CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
CNC ENGINEERING, INC.

THIS AGREEMENT is made and entered into this 4th day of February, 2014 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and CNC Engineering, Inc., a California corporation ("Consultant").

W I T N E S S E T H :

A. WHEREAS, City proposes to utilize the services of Consultant as an independent contractor to engineering design services, as more fully described herein; 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 Sections 1090-1092 of the California Government Code, 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 the City's Request for Proposal ("RFP"), attached hereto as Exhibit "A," and Consultant's Response to City's RFP (the "Response") attached hereto as Exhibit "B", both 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. 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 Manager or his 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. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's total compensation shall not exceed One Hundred Five Thousand, Five Hundred Fifty-One Dollars ($ 105,551.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in the Consultant's Proposal 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 the City 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. 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 "D," 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 one year through February 3, 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 based on 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. The certificates of insurance shall be attached hereto as Exhibit "E" and incorporated herein by this reference.

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 City Manager 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:	IF TO CITY:
CNC Engineering	City of Costa Mesa
2121 Alton Parkway, Suite 200	77 Fair Drive
Irvine, CA 92606	Costa Mesa, CA 92626
Tel: (949) 863-0588	Tel: (714) 754-5183
Fax: (949) 863-0589	Fax: (714) 754-5028
Attn: Sean Nazarie	Attn: Pritam Deshmukh

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 "F" 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 this Agreement and 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, pursuant to this Agreement 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

_____ Date: _____
Mayor Jim Righeimer

CONSULTANT

S. Nazarie _____ Date: January 16, 2014
Signature

Sean Nazarie, Director of Engineering
Name and Title

95-3995823
Social Security or Taxpayer ID Number

ATTEST:

_____
City Clerk and ex-officio Clerk
of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

Date: 01/17/14

APPROVED AS TO INSURANCE:

Risk Management

Date:

APPROVED AS TO CONTENT:

Project Manager

Date: 1/16/14

EXHIBIT A

REQUEST FOR PROPOSALS

CITY OF COSTA MESA

CALIFORNIA 92628-1200 P.O. Box 1200

FROM THE OFFICE OF THE TRANSPORTATION SERVICES MANAGER

November 13, 2013

SUBJECT: REQUEST FOR PROPOSALS – DESIGN AND ENVIRONMENTAL SERVICES FOR IMPROVEMENTS ON RED HILL AVENUE, PLACENTIA AVENUE, AND BRISTOL STREET

Dear Consultant:

The City of Costa Mesa is requesting proposals for professional engineering and environmental services to design improvements on three (3) separate street segments in Costa Mesa. The scope of services generally consists of preparation and processing of environmental documents and preparation of civil engineering design plans for the installation of raised medians and landscaping along Red Hill Avenue, Placentia Avenue, and Bristol Street.

Proposals for professional engineering and environmental services are requested for the three (3) individual projects listed below. The City may choose to award each project separately to different consultants or combine projects and award one or more to the same consultant.

Project A: Median installation and landscaping along Red Hill Avenue between Bristol Street and McCormick Avenue
Project B: Median installation and landscaping along Placentia Avenue between Adams Avenue and Wilson Street
Project C: Median installation and landscaping along Bristol Street between Baker Street and Newport Boulevard Southbound Frontage Road

Consultants' Proposals should include each individual Project that they are proposing, in one submitted document.

Each project is structured in the four (4) following phases:

Phase 1: Existing Plan Review, Survey, and Preliminary Design
Phase 2: Environmental Analysis and Approval
Phase 3: Final Civil Engineering Design
Phase 4: Federal Approval for Construction and Construction Support

Community outreach should be incorporated during the first three (3) phases of the project.

BACKGROUND

The City of Costa Mesa has identified accident patterns within the three (3) Project street segments that could be improved by the installation of raised landscaped medians.

In January 2013, the City was awarded Federal Highway Safety Improvement Program (HSIP) grant funds for three (3) individual projects to install medians, landscaping, and associated

77 FAIR DRIVE
PHONE: (714) 754-5343 • TDD: (714) 754-5244 • www.costamesaca.gov

15

improvements along Red Hill Avenue, Placentia Avenue, and Bristol Street to improve pedestrian and traffic safety. Authorization to proceed with the final design for the three (3) projects was received in September 2013.

SCOPE OF SERVICES

The project scope includes the preparation of plans and processing of documents to allow the installation of medians and landscaping along Red Hill Avenue, Placentia Avenue, and Bristol Street. The subject scope of services is intended as a "Turnkey" project to maintain a responsible and comprehensive base for all project development. Tasks shall be coordinated to effectively develop interrelated project elements; the project shall not be advanced until preliminary requirements are addressed and clear direction established. The consultant shall have total responsibility for the accuracy and completeness of all work and services.

The following description of work defines the general project requirements for each median project (A, B, and C). Associated tasks and provisions not specifically defined herein are requested to be addressed in the proposal and undertaken within the proposed "Not to Exceed" contract fee.

PHASE I – Topographic Survey, Field Condition Assessment, Alternatives Analysis, Preliminary Design, & Resident Meetings

This phase consists of defining the physical conditions and utilities within the project area, preparation of preliminary design plans and establishing the design features proposed, and meeting with affected stakeholders. For Project C (Bristol Street) between Baker Street and Randolph Avenue, the consultant shall perform a traffic analysis of turning movements from driveways and pedestrian crossing movements. Based on this analysis, the consultant shall provide median alternatives to address traffic and pedestrian issues. This phase shall include the following:

1. Meet with City staff to define and clarify the work plan and project elements. The City will provide data collected to date and conceptual plans for consultant use. It is the consultant's responsibility to verify the accuracy of all information provided by the City.
2. Review all City-supplied information, including conceptual plans and neighborhood concerns.
3. Perform additional topographic surveying extending through the project area to establish horizontal and vertical controls at 25' intervals. Establish existing and proposed controls including centerline, street geometrics, and right-of-way throughout the project limits. Reference elevations to the closest and latest Orange County Benchmark (OCBM).
4. Research and establish the precise location of all utilities and utility easements. Coordinate with all utility companies to determine underground, surface, and overhead facilities. Comply with the City-adopted "Utility Coordination Procedures." Determine where interfaces with existing facilities will occur as a result of the future construction of this project. Consult with affected utility companies and resolve any conflicts, keeping City staff informed in writing. Maintain a Utility File on all utility documentation.
5. Plot the detailed survey notes and electronic mapping files at 40 scale using CAD on 24" X 36" sheets identifying all existing conditions. Physical features shall include BCR, ECR, flow-lines, centerlines, angle points, top of curb, spandrels, pavement striping, utilities, structures, walls, trees and landscape, underground and surface utilities, poles, hydrants, catch basins, signs, valves, manholes, and all other physical features.
6. Perform a traffic analysis of turning movements from driveways and pedestrian crossing movements along Bristol Street (Project C); recommend any alternatives to the proposed median and meet with City and affected stakeholders to reach consensus on the design.

