City of Costa Mesa and performed the annual audit for the fiscal year ended June 30, 2011. Mr. Robinson has been assigned responsibility to numerous audits and special assignments. This experience has encompassed financial audits of governmental entities, compliance audits of grants, audits of nonprofit organizations, and single audits. Each of the audits included a review of the entity's internal controls, financial management system and preparation of audited financial statements.



PROFESSIONAL EXPERIENCE

- 5 years - Mayer Hoffman McCann P.C.

EDUCATION

- Bachelor of Science, Accounting – Azusa Pacific University

AUDITS OF CALIFORNIA CITIES

City of Burbank
City of Carson
City of Costa Mesa
City of Hawaiian Gardens
City of Mission Viejo
City of Moreno Valley
City of Newport Beach
City of Orange
City of Santa Monica

AUDITS OF SPECIAL PURPOSE GOVERNMENTS

Irvine Ranch Water District
Santa Margarita Water District
South Coast Water District
San Diego Association of Governments
Sunline Transit Agency
L.A. County Parks and Open Spaces District
Housing Authority of City of Los Angeles

Training - All individuals assigned to the City of Costa Mesa audit will have 40 hours of government specific CPE every year, which is in excess of the required 24 hours for audits of governmental agencies. All members of the engagement team are current on their CPE requirements. The following is a listing of continuing professional education for the past four years for the proposed engagement team:

<u>Dates</u>	<u>CPE Class</u>	<u>Attended by</u>					<u>Staff</u>
		<u>Farr</u>	<u>Al-Imam</u>	<u>Votava</u>	<u>Robinson</u>		
Jan 2008	Risk assessment audit training	X	X	X	X		
Jan 2008	Internal controls and fraud protection	X	X	X	X		
Jan 2008	Accounting and auditing issues of nonprofits	X	X	X	X		
March 2008	CSMFO annual conference	X	X	X			
April 2008	Local government audit training I	X	X	X	X		
May 2008	2008 GASB update	X	X	X	X		
June 2008	MHM accounting & audit national conference	X					
July 2008	Local government audit training II	X	X	X	X		
Jan 2009	2009 Local government audit training I	X	X	X	X		
Feb 2009	CSMFO annual conference	X	X				
May 2009	2009 GASB update	X	X	X	X		
July 2009	2009 Local government audit training II	X	X	X	X		
Jan 2010	Fraud training		X	X	X		
Jan 2010	Accounting and auditing issues of nonprofits		X	X	X		
Jan 2010	2010 Local government audit training I		X	X	X		
Feb 2010	CSMFO annual conference		X	X			
June 2010	GASB Update	X	X	X	X		
July 2010	2010 Local government audit training II	X	X	X	X		X
Jan 2011	Accounting and audit update	X	X	X	X		X
Jan 2011	Fraud training	X					
Feb 2011	CSMFO annual conference	X	X				
April 2011	2011 Local government audit training I	X	X		X		X
July 2011	2011 Local government audit training II	X	X		X		X
July 2011	CBIZ MHM Annual Conference	X	X				
2011	4 Executive Education Series Classes	X	X				
Feb 2012	2012 Local government audit training I	X	X	X	X		X
Feb 2012	CSMFO annual conference	X	X	X			

SECTION D
QUALIFICATIONS

Mayer Hoffman McCann P.C. is a National CPA Firm. The firm is independently owned and operated through its 275 shareholders. The firm began in Kansas City, Missouri in 1954. After years of steady growth the Firm expanded into a National Practice. Mayer Hoffman McCann P.C. currently operates from 35 offices throughout the United States and is licensed in all 50 States. Mayer Hoffman McCann P.C. is closely aligned with CBIZ (NYSE:CBZ). The 275 shareholders in 35 Mayer Hoffman McCann P.C. offices direct the resources of approximately 2000 Accounting and Audit professionals who services the attest clients of Mayer Hoffman McCann P.C.

The Western Region Office of Mayer Hoffman McCann P.C. work closely together in servicing clients and sharing professional resources among offices. Those offices locations are as follows:

- Irvine California (Government services headquarters)
- Irvine, California (SEC services headquarters)
- Los Angeles, California
- Bakersfield, California
- Oxnard, California
- San Diego, California
- San Jose, California
- Salt Lake City, Utah
- Phoenix, Arizona
- Tucson, Arizona

The Western Region offices have more than 425 professional accounting and audit personnel available to the 56 shareholders of Mayer Hoffman McCann P.C. in the ten Western Region offices.

MHM plans to provide the audit services to the City of Costa Mesa from full-time staff operating out of our Irvine office. The Irvine office joined MHM on January 1, 2006. This office is the former CPA practice of Conrad and Associates, L.L.P., a 35 year old CPA firm which has been nationally and locally recognized for its expertise in governmental accounting and auditing. The Irvine office is the technical and practice unit designated within MHM for governmental expertise and training for MHM on a national level. A breakdown of the Irvine Office's personnel by classification is as follows:

Classification	Number of Employees
Shareholders/Partners	6
Senior Managers	4
Managers	7
Seniors	13
Staff	12
Administrative support	6
Total personnel	48

All of the Shareholders in the Irvine office focus their efforts on Government auditing. Approximately 75% of all work performed out of the Irvine office is Government auditing.

INDEPENDENCE

Mayer Hoffman McCann P.C. is independent with respect to the City of Costa Mesa and all component units as defined by generally accepted auditing standards/the U.S. General Accounting Office's *Government Auditing Standards*.

LICENSE TO PRACTICE IN CALIFORNIA

Mayer Hoffman McCann P.C. and all assigned key professional staff are licensed to practice in California.

QUALITY CONTROL

Mayer Hoffman McCann P.C. is a National CPA Firm and ranked among the top 10 Accounting Service Providers in the country. MHM adheres to the strict quality control measures and high professional standards of the Public Company Accounting Oversight Board (PCAOB), the American Institute of Certified Public Accountants (AICPA), and the California State Board of Accountancy (as well as other states when applicable). Our Firm is a member of the AICPA's Center for Public Company's Audit firms, Employee Benefit Plan Audit Quality Center, Governmental Audit Quality Center and the AICPA's Private Company Practice Section (PCPS).