7. Preliminary design work includes plans for construction of median improvements. The preparation of cost estimates shall be included.

Community Outreach:

Installing raised medians and landscaping at certain locations may have impacts to property frontages of affected businesses. The City intends to hold three (3) neighborhood meetings and one (1) City Council Public Hearing, to identify and finalize the project concept. The Consultant is required to continue this outreach to the community during the design process under the City's direction. For the purposes of this proposal, assume up to three community outreach meetings and a City Council presentation. The Consultant will plan, prepare, and conduct these meetings based on discussions with the City. The City will assist in providing notification to affected stakeholders including businesses and residents.

PHASE II - Environmental Study

This phase includes the preparation of a Preliminary Environmental Studies (PES) document analyzing and describing environmental impacts and mitigations of each of the proposed projects, Projects A, B, and C, meeting California Environmental Quality Act (CEQA) and National Environmental Policy Act (NEPA) requirements. As the three (3) median projects are federally funded, Caltrans will review and approve all environmental documents. All associated work required to receive environmental compliance shall be included within the subject scope of services, including the preparation of the Field Review form, Aerial Deposited Lead (ADL) study and other environmental studies as required, copying, distribution/mailing of notices, and providing all materials and services as necessary. The consultant shall submit copies of the environmental document, associated technical reports, and other materials for the City and Caltrans review, and address all elements to achieve Caltrans environmental clearance.

PHASE III - Plans, Specifications & Estimates

This phase includes the preparation of final plans and specifications necessary to construct each of the individual projects. The consultant is expected to meet twice a month with City staff to discuss the various design elements. This task includes, but is not limited to the following:

A. Construction Documents - Prepare separate design plans and profiles at 1" = 20' scale on standard 24" x 36" mylar for each Project. Electronic CAD files compatible with AutoCAD 2007 and other document files shall be delivered to City. Complete plans on mylar per City standards. Plan and profile will be required for the existing and proposed elevations. Plans are to be fully detailed to advertise and construct the project. Design plans shall include median design, landscaping and irrigation, signing and striping, and traffic control and detour, etc. Work for Project A, Project B, and Project C shall include:

1. Utilities - Perform all necessary research to establish precise location of all utilities and utility easements. Coordinate with all utility companies to determine the nature and location of all possible relocations and associated costs. Determine where interfaces with existing facilities will occur as a result of the construction of this project. Consult with affected utility companies requiring relocations, and resolve any conflicts, keeping City staff informed in writing, including the possibility of undergrounding utilities presently on poles along the project area. Comply with Caltrans' "Manual on High and Low Risk Underground Facilities within Highway Rights-of-Way."

2. Hydrologic/hydraulic Report – Analyze hydrologic/hydraulic conditions, develop details for standard longitudinal and cross fall drainage, and document findings and design calculations.

3. Prepare a Water Pollution Control Plan meeting recent City and State standards.

4. Prepare final cross sections at 50' intervals, indicating vertical and horizontal cross falls, elevations, analysis of super elevations/highway design speed calculations, effect to private property, etc., conforming to City standards. Detailed and complete cross sections shall be submitted with the first plan check.

5. Traffic control plans are required and must provide continuous driveway and pedestrian access at all times during the construction phase of the project. Traffic control plans shall identify each construction stage and sequence, provide adequate details on alternate detour routes, developed to minimize impacts to residents. It is intended that all travel lanes remain open during daytime hours, and that existing on-street parking remain functional on at least one side of street during construction in daytime and all parking is available during evenings and weekends.

6. The consultant shall prepare preliminary and final color renderings (hard copy and PDF) of landscaping including planting plan and palette, and a minimum of two (2) isometric views for each project to be used in presentations and reports.

7. For budgeting purposes, submit to the City preliminary construction estimates and a monthly update of the estimates as design work progresses. Prepare final the detailed construction quantity and cost estimate.

8. Obtain final design approval from the City, and comply with all applicable requirements.

9. Complete project contract documents and special provisions in a format consistent with current City projects and in conformance with State and Federal guidelines. A copy of the construction contract agreement will be furnished by the City.

10. Prepare and submit two (2) Resident Engineer files, containing at a minimum, final construction quantities and cost estimates with background calculation work sheets; soil and hydrology reports; survey data; Caltrans permit material; and relative information.

11. The Consultant will be requested to review and approve addenda and provide clarification to plans and specifications. Consultant shall attend the pre-construction meeting, and shall be available for consultation and assistance during construction of the project to clarify or explain items relating to the design. The consultant will also be responsible for preparation of final as-built plans.

12. The selected consultant shall include all additional items necessary to achieve completion and approval of the final design plans and specifications.

PHASE IV – Caltrans Construction Authorization forms

The consultant will be responsible for preparing all Federal forms including the Request for Authorization to Proceed with Construction, PS&E Certification, and the subject PS&E package to Caltrans Local Programs. The consultant shall efficiently address all project components as required to obtain State and Federal E-76 Certification.

Quality Assurance/Quality Control - Quality Control shall be consistently and thoroughly applied throughout project development. Assigned QA/QC staff shall be technically well qualified to conduct the appropriate level of oversight, and demonstrate a concerted and sustained commitment to provide a high quality product. Concise written records shall be maintained by the Consultant on all activities. Firms considering proposal submittals are

requested to have an in-house technical level of expertise to professionally address all aspects of the project.

Project Design meetings shall be held twice a month. The consultant shall be responsible for preparing meeting agendas, minutes, and presentation materials. A Critical Path Method (CMP) network, based on activities to support all project milestones and subtasks, shall be prepared. The information will be in the form of a bar chart and show a deliverables schedule and other relevant data needed for the control of work, for City review of the work status, and accomplishments occurring each month.

Content of Proposal

It is requested that the following be submitted with your proposal:

1. Project Understanding - provide a brief review of the project and any suggestions you might have to expedite the project or special concerns of which the City should be advised.
2. Work Plan – define the project approach, team assignments, and products.
3. Schedule – provide a detailed schedule indicating stages of work and time frames.
4. An organization chart and staffing plan identifying personnel on this project, a brief resume on each individual (two pages max per person), and recent projects on which they have worked of similar type. Identify the project manager with a detailed resume, and the individual authorized to negotiate the contract on behalf of the consulting firm.
5. A listing of similar street improvement projects that your firm has completed within the last five (5) years. Information should include a description of work, year completed, cost, and agency/client name along with the agency contact person.
6. Comply with Professional Services Agreement requirements (see attached PSA).
7. Submittal of **three (3)** duplicate proposals.

Fee Schedule

The professional services contract will not be awarded based upon competitive bidding, and it is desired that fees be submitted separately. The fee schedule should show the hourly cost of personnel per task under each phase, with a total not-to-exceed amount for each project (A, B, and C). The consultant's cost proposal for the prime and subcontractors should contain a breakdown of all cost components including labor base rate, other direct costs, overhead, and fees. It is requested that the fee, including all meetings, reproduction, materials, mailings, and associated project expenses, be itemized under the following phases:

Phase 1: Existing Plan Review, Survey, and Preliminary Design
Phase 2: Environmental Study
Phase 3: Final Civil Engineering Design
Phase 4: E-76 Authorization to Initiate Construction

Total Not To Exceed Price - $_____

NOTE: All originals of plans, field notes, data and calculations, correspondence, reports, electronic files, etc., will be turned over to the City upon completion of design. Ten percent (10%) of the total contract fee will be withheld until the final PS&E, Resident Engineers File, and all project documents are submitted in acceptable form to the City.

Contract Changes

Any change in the scope of work resulting in a contract increase or decrease in fee shall be approved by the City **in writing prior** to commencement of actual change in work. No fee

adjustment will be allowed unless said **prior** approval is authorized exclusively **in writing** by the City, without exception.

Right to Reject all Proposals

The City of Costa Mesa reserves the right to reject any or all proposals submitted, and no representation is made hereby that any contract will be awarded pursuant to this request for proposal, or otherwise. All costs incurred in the preparation of the proposal, in the submission of additional information, and/or in any other aspect of a proposal prior to the award of a written contract will be borne by respondent. The City will provide only the staff assistance and documentation specifically referred to herein and will not be responsible for any other cost or obligation of any kind that may be incurred by a respondent. All proposals submitted to the City of Costa Mesa in response to this request for proposals shall become the property of the City.

Enclosed is the City of Costa Mesa professional services standard agreement and sample certificate of insurance for reference in preparing the proposal. The minimum insurance and endorsement requirements are stated within the enclosed documents. Should your firm be interested in submitting a proposal for this project, please forward to the City of Costa Mesa, Transportation Services Division, 4th Floor City Hall, **on or before 5:00 p.m., December 11, 2013**. If additional information is required, please contact Pritam Deshmukh, Associate Engineer, at (714) 754-5183, or via email at pritam.deshmukh@costamesaca.gov.

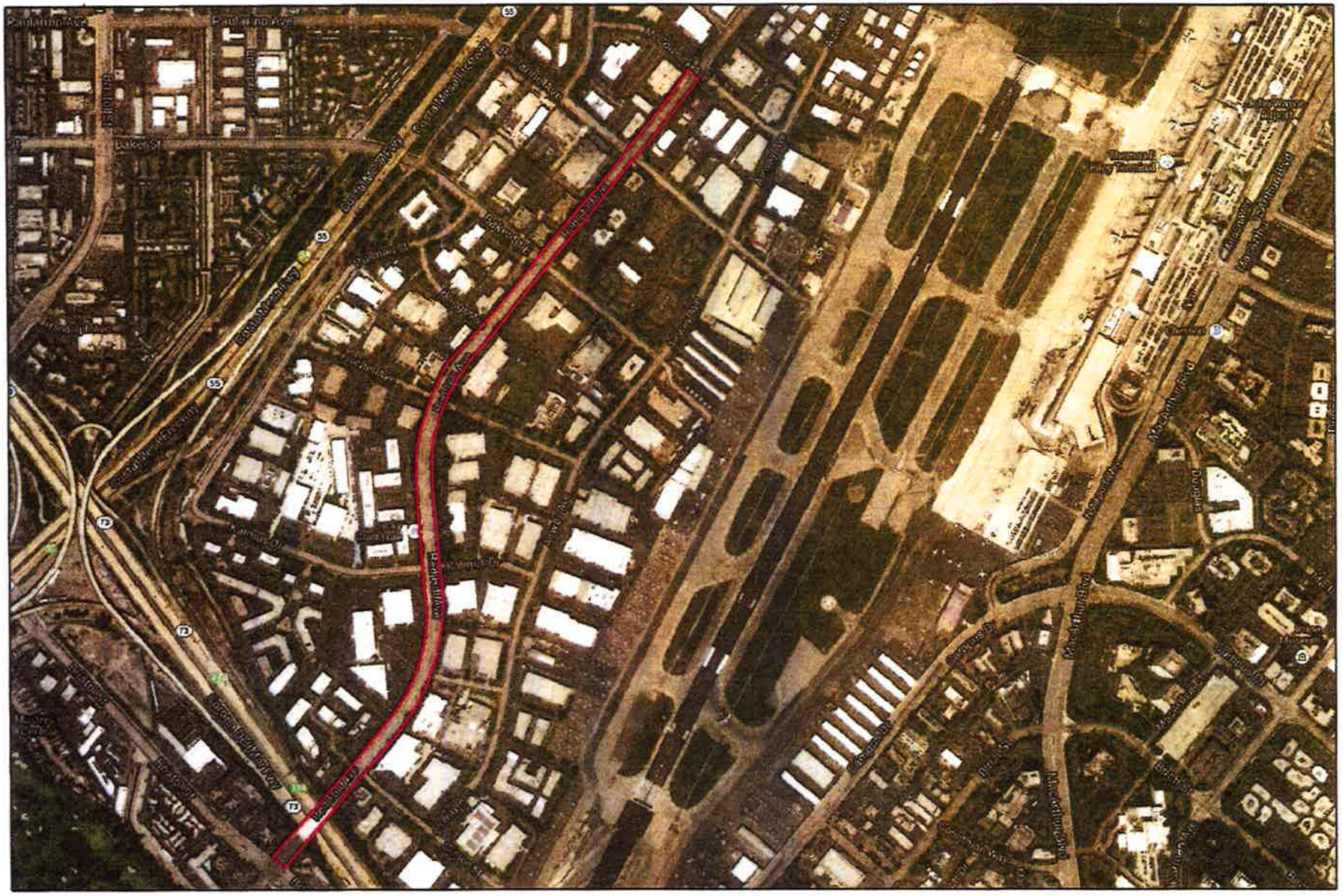
Sincerely,

Raja Sethuraman

RAJA SETHURAMAN, Manager
Transportation Services

Attachments: 1 - Location Maps
2 - Sample Professional Services Agreement

c Ernesto Munoz, Public Services Director
Pritam Deshmukh, Associate Engineer
David Cho, Assistant Engineer



PROJECT A : REDHILL AVE
MCCORMICK AVE TO BRISTOL ST

PROJECT B : PLACENTIA AVE
ADAMS AVE TO WILSON ST

PROJECT C : BRISTOL ST
BAKER TO SB NEWPORT BLVD

Exhibit B

This Agreement template is for informational purposes only and is intended for use as an example to vendors showing the City's requirements. When making a request, please submit only the Request form, above, and supporting documents.

PROFESSIONAL SERVICES AGREEMENT
FOR

THIS AGREEMENT is made and entered into this _____ day of _____, 2007 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and _____, a California corporation ("Consultant").

W I T N E S S E T H :

A. WHEREAS, City proposes to have Consultant perform _____ as 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 specific services in connection with the project described below (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 the City's Request for Proposal ("RFP") attached hereto as Exhibit "A" and incorporated herein by reference and Consultant's Response to City's RFP (the "Response"). A copy of said Response is attached hereto as Exhibit "B" 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. 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. 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.