As a member of the Private Companies Practice Section and PCAOB our audit procedures and working papers are regularly examined by another CPA firm in the firm-on-firm peer review program. The most recent Peer Review performed did cover the governmental auditing practice of this office. In addition, all aspects of the firm's quality control practices have been reviewed, including the firm's commitment to extensive training programs. In every member firm, each member of the professional staff must enroll in continuous professional education courses. Each is required to take at least 120 hours of classes over a three-year period. Courses cover a wide spectrum of professional and technical subjects, and include Fraud Auditing, Professional Ethics and Governmental Accounting and Auditing topics to help the practitioner maintain his/her professional expertise.

The results of reviews of the audit work conducted by our California government audit practice by regulatory agencies indicate that our audit work substantially met the requirements of the auditing standards, except for one review conducted by the California State Controller with respect to Mayer Hoffman McCann P.C.'s financial statement audit that was performed for the City of Bell for the year ended June 30, 2009. We documented our disagreement with the conclusions of that review in our response to the State Controller's report. In response to the issues related to the City of Bell, MHM engaged an independent CPA firm to evaluate the quality of the audit work performed by MHM with respect to its local government audit practice in California. Carr, Riggs & Ingram, LLC concluded that the audit work performed by MHM with respect to its local government audit practice in California conformed to professional auditing standards and our system of quality control. This report has been included in the Appendix section of this proposal. Additionally, a copy of Mayer Hoffman McCann P.C.'s firm wide Quality Control Review report is included in this proposal.

SIMILAR ENGAGEMENTS WITH OTHER GOVERNMENTAL ENTITIES

Mayer Hoffman McCann P.C. has over thirty years of experience in the audits of local government units (all funds audit examinations of cities including single audits performed under OMB Circular A-133, financial and compliance audits of California Redevelopment Agencies, audit examinations of public housing authorities, joint powers authorities and special districts). Among the Cities which the Irvine office of MHM has served during the past two years are the following:

All Funds Examinations of California Cities in (by County)

Orange County

City of Aliso Viejo
City of Costa Mesa
City of Fountain Valley
City of Garden Grove
City of Laguna Beach

Orange County, Continued

City of Mission Viejo
City of Newport Beach
City of Orange
City of Rancho Santa Margarita
City of Villa Park

Los Angeles County

City of Burbank
City of Beverly Hills
City of Commerce
City of Compton
City of Culver City
City of Inglewood

Los Angeles County, Continued

City of La Verne
City of Pasadena
City of Santa Monica
City of Temple City
City of Torrance
City of West Covina

San Bernardino County

City of Highland
City of Redlands
City of Upland

Riverside County

City of Hemet
City of Indian Wells
City of Indio
City of Rancho Mirage
City of Riverside

San Diego County

City of Carlsbad
City of Escondido
City of National City
City of Santee
City of San Marcos
City of Solana Beach

Other Counties

City of Benicia
City of Campbell
City of Gilroy
City of Half Moon Bay
City of Hayward
City of San Bruno

CLIENT REFERENCES

The Irvine office of Mayer Hoffman McCann P.C. recently performed the annual audit for the following client references.

<u>Name of Client/Contact</u>	<u>Shareholder/ Manager</u>	<u>Approximate Annual Budget</u>
1. City of Fountain Valley Sherri Holman Finance Director (714) 593-4501 sherri.holman@fountainvalley.org	Farr/Inga	\$75 million
<i>Annual audit services from 2007-2011 (current client). On March 20, 2012, Fountain Valley City Council approved a new five year contract starting in 2012.</i>		
2. City of Mission Viejo Patricia Brunell Accounting Manager (949) 470-3059 pbrunell@cityofmissionviejo.org	Farr/Robinson	\$80 million
<i>Annual audit services from 2008-2010 and previously from 1999-2003.</i>		
3. City of Commerce Vilko Domic Finance Director (323) 722-4508 vilkod@ci.commerce.ca.us	Farr/Parsons	\$80 million
<i>Annual audit services from 2006-2011 (current client). Commerce City Council approved a new five year contract starting in 2011.</i>		
4. City of Torrance Eric Tsao Finance Director (310) 618-5850 etsau@torranceca.gov	Al-Imam/Dobrenen	\$375 million
<i>Annual audit services from 1998-2011 (current client).</i>		
5. City of Burbank Dino Balos Manager of Accounting and Audit (818) 238-5850 dbalos@ci.burbank.ca.us	Farr/Lenton	\$800 million
<i>Annual audit services from 2006-2011.</i>		

SECTION E
FEE PROPOSAL

The following is a summary of our fixed fee (including out-of-pocket expense) for performing the audit engagement for the City of Costa Mesa:

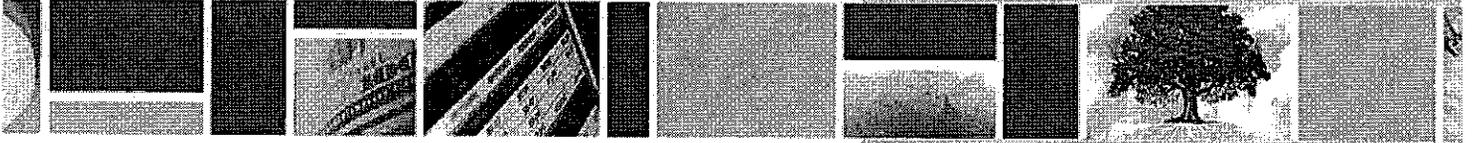
Description of Services Provided	Estimated Hours	Costs for FY 11/12	Costs for FY 12/13
Audit of the City	200	\$ 19,000	22,040
Preparation of the CAFR	50	4,750	4,850
Audit & Financial Report of the Costa Mesa Community Foundation	20	1,900	1,940
Audit & Financial Report of the Costa Mesa Public Financing Authority	30	2,850	2,910
Audit & Financial Report of the Costa Mesa Housing Authority	40	3,800	3,880
OMB Circular A-133 Single Audit of Federal Grants of the City (b)	40	3,800	3,880
Other Reports	20	1,900	1,940
Audit & Financial Report of the Costa Mesa Redevelopment Agency (a)	80	7,600	-
Audit & Financial Report of the Airborne Law Enforcement Agency (ABLE) (c)	20	1,900	1,940
Total (Not to Exceed)	500	\$47,500	43,380

- (a) Certain audit costs associated with the Redevelopment Audit have been transferred to the City (Successor Agency) in years subsequent to 2012, as there will be some ongoing financial statement and compliance auditing required for the Successor Agency.
- (b) The Single Audit fee contemplates 1-2 major programs. Additional major programs can be tested at \$1,500 per program.
- (c) Audit fee for ABLE will be eliminated when the audit is no longer required.