1.4. 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. Violation of this provision may result in the imposition of penalties referred to in Labor Code, Section 1735.

1.5 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.

1.6. 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.

2.0. COMPENSATION AND BILLING

2.1. Compensation. Consultant shall be paid in accordance with the fee schedule set forth in Exhibit "C," attached hereto and made a part of this Agreement (the "Fee Schedule"). Consultant's compensation shall in no case exceed _____ Dollars ($_____.00).

2.2. Additional Services. Consultant shall not receive compensation for any services provided outside the scope of services specified in 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. 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 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 "D," 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 ___ (X) year, ending on _____, 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 and maintain during the life of this Agreement all of the following insurance coverages:

(a) Comprehensive general liability, including premises-operations, products/completed operations, broad form property damage, blanket contractual liability, independent contractors, personal injury with a policy limit of not less than One Million Dollars ($1,000,000.00), combined single limits, per occurrence and aggregate.

(b) 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 and aggregate.

(c) Workers' compensation insurance as required by the State of California.

(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. 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 comprehensive general liability insurance 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, agents, and employees are additional insureds with respect to this subject project and contract with City."

(b) Notice: "Said policy shall not terminate, nor shall it be cancelled, nor the coverage reduced, until thirty (30) days after written notice is given to City."

(c) Other insurance: "Any other insurance maintained by the City of Costa Mesa shall be excess and not contributing with the insurance provided by this policy."

5.3. 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.

5.4. 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 City Manager or his 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:	IF TO CITY:
	City of Costa Mesa 77 Fair Drive Costa Mesa, CA 92626
Tel:	Tel: 714-754-
Fax:	Fax: 714-754-
Attn:	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 "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 shall protect, defend, indemnify and hold harmless City and its elected and appointed officials, officers, and employees from any and all claims, liabilities, expenses, including attorney fees, damage to property or injuries to or death of any person or persons or damages of any nature including, but not by way of limitation, all civil claims or workers' compensation claims arising out of or in any way connected with the intentional or negligent acts, error or omissions of Consultant, its employees, agents or subcontractors in the performance of this Agreement.

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 secure, at his 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.

6.11. 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.

6.12. 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.

6.13. 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.

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

6.15. 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 the RFP or the Response, 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 both the Response and the RFP and the Response shall govern over the RFP.

6.16. 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.

6.17. 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.

6.18. 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.

6.19. 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.

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

6.21. 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.

6.22. 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 as 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.

6.23. 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.

6.24. 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

_____ Date: _____
Mayor of the City of Costa Mesa

CONSULTANT

_____ Date: _____
Signature

_____
Name and Title

_____
Social Security or Taxpayer ID Number

ATTEST:

_____
City Clerk and ex-officio Clerk
of the City of Costa Mesa

APPROVED AS TO FORM:

_____ Date: _____

City Attorney

APPROVED AS TO INSURANCE:

_____ Date: _____
Risk Management

APPROVED AS TO CONTENT:

_____ Date: _____
Project Manager

EXHIBIT A

CITY'S REQUEST FOR PROPOSAL

EXHIBIT B

RESPONSE AND SCOPE OF SERVICES

EXHIBIT C

FEE SCHEDULE

EXHIBIT D

PROJECT SCHEDULE

EXHIBIT E

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;**

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;

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.

EXHIBIT F

CERTIFICATES OF INSURANCE

ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YY): 3/23/2010

PRODUCER

[redacted]

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

INSURERS AFFORDING COVERAGE

INSURED

[redacted]

* Sample *

INSURER A:	Travelers Indemnity Co. of Connecticut
INSURER B:	Travelers Property Casualty Co of Ameri
INSURER C:	Liberty Insurance Underwriters, Inc.
INSURER D:	Travelers Casualty Ins. Co. of America
INSURER E:	

COVERAGES

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

INSR LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS	
A	GENERAL LIABILITY	[redacted]	8/15/2009	8/15/2010	EACH OCCURRENCE	$1,000,000
	X COMMERCIAL GENERAL LIABILITY				FIRE DAMAGE (Any one fire)	$1,000,000
	CLAIMS MADE X OCCUR				MED EXP (Any one person)	$10,000
					PERSONAL & ADV INJURY	$1,000,000
					GENERAL AGGREGATE	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:				PRODUCTS - COMP/OP AGG	$2,000,000
	POLICY X PRO-JECT LOC					
A	AUTOMOBILE LIABILITY	[redacted]	8/15/2009	8/15/2010	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	ANY AUTO				BODILY INJURY (Per person)	$
	ALL OWNED AUTOS					
	SCHEDULED AUTOS				BODILY INJURY (Per accident)	$
	X HIRED AUTOS					
	X NON-OWNED AUTOS				PROPERTY DAMAGE (Per accident)	$
	GARAGE LIABILITY				AUTO ONLY - EA ACCIDENT	$
	ANY AUTO				OTHER THAN AUTO ONLY: EA ACC	$
					AGG	$
	EXCESS LIABILITY				EACH OCCURRENCE	$
	OCCUR CLAIMS MADE				AGGREGATE	$
						$
	DEDUCTIBLE					$
	RETENTION $0					$
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY	[redacted]	9/1/2009	9/1/2010	X WC STATUTORY LIMITS OTHER	
					E.L. EACH ACCIDENT	$1,000,000
					E.L. DISEASE - EA EMPLOYEE	$1,000,000
					E.L. DISEASE - POLICY LIMIT	$1,000,000
C	OTHER Professional Liability	[redacted]	3/25/2010	3/25/2011	$1,000,000 per claim $2,000,000 annual aggr	

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/EXCLUSIONS ADDED BY ENDORSEMENT/SPECIAL PROVISIONS

RECEIVED
MAR 24 2010
RISK MGMT.

CERTIFICATE HOLDER | ADDITIONAL INSURED; INSURER LETTER:

City of Costa Mesa
77 Fair Dr.
Costa Mesa CA 92626

CANCELLATION 10 Day Notice for Non-Paymnt of Prem

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL MAIL 30 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT.

AUTHORIZED REPRESENTAT[redacted]

(42)

© ACORD CORPORATION 1988

POLICY NUMBER: COMMERCIAL GENERAL LIABILITY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS – (FORM B)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART.

SCHEDULE

Name of Person or Organization:

(If no entry appears above, information required to complete this endorsement will be shown in the Declarations as applicable to this endorsement.)

WHO IS AN INSURED (Section II) is amended to include as an insured the person or organization shown in the Schedule, but only with respect to liability arising out of "your work" for that insured by or for you.

SAMPLE

 Copyright, Insurance Services Office, Inc., 1984

Sample

POLICY NUMBER: _.