A 2% audit fee increase per year would be applicable for each subsequent year.

The following **discounted hourly rates** by professional staff were used to determine the cost noted above:

<u>Classification</u>	<u>Standard Hourly Rate</u>	<u>Discount</u>	<u>Discounted Hourly Rate</u>
Shareholder	\$325	\$135	\$180
Manager	180	60	120
Senior Auditor	125	25	100
Associate Auditor	95	10	85



Appendix





System Review Report

To the Shareholders of Mayer Hoffman McCann P.C.
and the AICPA National Peer Review Committee

We have reviewed the system of quality control for the accounting and auditing practice of Mayer Hoffman McCann P.C. (the Firm) applicable to non-SEC issuers in effect for the year ended April 30, 2011. Our peer review was conducted in accordance with the Standards for Performing and Reporting on Peer Reviews established by the Peer Review Board of the American Institute of Certified Public Accountants. The Firm is responsible for designing a system of quality control and complying with it to provide the Firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Our responsibility is to express an opinion on the design of the system of quality control and the Firm's compliance therewith based on our review. The nature, objectives, scope, limitations of, and the procedures performed in a System Review are described in the standards at www.aicpa.org/prsummary.

As required by the standards, engagements selected for review included engagements performed under the *Government Auditing Standards*; audits of employee benefit plans, and audits performed under FDICIA.

In our opinion, the system of quality control for the accounting and auditing practice of Mayer Hoffman McCann P.C. applicable to non-SEC issuers in effect for the year April 30, 2011, has been suitably designed and complied with to provide the Firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects. Firms can receive a rating of *pass*, *pass with deficiency(ies)* or *fail*. Mayer Hoffman McCann P.C. has received a peer review rating of *pass*.

Clifton Gunderson LLP

August 12, 2011

10700 Research Dr., Suite 200
Milwaukee, Wisconsin 53226
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fax: 414.476.7286

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INDEPENDENT ACCOUNTANT'S REPORT

To the Board of Directors of
Mayer Hoffman McCann P.C.

We have examined management's assertion regarding the California Municipal Audit Practice of Mayer Hoffman McCann P.C. that:

"the system of quality control for the accounting and auditing practice applicable to municipal audits performed by the California offices of Mayer Hoffman McCann P.C. in effect for the year ended October 31, 2010, has been designed to meet the requirements of the quality control standards and requirements set forth in *Government Auditing Standards*, issued by the Comptroller General of the United States, referred to as generally accepted governmental auditing standards (GAGAS); U.S. generally accepted auditing standards (GAAS); Office of Management and Budget (OMB) Circular A-133, *Audits of States, Local Governments and Non-Profit Organizations*; and the California Business and Professional Code. The system of quality control was also complied with during the year ended October 31, 2010, to provide the firm with reasonable assurance of complying with the applicable professional standards"

Mayer Hoffman McCann P.C.'s management is responsible for the assertion. Our responsibility is to express an opinion on the assertion based on our examination.

Our examination was conducted in accordance with attestation standards established by the American Institute of Certified Public Accountants and, accordingly, included examining, on a test basis, evidence supporting management's assertion and performing such other procedures as we considered necessary in the circumstances. We believe that our examination provides a reasonable basis for our opinion; however, our examination does not provide a legal determination on compliance with the requirements of specified laws, regulations or rules.

In our opinion, management's assertion referred to above is fairly stated, in all material respects, based on the criteria set forth above.