COMMERCIAL GENERAL LIABILITY
ECG 24 514 05 00

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NONCONTRIBUTORY PROVISION – YOUR OPERATIONS

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

Paragraph **4., Other Insurance** of **Conditions (Section IV)** is amended by the addition of the following:

If insurance similar to this insurance is held by a person or organization that is:

a. An owner of real or personal property on which you are performing operations; or

b. A contractor on whose behalf you are performing operations,

this insurance is primary to that other insurance, and that other insurance shall not contribute to amounts payable under this insurance, for liability arising out of your ongoing operations performed for that person or organization under a written contract. However, this does not apply to any person or organization:

a. From whom you did not receive a specific written request that this insurance be primary insurance, or if you did not receive that request prior to the date that your operations for that person or organization commenced; or

b. For whom a certificate of insurance evidencing that request is not on file with, or received by, us prior to sixty days after the end of the policy period for this insurance.

Copyright, Everest Reinsurance Company 2000
Includes copyrighted material of Insurance Services Office, Inc. used with its permission
Copyright, Insurance Services Office, Inc., 1997

EXHIBIT B
CONSULTANT'S PROPOSAL

SCOPE OF WORK

Project Understanding:

CNC understands the City of Costa Mesa has been awarded in January 2013 Federal Highway Safety Improvement Program (HSIP) grant funds to install raised center medians with landscaping and associated improvements along Red Hill Avenue between Bristol Street and McCormick Avenue (Approx.: 6,600 LF) in Costa Mesa to improve pedestrian and traffic safety. In September 2013, the city of Costa Mesa received authorization to proceed with the final design for the project. CNC understands the HSIP funded mission of this project is to improve pedestrian and traffic safety by the installation of raised medians, landscaping and associated improvements. Red Hill Avenue between McCormick Avenue and Bristol Street is classified as a Primary Highway per OCPW Master Plan of Arterial Highway (MPAH). It is in a commercial/industrial zone, consisting of a 4 Lane Undivided Roadway, which is inconsistent with the MPAH. The curb-to-curb width of this segment of the roadway measures approximately 84 feet. This segment of the street is currently striped with two (2) travel and one (1) bike lane in each direction along with a wide painted 2-way left turn median.

Key Issues:

The following are key issues to be considered in the design of the proposed improvements for this project:

1. Height of landscape materials will be reviewed to ensure adequate sight distance is provided at turn pockets, especially in the vicinity of the many curves along the roadway.
2. The existing striped median is approximately 24 feet wide. This width will enable the project to provide a raised landscape median along the entire project, including next to left turn pockets at all the intersections.
3. Just north of Bristol Street is a bridge over SR-73. Placement of a raised median on this structure will require structural review by Caltrans as well as an encroachment permit from the agency (**Photo 1**).

Photo 1. Redhill Avenue Bridge over SR 73

4. New water services and electrical service will need to be provided to medians. Since the roadway has recently been resurfaced (**Photo 2**), CNC will investigate the feasibility of micro-tunneling these service lines under the roadway to avoid digging out the new pavement.

Photo 2. Newly Resurfaced Redhill Avenue with crowned section

Work Plan:

PHASE I - Existing Plan Review, Topographic Survey and Preliminary Design

Task 1- Meetings and Coordination

Prior to beginning the work tasks and within five (5) days after receipt of NTP, CNC will assemble the project team for a kickoff meeting. The team will be comprised of the city of Costa Mesa staff and CNC project staff. The purpose of this meeting will be to review the scope of services, the project schedule, refine the scope of services and to finalize any administrative details such as point-of-contact for each team member.

Thereafter, CNC Project Manager will attend semi-monthly Project Design Team (PDT) meetings to coordinate the project design. The purpose of the meetings will be to discuss design issues and possible impacts to the surrounding properties and the community. In addition, CNC anticipates attending up to four (4) coordination meetings with the City and other agencies including Caltrans. CNC will prepare and distribute minutes of all meetings including a list of action items and the responsible party. CNC's Project Manager will be responsible for identifying any delays or problems in the work progress. Issues beyond the control of CNC will be identified and will be reported to the City along with recommendations for solutions to bring the Project back on track.

Monthly Status Summaries will be submitted to the City that will show the estimated percentage of completion for each task, a summary of activities and accomplishments during the reporting period, a list of planned activities for the next reporting period and a list of issues and/or

concerns that may affect the project progress. The progress summary will also note the actual date of event occurrence as work progresses and will update the project schedule by tracking the progress against the project schedule, along with a written narrative. The summary will also include a copy of the utility log showing the latest history of correspondence with the affected utility purveyors and report any conflicts and requirements for utility relocations or adjustments that are recommended, even if it is not constructed as part of this project.

Community Outreach

CNC will plan and coordinate three (3) community outreach meetings to be held at appropriate project milestones. Support activities will include research of meeting locations and availability, coordination of meeting dates and times with the project team and key city officials, organization of facility details, preparation of meeting notices, meeting set-up and clean-up, meeting materials (sign-in sheets, comment cards and directional signage), review of exhibits, photography and refreshments. Project assumption includes that meetings will be held at City facilities as no rental fees are included. A meeting summary of the two community meetings will also be prepared.

Meeting visitors will receive copies of Project materials including a fact sheet and will be encouraged to complete the comment card. CNC will be available to work with the City staff to post the fact sheet to the City's Public Works website. The document would include information about the Project benefits, Project schedule, phases, Project location map, funding, and details about design features.

CNC will also attend a City Council presentation, be available to respond to questions or if required, conduct the presentation to the Council.

Deliverables:

- Minutes of meetings with the City and other agencies related to this project

Task 2- Data Collection and Permits

This task will consist of obtaining copies of available parcel maps, tract maps, assessor maps, record drawings, centerline tie sheets to locate control monuments and to reference the elevations to the closest Orange County Benchmark (OCBM).

This task will also include obtaining copies of available conceptual plans, past meeting minutes including neighborhood concerns and recent parking surveys including the estimated maximum parking occupancy on the street.

Task 3- Field Survey

Field Survey for each project will be tied to a minimum of two existing vertical control points, referenced to the closest OCBM. The record centerline will provide the basis of stationing and construction centerline alignment. Survey cross sections will be spaced at 25' intervals and at BCR's, ECR's and at grade breaks and will also extend 50' along each side street. Each cross

section will consist of the back of sidewalk or apparent right-of-way, top of curb or edge of pavement, flowline, lane lines, grade breaks, crown line and existing surface culture such as trees, manholes, valves, pull boxes and signs. **Please refer to Task 5 for the final deliverables.**

CNC will obtain the encroachment permit from Caltrans for conducting field survey on Newport Blvd.

Task 4- Utility Investigation and Coordination

There are numerous utilities within the project including street lights, fire hydrants, sewer manholes and water valves. In order to identify the existing utilities and coordinate with each utility purveyor, CNC proposes the following procedure:

1. CNC will access the Underground Service Alert's website and will compile a list of member agencies that own facilities within the project limits.
2. CNC will augment and/or refine the above list based on available information at the City Records Department, from field investigation and our in-house data base compiled for recent projects designed by CNC in the area.
3. CNC will notify each utility purveyor, in writing, of the City's proposed plans and schedule and request copies of record drawings or atlas maps of existing and proposed facilities within the project boundary.
4. Utilities shown on the record drawings will be surface verified, and added to the base map prepared under Task 5, along with the most recent easement lines shown for each facility.
5. CNC will consult with the service planners and others as necessary within each utility company to resolve any conflicts.
6. CNC will keep City staff informed on all discussions with utility companies via written meeting minutes or records of telephone conversation.
7. CNC will prepare a Utility Notification Log to track utility company contacts and responses including contact information and dates of all outgoing and incoming correspondence.
8. With prior approval from the City, CNC will provide copies of the preliminary plans to the utility purveyors to facilitate planning future modifications.

Deliverables:

- Copies of the Utility Notification Log
- Copies of correspondence with the utilities
- Copies of meeting minutes
- Copies of records of telephone conversation

Task 5- Mapping

All survey data will be electronically collected and downloaded on our computers for preparation of the base map. Mapping will be performed using the Civil 3D enhancement package. CNC will field verify the base map for accuracy and completeness and also check it against available record drawings of the roadway.

Drawings will show location of control points and bearing/distance or station/offset information from the project location to the control points. The electronic files will be in AutoCAD format and in full compliance with the City's Digital Submission Requirements for Street Improvement Plans.

Existing roadway right-of-way and property lines will be obtained from available record drawings at the City and shown on the base map. Existing utilities and utility easements will be obtained as described in Task 4 and will be added to the base map.

Deliverables:

- 24" x 36" base plan cut sheets of plan view of the features listed in the RFP at a scale of H:1"=20'. (Estimated Number of Sheets: 7)
- Copies of street centerline tie sheets, bench mark information and other record drawings obtained during research and data collection.

Task 6- Preliminary Design & Cost Statements

CNC will utilize the cut sheets prepared under Task 5 to prepare preliminary construction drawings for raised center median improvements. CNC will also prepare preliminary planting plans to incorporate landscaping and trees into the medians. The plant selection will be based on low-water and drought tolerant landscaping and the plans will conform to the City's Streetscape and Median Development Standards. CNC Team will meet with City staff during the design development phase and will also be available to present the preliminary design to the public and City Council as discussed under Task 1 above.

Please refer to key issues listed in Section A of this proposal that are germane to this work.

PHASE II - Environmental Analysis and Approval

The minimum number of environmental documents for this project will consist of the following:

- **Field Review Form**
- **Preliminary Environmental Study (PES)**
- **Aerially Deposited Lead (ADL) Study**

SCOPE OF WORK

Task 1- Field Review Form

Prior to submittal of the PES, CNC will prepare and submit a Field Review Form in accordance with Chapter 7, "Field Review" of the Local Assistance Procedures Manual (LAPM), including programming data, cost breakdown. Upon completion, Field Review Form will be submitted to District 12 Local Assistance Branch for review and approval and issuance of a Federal Project Number.

Task 2- Preliminary Environmental Study (PES)

CNC's environmental consultant, UltraSystems will prepare the PES.

The purpose of the PES is to determine the potential presence of sensitive environmental resources within the project area. The PES was developed exclusively for federal aid local assistance projects "off" the State Highway System (SHS), and consists of two parts: 1) a four-step Preliminary Environmental Investigation process, and 2) completion of the PES form.

The investigation for the PES consists of:

- The development of a complete Project Description (which addresses independent utility and logical termini), existing and proposed cross sections, and project maps;
- A review of relevant literature, maps and inventories;
- A request for technical information from resource and regulatory agencies; and
- Verification of research findings in the field (site visit) and Field Review with Caltrans staff, if appropriate.

A complete and signed PES form is required for local agency federal aid transportation projects. A PES Form is provided as Exhibit 6-A, "Preliminary Environmental Study (PES) Form." Instructions for completing the PES form are provided in Exhibit 6-B, "Instructions for Completing the Preliminary Environmental Studies (PES) Form." UltraSystems technical staff will strictly adhere to the instructions provided in Exhibit 6-B to minimize comments or questions from the Caltrans review staff. UltraSystems has prepared numerous Caltrans PES forms for projects of similar scope and size throughout the Southern California area, including two for the City of Costa Mesa, under contract with CNC.

Task 3- Aerially Deposited Lead (ADL) Study

An ADL study will be conducted by UltraSystems. Lead is typically found in soils along major roadways at concentrations above natural concentrations due to emissions from automobiles that historically using leaded fuels. Aerially deposited lead (ADL) tends to decrease with distance from the roadway and with depth. For this project, up to 20 soil samples will be

collected from up to 10 exploratory borings where soils may be excavated within approximately 20 feet of a roadway in the vicinity of each intersection.

Prior to sampling at each boring, sampling equipment will be washed in a non-phosphoric cleaning solution, and rinsed with deionized water. One soil sample will be collected using a hand-auger between the surface and 0.5 feet below the ground surface (bgs), and a second soil sample will be collected at a depth of approximately 1.5 feet bgs at each boring. Soil samples will be placed in a laboratory-supplied glass jar, stored in a chilled cooler, and transported to a state certified laboratory using chain of custody documentation, and analyzed for total lead by EPA method 6010B and pH by method 150.1.

ADL in soils will be classified according to the following Department of Toxic Substances Control (DTSC) criteria:

- Total lead concentrations equal to or less than 50 milligrams per kilogram (published average background levels).
- Total lead concentrations above 50 milligrams per kilogram, and less than 350 milligrams per kilogram.
- Total lead concentrations greater than 50 milligrams per kilogram, and soluble threshold limit concentration (STLC) less than 0.5 milligrams per liter.
- Total lead concentrations greater than 50 milligrams per kilogram, and STLC equal to or greater than 0.5 milligrams per liter and less than 50 milligrams per liter.
- Total lead concentrations greater than 50 milligrams per kilogram, and STLC greater than 50 milligrams per liter.
- Total lead concentration equal to or greater than 1,000 milligrams per kilogram, regardless of STLC concentration.

Generally, soils satisfying criterion 1 are considered clean soil, and no special handling is required. Soils satisfying criteria 2 and 3 may be reused in a Caltrans right-of-way provided that the soils are placed a minimum of five feet above the water table, and covered with one foot of clean soil. Soils satisfying criterion 4 may be reused in a Caltrans right-of-way provide that soils are placed a minimum of five feet above the water table, and covered with pavement. Soils satisfying criteria 5 and 6 must be removed and properly disposed.
An ADL report will be prepared and include:

- Sampling procedures and map showing sampling locations.
- Tabulation of laboratory analyses, and a map identifying areas were ADL concentrations exceed criteria 1 to 6, if any
- Recommendation for soil management consistent with DTSC and Caltrans Guidance.

The report will be certified by a Professional Geologist.