Carr Riggs & Ingram

Gainesville, Florida
March 3, 2011

THE 2011 accountingTODAY TOP 100 FIRMS

RANK	11 10 Firm	Headquarters	Chief executive	Year end	REVENUE		Off-ices	PERSONNEL			FEE SPLIT (in percent)			
					\$ mn.	% chg.		Part-ners	Profes-sionals	Total emps.	A&A	Tax	MAS	Other
1	1 Deloitte §	New York City	Barry Salzberg	Dec	\$10,938.00	2.01	100	2,883	33,688	45,730	34	21	41	4
2	2 PwC §	New York City	Robert Moritz	June	\$8,034.00	-2.27	73	2,204	21,661	29,546	51	30	19	0
3	3 Ernst & Young §	New York City	James Turley	June	\$7,100.00	-6.82	77	2,300	17,500	24,600	42	32	20	6
4	4 KPMG §	New York City	John Veihmeyer	Sept	\$4,889.00	-3.68	87	1,759	14,762	21,285	46	26	28	0
5	5 RSM / McGladrey & Pullen † Bloomington, Minn.	C. Andrews/D. Scudder	April	\$1,378.87	-5.60	88	742	4,895	7,130	43	35	21	1	
6	6 Grant Thornton	Chicago	Stephen Chipman	Dec	\$1,085.70	-5.41	50	514	3,580	5,249	47	28	25	0
7	7 BDO USA	Chicago	Jack Weisbaum	June	\$585.00	-5.65	39	263	1,682	2,497	62	26	12	0
8	8 CBIZ & Mayer Hoffman McCann PC † Cleveland	D. Sibits/B. Hancock	Dec	\$575.30	-4.00	150	418	1,714	4,241	23	27	50	0	
9	9 Crowe Horwath	Oak Brook Terrace, Ill.	Charles Allen	March	\$481.00	-5.31	26	249	1,559	2,315	66	23	11	0
10	10 BKD	Springfield, Mo.	Neal Spencer	May	\$391.00	-0.51	29	246	1,209	1,814	51	31	18	0
11	11 Moss Adams	Seattle	Rick Anderson	Dec	\$316.00	-2.17	18	238	1,068	1,687	49	33	18	0
12	12 Plante & Moran	Southfield, Mich.	Gordon Krater	June	\$298.32	-0.96	16	222	979	1,531	49	32	19	0
13	NR EisnerAmper	New York City	Charles Weinstein	Jan	\$251.10	NA	8	169	900	1,069	53	32	15	0
14	17 Marcum	Melville, N.Y.	Jeffrey Weiner	Dec	\$250.80	7.29	18	144	567	916	40	30	25	5
15	14 Clifton Gunderson	Milwaukee	Krista McMasters	May	\$243.00	-3.19	41	226	1,427	1,844	49	24	27	0
16	13 Baker Tilly Virchow Krause	Chicago	Timothy Christen	May	\$238.00	-8.46	11	107	1,119	1,346	40	34	23	3
17	15 J.H. Cohn*	Roseland, N.J.	Thomas Marino	Jan	\$230.00	-2.13	11	150	610	1,008	50	32	1	17
18	18 LarsonAllen	Minneapolis	Gordy Viere	Oct	\$227.00	4.13	19	121	977	1,351	46	33	19	2
19	16 UHY Advisors †	Chicago	R. Stein/A. Frabotta	Dec	\$204.60	-12.71	15	107	589	939	34	40	21	5
20	19 Dixon Hughes	High Point, N.C.	Ken Hughes	Dec	\$193.00	-3.50	22	134	723	1,080	41	34	25	0
21	20 Reznick Group	Bethesda, Md.	Kenneth Baggett	Sept	\$191.53	1.02	10	97	653	961	57	28	14	1
22	22 Rothstein, Kass & Co.	Roseland, N.J.	S. Kass/H. Altman	Dec	\$163.50	-3.54	8	69	594	762	67	31	1	1
23	21 ParenteBeard	Philadelphia	Robert Ciaruffoli	Dec	\$163.00	-4.90	24	147	686	1,031	57	25	18	0
24	23 Eide Bailly	Fargo, N.D.	Jerry Topp	April	\$151.80	6.68	19	94	982	1,327	44	36	10	10
25	24 WeiserMazars †	New York City	Douglas Phillips	Dec	\$120.00	-3.54	5	84	375	581	55	35	10	0

Key and notes: Last year's rankings have been revised based on 2009 revenue provided by firms. Some firms' rankings will therefore differ from those reported last year.

* Firm estimate or projection † Accounting Today estimate § Gross revenue NC No change NA Not available/applicable NR Not ranked
 1 Renamed from PricewaterhouseCoopers. Partner and staff figures and related metrics have been restated for current and previous years to exclude global partners/staff residing in the U.S. 2 Office total represents business offices, not every physical location 3 RSM McGladrey and McGladrey & Pullen operate under the brand McGladrey in an alternative practice structure. 4 CBIZ and Mayer Hoffman McCann are associated through an alternative practice structure. Revenues are an AT estimate; all other figures are firm-supplied, and do not reflect year-end merger with Kirkland, Russ, Murphy & Tapp. Office figures are for CBIZ alone; MHM has 36 offices nationwide. 5 UHY Advisors and UHY LLP are affiliated through an alternative practice structure. 6 Changed name from Weiser on joining international firm Mazars.



Mayer
Hoffman
McCann P.C.
An Independent CPA Firm

CBIZ-038, REV. 10

www.cbiz.com

www.mhm-pc.com

**PROFESSIONAL SERVICES AGREEMENT
CITY OF COSTA MESA**

THIS AGREEMENT is made and entered into this 16th day of May, 2012 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and Mayer Hoffman McCann, P.C. ("Consultant").

W I T N E S S E T H:

- A. WHEREAS, City proposes to have Consultant perform the services described herein below; and
- B. WHEREAS, Consultant represents that it has that degree of specialized expertise contemplated within California Government Code, Section 37103, and holds all necessary licenses to practice and perform the services herein contemplated; and
- C. WHEREAS, City and Consultant desire to contract for the specific services described in Exhibit "A" (the "Project") and desire to set forth their rights, duties and liabilities in connection with the services to be performed; and
- D. WHEREAS, no official or employee of City has a financial interest, within the provisions of California Government Code, Sections 1090-1092, in the subject matter of this Agreement.

NOW, THEREFORE, for and in consideration of the mutual covenants and conditions contained herein, the parties hereby agree as follows:

1.0. SERVICES PROVIDED BY CONSULTANT

1.1. Scope of Services. Consultant shall provide the professional services described in Consultant's Proposal, a copy of which is attached hereto as Exhibit "A" and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. It is understood that in the exercise of every aspect of its role, within the scope of work, consultant will be representing the City of Costa Mesa, and all of its actions, communications, or other work, during its employment, under this contract is under the direction of the department. Consultant also warrants that it is familiar with all laws that may affect its performance of this Agreement and shall advise City of any changes in any laws that may affect Consultant's performance of this Agreement.

1.3. Performance to Satisfaction of City. Consultant agrees to perform all the work to the complete satisfaction of the City and within the hereinafter specified. Evaluations of the work will be done by the City Clerk or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

- (a) Meet with Consultant to review the quality of the work and resolve the matters of concern;

- (b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or
- (c) Terminate the Agreement as hereinafter set forth.

1.4. Warranty. Consultant warrants that it shall perform the services required by this Agreement in compliance with all applicable Federal and California employment laws including, but not limited to, those laws related to minimum hours and wages; occupational health and safety; fair employment and employment practices; workers' compensation insurance and safety in employment; and all other Federal, State and local laws and ordinances applicable to the services required under this Agreement. Consultant shall indemnify and hold harmless City from and against all claims, demands, payments, suits, actions, proceedings, and judgments of every nature and description including attorneys' fees and costs, presented, brought, or recovered against City for, or on account of any liability under any of the above-mentioned laws, which may be incurred by reason of Consultant's performance under this Agreement.

1.5. Non-discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religion, color, national origin, ancestry, age, physical handicap, medical condition, marital status, sexual gender or sexual orientation, except as permitted pursuant to Section 12940 of the Government Code.

1.6. Non-Exclusive Agreement. Consultant acknowledges that City may enter into agreements with other consultants for services similar to the services that are subject to this Agreement or may have its own employees perform services similar to those services contemplated by this Agreement.

1.7. Delegation and Assignment. This is a personal service contract, and the duties set forth herein shall not be delegated or assigned to any person or entity without the prior written consent of City. Consultant may engage a subcontractor(s) as permitted by law and may employ other personnel to perform services contemplated by this Agreement at Consultant's sole cost and expense.

1.8. Confidentiality. Employees of Consultant in the course of their duties may have access to financial, accounting, statistical, and personnel data of private individuals and employees of City. Consultant covenants that all data, documents, discussion, or other information developed or received by Consultant or provided for performance of this Agreement are deemed confidential and shall not be disclosed by Consultant without written authorization by City. City shall grant such authorization if disclosure is required by law. All City data shall be returned to City upon the termination of this Agreement. Consultant's covenant under this Section shall survive the termination of this Agreement.

2.0. COMPENSATION AND BILLING

2.1. Compensation. As compensation for the provision of services outlined in Exhibit A and in accordance with this agreement, Consultant shall be paid in accordance with the fees set forth in Exhibit "B". Consultant's total compensation shall not exceed One hundred thirty-five thousand one hundred twenty-eight (\$135,128.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified by the Response unless the City or the Project Manager for this Project, prior to Consultant performing the additional services, approves such additional services in writing. It is specifically understood that oral requests and/or approvals of such additional services or additional compensation shall be barred and are unenforceable.

2.3. Method of Billing. Consultant may submit invoices to City's Project Manager for approval on a progress basis, but no more often than monthly. Said invoice shall be based on the total of all Consultant's services which have been completed to City's sole satisfaction as of the date the invoice is created. City shall pay Consultant's invoice within forty-five (45) days from the date City receives said invoice. Each invoice shall describe in detail, the services performed, the date of performance, and the associated time for completion. Any additional services approved and performed pursuant to this Agreement shall be designated as "Additional Services" and shall identify the number of the authorized change order, where applicable, on all invoices.

2.4. Records and Audits. Records of Consultant's services relating to this Agreement shall be maintained in accordance with generally recognized accounting principles and shall be made available to City or its Project Manager for inspection and/or audit at mutually convenient times for a period of three (3) years from the Effective Date.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. The professional services to be performed pursuant to this Agreement shall commence within five (5) days from the Effective Date of this Agreement. The Project Schedule may be amended by mutual agreement of the parties. Failure to commence work in a timely manner and/or diligently pursue work to completion may be grounds for termination of this Agreement.

3.2. Excusable Delays. Neither party shall be responsible for delays or lack of performance resulting from acts beyond the reasonable control of the party or parties. Such acts shall include, but not be limited to, acts of God, fire, strikes, material shortages, compliance with laws or regulations, riots, acts of war, or any other conditions beyond the reasonable control of a party.

4.0. TERM AND TERMINATION

4.1. Term. This Agreement shall commence on the Effective Date and continue for a period of three (3) years ending on May 16, 2015, unless previously terminated as provided herein or as otherwise agreed to in writing by the parties.

4.2. Notice of Termination. The City reserves and has the right and privilege of canceling, suspending or abandoning the execution of all or any part of the work contemplated by this Agreement, with or without cause, at any time, by providing written notice to Consultant. The termination of this Agreement shall be deemed effective upon receipt of the notice of termination. In the event of such termination, Consultant shall immediately stop rendering services under this Agreement unless directed otherwise by the City.

4.3. Compensation. In the event of termination, City shall pay Consultant for reasonable costs incurred and professional services satisfactorily performed up to and including the date of City's written notice of termination. Compensation for work in progress shall be prorated as to the percentage of work completed as of the effective date of termination in accordance with the fees set forth herein. In ascertaining the professional services actually rendered hereunder up to the effective date of termination of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete drawings, and to other documents pertaining to the services contemplated herein whether delivered to the City or in the possession of the Consultant.

4.4. Documents. In the event of termination of this Agreement, all documents prepared by Consultant in its performance of this Agreement including, but not limited to, finished or unfinished design, development and construction documents, data studies, drawings, maps and reports, shall be delivered to the City within ten (10) days of delivery of termination notice to Consultant, at no cost to City. Any use of uncompleted documents without specific written authorization from Consultant shall be at City's sole risk and without liability or legal expense to Consultant.

5.0. INSURANCE

5.1. Minimum Scope and Limits of Insurance. Consultant shall obtain, maintain, and keep in full force and effect during the life of this Agreement all of the following minimum scope of insurance coverages with an insurance company admitted to do business in California, rated "A," Class X, or better in the most recent Best's Key Insurance Rating Guide, and approved by City:

- (a) Commercial general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury or bodily injury with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence. If such insurance contains a general aggregate limit, it shall apply separately to this Agreement or shall be twice the required occurrence limit.
- (b) Business automobile liability for owned vehicles, hired, and non-owned vehicles, with a policy limit of not less than One Million Dollars (\$1,000,000.00), combined single limits, per occurrence for bodily injury and property damage.
- (c) Workers' compensation insurance as required by the State of California. Consultant agrees to waive, and to obtain endorsements from its workers' compensation insurer waiving subrogation rights under its workers' compensation insurance policy against the City, its officers, agents, employees, and volunteers arising from work performed by Consultant for the City and to require each of its subcontractors, if any, to do likewise under their workers' compensation insurance policies.
- (d) Professional errors and omissions ("E&O") liability insurance with policy limits of not less than One Million Dollars (\$1,000,000.00) combined

single limits, per occurrence and aggregate. Architects' and engineers' coverage shall be endorsed to include contractual liability. If the policy is written as a "claims made" policy, the retro date shall be prior to the start of the contract work. Consultant shall obtain and maintain, said E&O liability insurance during the life of this Agreement and for three years after completion of the work hereunder.