Optional Environmental Studies, if necessary:

Cultural Resources

Since federal funding will be used in the project consultation with the State Historic Preservation Office (SHPO) consistent with the National Historic Preservation Act (NHPA) would be required. As part of that process, a cultural resource inventory would be submitted during consultation. UltraSystems will prepare a cultural resource report for land within the APE for use in the consultation process. UltraSystems staff will begin the report process by conducting a records search through the Information Center of the California Historical Resources Information System (Information Center at Fullerton). We will review and synthesize any previously conducted archaeological research and historical studies within the APE and an 0.5-mile distance around the APE to provide context and background on the archaeological, ethnographic, and historical nature of the area. UltraSystems will also contact the Native American Heritage Commission (NAHC) to obtain a list of tribal contacts that may have an interest or further information regarding the project area and request a search of the NAHC sacred lands file for any documented Native American sacred sites in the project area. UltraSystems staff will conduct initial consultation with those Native American tribes, groups, communities, and individuals whom the NAHC may find having interest in the project pursuant to CA Public Resources Code 5024 of CEQA.

An intensive pedestrian cultural resources survey of the APE meeting the standards of the California Office of Historic Preservation (OHP 1995) will be conducted. If previously unrecorded cultural resources are encountered during inventory efforts, their locations will be identified using coordinates based on the Universal Transverse Mercator projection (UTM), North American Datum 1983 (NAD 83), and plotted on GIS versions of U.S. Geological Survey (USGS) topographic maps. Location data will be collected with hand-held Global Positioning System (GPS) units (with sub-meter accuracy).The findings of the literature search and field surveys will be incorporated into a cultural resource reports prepared consistently with the Secretary of the Interior's *Standards and Guidelines for Archeology and Historic Preservation*. The report will include an overview of the information generated by the records search and any other pre-field research, and background sections detailing the archaeology, ethnography, and history of the area and the field survey methods and results including recommendations regarding the eligibility of cultural resources for inclusion in the National Register.

Air Quality

The California Department of Transportation (Caltrans) <u>may</u> determine that an air quality technical study under the National Environmental Policy Act (NEPA) may also be required for the subject project. In addition, it <u>may</u> be necessary to submit a "Project Summary Form for Interagency Consultation" to the Southern California Association of Governments' Transportation Conformity Working Group (TCWG) to demonstrate that the project is not a "project of air quality concern" with respect to particulate matter (PM_{10}) emissions. UltraSystems has prepared several of these documents lately, and we know what Caltrans expects to see in them.

Although it is unlikely, Caltrans may also require that an air quality conformity analyst (AQCA)

be prepared for submittals to the Federal Highway Administration. If so, UltraSystems will prepare an AQCA according to Caltrans' procedures.

Acoustical

If Caltrans requires it, UltraSystems will prepare a noise study to address impacts of each alternative considered. The study will include a discussion of existing noise guidelines and policies. An emphasis will be placed on identifying noise impacts to sensitive receivers, if any. The existing setting will be characterized based both on measurements in the field as well as via predictive noise modeling. Project area ambient noise levels will be documented using a Quest Technologies, SoundPro, DL-1-1/3 noise meter that meets the standards outlined in ANSI S1.13-1995 (American National Standard Measurement of Sound Pressure Levels in Air). Noise levels along studied roadway segments will be estimated using Federal Highway Administration (FHWA) Traffic Noise Model, Version 2.5 (FHWA TNM®).

Noise levels generated by construction activities will be calculated for each phase of development. We have substantial experience with calculating noise levels from construction of major projects, including demolition and site preparation, excavation, and building construction. We will consult with the City to determine appropriate assumptions on the length of each phase of construction and the type of equipment to be used. Estimated construction noise levels will be compared to City of Costa Mesa standards to determine whether significant impacts would occur.

UltraSystems will also determine the potential for build out of each project to cause a substantial permanent noise increase above levels without the project along studied arterial roadways. It does not appear that this project would result in a permanent increase in traffic. If that is so, then there would not be a significant increase in traffic noise. If it is determined that traffic would at least double because of the project, then mobile noise sources will be modeled using the FHWA Traffic Noise Model (TNM), Version 2.5. Predicted noise levels will be compared to adopted thresholds and goals, policies, and objectives from the General Plan and conclusions will be drawn as to whether any potential increase would represent a significant acoustical impact requiring mitigation.

Mitigation will be proposed for all significant noise impacts and will be based on the noise reduction recommendations provided in the City's General Plan, Noise Element. Potential mitigation for short-term construction may include: construction staging, limitations on construction hours, placement of stationary sources as far from sensitive receptors as feasible, and use of proper mufflers and temporary noise barriers. Long-term operational noise impacts could be mitigated by the use of sound walls and berms or traffic slowing.

Visual Resources

UltraSystems will conduct a Visual Impact Assessment (VIA) to include as a technical memorandum attachment to the PES.

Deliverables

- UltraSystems will provide the City with one electronic copy of each required technical report and the PES for review. Based on one set of written comments, two hard copies of the final reports will be prepared by UltraSystems and submitted to the County.

- Following approval from the City, UltraSystems will provide one electronic copy of the NES and PES, and required technical reports to Caltrans for review. Based on comments received from Caltrans, two hard copies of the final documents will be submitted to the City and Caltrans.

- Conclusions and interpretations cannot normally be provided while the analysis is ongoing; the draft reports will be provided as soon as such work is finished. Further comments or revisions which may arise from agents outside of this agreement will require a budget augmentation prior to finalizing the report.

PHASE III - Final Civil Engineering Design

Upon certification of the PES and receipt of written notice from the City, CNC will proceed with Phase III of the Project. The following is a list of the required tasks that will be performed:

Project Management & Coordination- During this phase, CNC will continue to meet with City as necessary to discuss the various design elements and submit monthly progress reports including updates on opinion of probable construction cost and project schedule.

Utility Coordination- This task will also include identification of utility conflicts and coordination with utilities to resolve the conflicts. CNC will submit a copy of the draft drawings to utilities to obtain their approval for resolution of utility conflicts. This work will comply with Caltrans "Manual on High and Low Risk Underground Facilities within Highway Rights-of-Way."

Hydrology & Hydraulics Report- Using available record drawings and field reconnaissance, CNC will determine the boundary of the tributary drainage area to each project. CNC will perform hydrology calculations to determine the estimated peak 10- and 100-year runoff based on the latest edition of the Orange County Hydrology Manual with the subsequent addendums and design memoranda. The normal depth and velocity of flow for the 100-year storm at the narrowest sections of each street with the mildest gradient will be calculated to ensure the 100-year water level is at least 1' below the finish floor of adjacent properties, as required by FEMA. If this condition is not met, then CNC will calculate the depth of flow for the pre-project conditions for comparison and determine the net increase due to the project.

CNC will also calculate the normal depth and velocity of flow for the 10-year storm at critical sections of the project such as behind chokers and incorporate adequate drainage features into the design to ensure the 10-year water surface is contained below the top of curb. There are

numerous catch basins along the street. This analysis will include interception capacity analysis of existing catch basins and hydraulic grade line of the existing storm drain. This proposal assumes complete and accurate record drawings of the existing storm drains are available.