5.2. Endorsements. The commercial general liability insurance policy and business automobile liability policy shall contain or be endorsed to contain the following provisions:

- (a) Additional insureds: "The City of Costa Mesa and its elected and appointed boards, officers, officials, agents, employees, and volunteers are additional insureds with respect to: liability arising out of activities performed by or on behalf of the Consultant pursuant to its contract with the City; products and completed operations of the Consultant; premises owned, occupied or used by the Consultant; automobiles owned, leased, hired, or borrowed by the Consultant.."
- (b) Notice: "Said policy shall not terminate, be suspended, or voided, nor shall it be cancelled, nor the coverage or limits reduced, until thirty (30) days after written notice is given to City."
- (c) Other insurance: "The Consultant's insurance coverage shall be primary insurance as respects the City of Costa Mesa, its officers, officials, agents, employees, and volunteers. Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."
- (d) Any failure to comply with the reporting provisions of the policies shall not affect coverage provided to the City of Costa Mesa, its officers, officials, agents, employees, and volunteers.
- (e) The Consultant's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

5.3. Deductible or Self Insured Retention. If any of such policies provide for a deductible or self-insured retention to provide such coverage, the amount of such deductible or self-insured retention shall be approved in advance by City. No policy of insurance issued as to which the City is an additional insured shall contain a provision which requires that no insured except the named insured can satisfy any such deductible or self-insured retention.

5.4. Certificates of Insurance: Consultant shall provide to City certificates of insurance showing the insurance coverages and required endorsements described above, in a form and content approved by City, prior to performing any services under this Agreement.

5.5. Non-limiting: Nothing in this Section shall be construed as limiting in any way, the indemnification provision contained in this Agreement, or the extent to which Consultant may be held responsible for payments of damages to persons or property.

6.0. GENERAL PROVISIONS

6.1. Entire Agreement: This Agreement constitutes the entire Agreement between the parties with respect to any matter referenced herein and supersedes any and all other prior writings and oral negotiations. This Agreement may be modified only in writing, and signed by the parties in interest at the time of such modification. The terms of this Agreement shall prevail over any inconsistent provision in any other contract document appurtenant hereto, including exhibits to this Agreement.

6.2. Representatives. The Chief Executive Officer or his or her designee shall be the representative of City for purposes of this Agreement and may issue all consents, approvals, directives and agreements on behalf of the City, called for by this Agreement, except as otherwise expressly provided in this Agreement.

Consultant shall designate a representative for purposes of this Agreement who shall be authorized to issue all consents, approvals, directives and agreements on behalf of Consultant called for by this Agreement, except as otherwise expressly provided in this Agreement.

6.3. Project Managers. City shall designate a Project Manager to work directly with Consultant in the performance of this Agreement.

Consultant shall designate a Project Manager who shall represent it and be its agent in all consultations with City during the term of this Agreement. Consultant or its Project Manager shall attend and assist in all coordination meetings called by City.

6.4. Notices: Any notices, documents, correspondence or other communications concerning this Agreement or the work hereunder may be provided by personal delivery, facsimile or mail and shall be addressed as set forth below. Such communication shall be deemed served or delivered: a) at the time of delivery if such communication is sent by personal delivery; b) at the time of transmission if such communication is sent by facsimile; and c) 48 hours after deposit in the U.S. Mail as reflected by the official U.S. postmark if such communication is sent through regular United States mail.

IF TO CONSULTANT:

Mayer Hoffman McCann, P.C.
2301 Dupont Drive, Suite 200
Irvine, CA 92612
Tel: 949-474-2020
Fax: 949-263-5520
Attn: Ken Al-Imam

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: 714-754-5243
Fax: 714-754-5040
Attn: Bobby Young

6.5. Drug-free Workplace Policy. Consultant shall provide a drug-free workplace by complying with all provisions set forth in City's Council Policy 100-5, attached hereto as Exhibit "C" and incorporated herein by reference. Consultant's failure to conform to the requirements set forth in Council Policy 100-5 shall constitute a material breach of this Agreement and shall be cause for immediate termination of this Agreement by City.

6.6. Attorneys' Fees: In the event that litigation is brought by any party in connection with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

6.7. Governing Law: This Agreement shall be governed by and construed under the laws of the State of California without giving effect to that body of laws pertaining to conflict of laws. In the event of any legal action to enforce or interpret this Agreement, the parties hereto agree that the sole and exclusive venue shall be a court of competent jurisdiction located in Orange County, California.

6.8. Assignment: Consultant shall not voluntarily or by operation of law assign, transfer, sublet or encumber all or any part of Consultant's interest in this Agreement without City's prior written consent. Any attempted assignment, transfer, subletting or encumbrance shall be void and shall constitute a breach of this Agreement and cause for termination of this Agreement. Regardless of City's consent, no subletting or assignment shall release Consultant of Consultant's obligation to perform all other obligations to be performed by Consultant hereunder for the term of this Agreement.

6.9. Indemnification and Hold Harmless Consultant agrees to defend, indemnify, hold free and harmless the City, its elected officials, officers, agents and employees, at Consultant's sole expense, from and against any and all claims, actions, suits or other legal proceedings brought against the City, its elected officials, officers, agents and employees arising out of the performance of the Consultant, its employees, and/or authorized subcontractors, of the work undertaken pursuant to this Agreement. The defense obligation provided for hereunder shall apply without any advance showing of negligence or wrongdoing by the Consultant, its employees, and/or authorized subcontractors, but shall be required whenever any claim, action, complaint, or suit asserts as its basis the negligence, errors, omissions or misconduct of the Consultant, its employees, and/or authorized subcontractors, and/or whenever any claim, action, complaint or suit asserts liability against the City, its elected officials, officers, agents and employees based upon the work performed by the Consultant, its employees, and/or authorized subcontractors under this Agreement, whether or not the Consultant, its employees, and/or authorized subcontractors are specifically named or otherwise asserted to be liable. Notwithstanding the foregoing, the Consultant shall not be liable for the defense or indemnification of the City for claims, actions, complaints or suits arising out of the sole active negligence or willful misconduct of the City. This provision shall supersede and replace all other indemnity provisions contained either in the City's specifications or Consultant's Proposal, which shall be of no force and effect.

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its or employees are in any manner agents or employees of City. Consultant shall secure, at its sole expense, and be responsible for any and all payment of Income Tax, Social Security, State Disability Insurance Compensation, Unemployment Compensation, and other payroll deductions for Consultant and its officers, agents, and employees, and all business licenses, if any are required, in connection with the

services to be performed hereunder. Consultant shall indemnify and hold City harmless from any and all taxes, assessments, penalties, and interest asserted against City by reason of the independent contractor relationship created by this Agreement. Consultant further agrees to indemnify and hold City harmless from any failure of Consultant to comply with the applicable worker's compensation laws. City shall have the right to offset against the amount of any fees due to Consultant under this Agreement any amount due to City from Consultant as a result of Consultant's failure to promptly pay to City any reimbursement or indemnification arising under this paragraph.

6.11. PERS Eligibility Indemnification. In the event that Consultant or any employee, agent, or subcontractor of Consultant providing services under this Agreement claims or is determined by a court of competent jurisdiction or the California Public Employees Retirement System (PERS) to be eligible for enrollment in PERS as an employee of the City, Consultant shall indemnify, defend, and hold harmless City for the payment of any employee and/or employer contributions for PERS benefits on behalf of Consultant or its employees, agents, or subcontractors, as well as for the payment of any penalties and interest on such contributions, which would otherwise be the responsibility of City.

Notwithstanding any other agency, state or federal policy, rule, regulation, law or ordinance to the contrary, Consultant and any of its employees, agents, and subcontractors providing service under this Agreement shall not qualify for or become entitled to, and hereby agree to waive any claims to, any compensation, benefit, or any incident of employment by City, including but not limited to eligibility to enroll in PERS as an employee of City and entitlement to any contribution to be paid by City for employer contribution and/or employee contributions for PERS benefits.

6.12. Cooperation. In the event any claim or action is brought against City relating to Consultant's performance or services rendered under this Agreement, Consultant shall render any reasonable assistance and cooperation which City might require.

6.13. Ownership of Documents. All findings, reports, documents, information and data including, but not limited to, computer tapes or discs, files and tapes furnished or prepared by Consultant or any of its subcontractors in the course of performance of this Agreement, shall be and remain the sole property of City. Consultant agrees that any such documents or information shall not be made available to any individual or organization without the prior consent of City. Any use of such documents for other projects not contemplated by this Agreement, and any use of incomplete documents, shall be at the sole risk of City and without liability or legal exposure to Consultant. City shall indemnify and hold harmless Consultant from all claims, damages, losses, and expenses, including attorneys' fees, arising out of or resulting from City's use of such documents for other projects not contemplated by this Agreement or use of incomplete documents furnished by Consultant. Consultant shall deliver to City any findings, reports, documents, information, data, in any form, including but not limited to, computer tapes, discs, files audio tapes or any other Project related items as requested by City or its authorized representative, at no additional cost to the City.

6.14. Public Records Act Disclosure: Consultant has been advised and is aware that all reports, documents, information and data including, but not limited to, computer tapes, discs or files furnished or prepared by Consultant, or any of its subcontractors, and provided to City may be subject to public disclosure as required by the California Public Records Act (California Government Code Section 6250 et. seq.). Exceptions to public disclosure may be those

documents or information that qualify as trade secrets, as that term is defined in the California Government Code Section 6254.7, and of which Consultant informs City of such trade secret. The City will endeavor to maintain as confidential all information obtained by it that is designated as a trade secret. The City shall not, in any way, be liable or responsible for the disclosure of any trade secret including, without limitation, those records so marked if disclosure is deemed to be required by law or by order of the Court.

6.15. Conflict of Interest. Consultant and its officers, employees, associates and subconsultants, if any, will comply with all conflict of interest statutes of the State of California applicable to Consultant's services under this agreement, including, but not limited to, the Political Reform Act (Government Code Sections 81000, et seq.) and Government Code Section 1090. During the term of this Agreement, Consultant and its officers, employees, associates and subconsultants shall not, without the prior written approval of the City Representative, perform work for another person or entity for whom Consultant is not currently performing work that would require Consultant or one of its officers, employees, associates or subconsultants to abstain from a decision under this Agreement pursuant to a conflict of interest statute.

6.16. Responsibility for Errors. Consultant shall be responsible for its work and results under this Agreement. Consultant, when requested, shall furnish clarification and/or explanation as may be required by the City's representative, regarding any services rendered under this Agreement at no additional cost to City. In the event that an error or omission attributable to Consultant occurs, then Consultant shall, at no cost to City, provide all necessary design drawings, estimates and other Consultant professional services necessary to rectify and correct the matter to the sole satisfaction of City and to participate in any meeting required with regard to the correction.

6.17. Prohibited Employment. Consultant will not employ any regular employee of City while this Agreement is in effect.

6.18. Order of Precedence. In the event of an inconsistency in this Agreement and any of the attached Exhibits, the terms set forth in this Agreement shall prevail. If, and to the extent this Agreement incorporates by reference any provision of any document, such provision shall be deemed a part of this Agreement. Nevertheless, if there is any conflict among the terms and conditions of this Agreement and those of any such provision or provisions so incorporated by reference, this Agreement shall govern over the document referenced.

6.19. Costs. Each party shall bear its own costs and fees incurred in the preparation and negotiation of this Agreement and in the performance of its obligations hereunder except as expressly provided herein.

6.20. No Third Party Beneficiary Rights. This Agreement is entered into for the sole benefit of City and Consultant and no other parties are intended to be direct or incidental beneficiaries of this Agreement and no third party shall have any right in, under or to this Agreement.

6.21. Headings. Paragraphs and subparagraph headings contained in this Agreement are included solely for convenience and are not intended to modify, explain or to be a full or accurate description of the content thereof and shall not in any way affect the meaning or interpretation of this Agreement.

6.22. Construction. The parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises with respect to this Agreement, this Agreement shall be construed as if drafted jointly by the parties and in accordance with its fair meaning. There shall be no presumption or burden of proof favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

6.23. Amendments. Only writing executed by the parties hereto or their respective successors and assigns may amend this Agreement.

6.24. Waiver. The delay or failure of either party at any time to require performance or compliance by the other of any of its obligations or agreements shall in no way be deemed a waiver of those rights to require such performance or compliance. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the party against whom enforcement of a waiver is sought. The waiver of any right or remedy in respect to any occurrence or event shall not be deemed a waiver of any right or remedy in respect to any other occurrence or event, nor shall any waiver constitute a continuing waiver.

6.25. 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.

6.26. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original. All counterparts shall be construed together and shall constitute one agreement.

6.27. Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that they are duly authorized to execute this Agreement on behalf of said parties and that by doing so the parties hereto are formally bound to the provisions of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by and through their respective authorized officers, as of the date first above written.

CITY OF COSTA MESA,
A municipal corporation

Chief Executive Officer
City of Costa Mesa

Date: _____

CONSULTANT

Signature

Date: _____

Name and Title

Social Security or Taxpayer ID Number

APPROVED AS TO FORM:

City Attorney

Date: _____

APPROVED AS TO INSURANCE:

Risk Management

Date: _____

APPROVED AS TO CONTENT:

Finance & I.T. Director/Project Manager

Date: _____

EXHIBIT A
CONSULTANT'S PROPOSAL

EXHIBIT B
FEE SCHEDULE

EXHIBIT C
CITY COUNCIL POLICY 100-5

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	1 of 3

BACKGROUND

Under the Federal Drug-Free Workplace Act of 1988, passed as part of omnibus drug legislation enacted November 18, 1988, contractors and grantees of Federal funds must certify that they will provide drug-free workplaces. At the present time, the City of Costa Mesa, as a sub-grantee of Federal funds under a variety of programs, is required to abide by this Act. The City Council has expressed its support of the national effort to eradicate drug abuse through the creation of a Substance Abuse Committee, institution of a City-wide D.A.R.E. program in all local schools and other activities in support of a drug-free community. This policy is intended to extend that effort to contractors and grantees of the City of Costa Mesa in the elimination of dangerous drugs in the workplace.

PURPOSE

It is the purpose of this Policy to:

1. Clearly state the City of Costa Mesa's commitment to a drug-free society.
2. Set forth guidelines to ensure that public, private, and nonprofit organizations receiving funds from the City of Costa Mesa share the commitment to a drug-free workplace.

POLICY

The City Manager, under direction by the City Council, shall take the necessary steps to see that the following provisions are included in all contracts and agreements entered into by the City of Costa Mesa involving the disbursement of funds.

1. Contractor or Sub-grantee hereby certifies that it will provide a drug-free workplace by:
 - a. Publishing a statement notifying employees that the unlawful manufacture, distribution, dispensing, possession, or use of a controlled substance is prohibited in Contractor's and/or sub-grantee's workplace, specifically the job site or location included in this contract, and specifying the actions that will be taken against the employees for violation of such prohibition;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	2 of 3

- b. Establishing a Drug-Free Awareness Program to inform employees about:
 - 1. The dangers of drug abuse in the workplace;
 - 2. Contractor's and/or sub-grantee's policy of maintaining a drug-free workplace;
 - 3. Any available drug counseling, rehabilitation and employee assistance programs; and
 - 4. The penalties that may be imposed upon employees for drug abuse violations occurring in the workplace;
- c. Making it a requirement that each employee to be engaged in the performance of the contract be given a copy of the statement required by subparagraph A;
- d. Notifying the employee in the statement required by subparagraph 1 A that, as a condition of employment under the contract, the employee will:
 - 1. Abide by the terms of the statement; and
 - 2. Notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than five (5) days after such conviction;
- e. Notifying the City of Costa Mesa within ten (10) days after receiving notice under subparagraph 1 D 2 from an employee or otherwise receiving the actual notice of such conviction;
- f. Taking one of the following actions within thirty (30) days of receiving notice under subparagraph 1 D 2 with respect to an employee who is so convicted:
 - 1. Taking appropriate personnel action against such an employee, up to and including termination; or
 - 2. Requiring such employee to participate satisfactorily in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health agency, law enforcement, or other appropriate agency;

SUBJECT	POLICY NUMBER	EFFECTIVE DATE	PAGE
DRUG-FREE WORKPLACE	100-5	8-8-89	3 of 3

- g. Making a good faith effort to maintain a drug-free workplace through implementation of subparagraphs 1 A through 1 F, inclusive.
2. Contractor and/or sub-grantee shall be deemed to be in violation of this Policy if the City of Costa Mesa determines that:
 - a. Contractor and/or sub-grantee has made a false certification under paragraph 1 above;
 - b. Contractor and/or sub-grantee has violated the certification by failing to carry out the requirements of subparagraphs 1 A through 1 G above;
 - c. Such number of employees of Contractor and/or sub-grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor and/or sub-grantee has failed to make a good faith effort to provide a drug-free workplace.
 3. Should any contractor and/or sub-grantee be deemed to be in violation of this Policy pursuant to the provisions of 2 A, B, and C, a suspension, termination or debarment proceeding subject to applicable Federal, State, and local laws shall be conducted. Upon issuance of any final decision under this section requiring debarment of a contractor and/or sub-grantee, the contractor and/or sub-grantee shall be ineligible for award of any contract, agreement or grant from the City of Costa Mesa for a period specified in the decision, not to exceed five (5) years. Upon issuance of any final decision recommending against debarment of the contractor and/or sub-grantee, the contractor and/or sub-grantee shall be eligible for compensation as provided by law.