Since the roadway section of Red Hill Avenue along the entire length of the project is crowned, runoff will be carried along the existing curb & gutter. CNC does not anticipate design of any new drainage improvements will be necessary for Project A. However, portions of Projects B and C are super-elevated. As stated under key issues in the Project Understanding section, CNC recommends installation of openings across the proposed raised center median to allow passage of roadway runoff to the low side of the roadway. The size, spacing and configuration of these openings will be designed by CNC.

Results of the hydrology and hydraulic calculations along with a narrative stating the purpose, methodology and conclusions will be presented in a report format for City review and approval.

Water Pollution Control Plan- This document will be prepared in accordance with the Caltrans SWPPP/WPCP Preparation Manual. The drawings will show selected Best Management Practices (BMPs) for soil stabilization, sediment controls, drainage conveyances, egress points and debris tracking controls and waste management BMPs. The plans will also show staging areas and storage yards and borrow areas. The Project name, job site address, contact information will be shown on the title sheet of the plans.

Landscape Exhibits- CNC's Landscape consultant, Kobata, will prepare final Conceptual Landscape Plan to include plant palettes, photos of plant material, colored site plan and two isometric views for each project. These exhibits will be utilized for presentation to the public and City Council.

Construction Drawings:

Title Sheet - The title sheet will show the Project title, a vicinity map and a location map showing the specific location of the project, general notes, utility agencies' contacts and phone numbers, a sheet index and a list of the construction notes. If necessary or directed by the City, the general notes will be prepared on a separate sheet.

Cross Sections- Using the design survey prepared in Phase I, CNC will prepare final cross sections at 50' intervals, indicating existing and proposed vertical and horizontal cross falls, elevations, right-of-way and roadway centerline, conforming to City standards. For the purposes of this proposal, it is assumed the cross sections will be prepared at 1":10' horizontal and 1":1' vertical.

Traffic Control Plans - CNC will prepare 40-scale Traffic Control Plans showing stages and sequence of construction and detour routes to minimize impact to businesses and residents. The goal would be to keep the travel lanes open in both directions during daytime hours, maintain on-street parking on at least one side of the street in daytime, on both sides of the street during evenings and weekends, and provide continuous driveway and pedestrian access

at all times during construction. The plans will be prepared per City's standard requirements and will follow guidelines in the latest edition of MUTCD, Part 6, "Temporary Traffic Control".

Roadway Drawings - Drawings will show the plan and profile for construction of new raised center medians, including details for turn pockets and surface drainage improvements. Drawings will be prepared at 1" = 20' Horizontal and 1"=2' Vertical on standard 24" x 36" sheets. Work will be performed in AutoCAD per City of Costa Mesa CADD standards.

Landscape & Hardscape Plans - This effort will consist of preparation of 20-scale Construction/Dimension Plan, Irrigation Plan, Planting Plan and Landscape Details within the center medians.

Signing and Striping Plans –The drawings will provide sufficient detail for installation of new pavement striping, marking and signage along each roadway according to the California MUTCD with the new raised center median on standard 40-scale cut sheets.

Special Provisions:

CNC will prepare the technical Special Provisions in accordance with current City (Green Book), State (Caltrans Standard Specifications) and Federal requirements. We understand the boiler plate and construction contract agreement will be furnished by the City. The special provisions will include requirements for addressing ADL levels and will also require the contractor to prepare to comply with NPDES requirements including implementation of WPCP.

Statement of Probable Construction Cost:

CNC will prepare an itemized quantity estimate and statement of probable construction cost for the project. CNC will also prepare a bidder's proposal sheet for use in project bidding as required by the City. The estimate will be prepared in EXCEL.

Processing and Approval- CNC will submit the PS&E for City review at 70%, 90% and final design stages.

Project Contract Documents- Upon final design approval by the City, CNC will submit complete project contract documents to the City. This will consist of signed drawings on Mylar and on CD in AutoCAD format, bound special provisions and electronic copy in MS WORD, opinion of probable construction cost and electronic copy in EXCEL.

Resident Engineer Files- CNC will prepare and submit two (2) Resident Engineers files containing final construction quantities and opinion of probable construction cost, color coded copies of the plans and quantity calculation worksheets, copy of the drainage report, survey data and other relevant data.

Construction Support Services- CNC will be available to attend a pre-construction meeting,

respond to Requests for Clarification (RFC) from bidders, assist the city to prepare and review addenda and attend a pre-construction meeting. During construction, CNC will respond to the contractors request for design clarifications by providing exhibits that will detail the design area in question, if needed. Upon completion of construction, CNC will draft, in ink, the project corrections to the drawings and revise the AutoCAD drawings using the contractor supplied "red line" mark-up set provided by the City and will deliver the final "As-Built" originals on vellum as well as in CADD and PDF format to the City.

PHASE IV- Federal Approval for Construction and Construction Support

E-76 Permit

In order to secure funding for construction, it will be necessary to obtain an E-76 permit from FHWA. The application process for this permit begins after the PES and the CE have been approved by Caltrans. CNC will be available to prepare and process the required paper work for this application in accordance with Caltrans Local Assistance Project Manual. The required forms will consist of the following:

- Formal Request for Authorization to Proceed with Construction (Exhibit 3-D)
- Request for Authorization Data Sheet (Exhibit 3-E)
- Completed Finance Letter (Exhibit 3-O)
- PS&E Certification
- PS&E Checklist
- Local Agency Agreement Checklist (Exhibit 4A)
- Field Review Form (Exhibit 7B)
- Roadway Data (Exhibit 7C)
- Field Review Attendance Roster (Exhibit 7G)
- Preliminary Estimate of Cost (Exhibit 12A)
- A No Right of Way Certification Local Assistance Project (Exhibit 13A)
- Local Agency Construction Contract Administration Checklist (Exhibit 15A)
- Copies of the approved PS&E
- Copy of the signed Categorical Exclusion for NEPA furnished by Caltrans

CNC will complete the above forms and will submit for City review. Upon preliminary City approval, the forms will be electronically transmitted to the City to be printed on City letterhead. The documents will then need to be signed by the City's Resident Engineer and submitted for review by the Caltrans District Local Assistance Engineer (DLAE) along with copies of the project plans and special provisions.

The DLAE will forward the documents to Caltrans headquarters for approval, who will then forward them to the California Transportation Commission (CTC) for their approval. Upon receipt of CTC approval, Caltrans will submit a formal request to FHWA for issuance of the E-76 permit to authorize construction funding for the project.

Quality Control/Quality Assurance Plan

CNC proposes to use assign all QA/QC responsibilities for these projects to Mr. Peter Naghavi, who would then oversee quality control review of the work before it is submitted to the City. Mr. Naghavi brings over 27 years of experience in the design of capital improvement projects, 23 of which were as Transportation Manager, Public Works Director and Deputy CEO of the City of Costa Mesa.

The engineering staff assigned to this project will be responsible for continuous monitoring and checking of calculations and drawings during the design development.

All draft calculations and drawings will be checked for accuracy and for compliance with design standards. Each drawing or calculation sheet will be marked up with the reviewer's initials and date of review. The reviewer then discusses each comment with the designer and the mark-ups are returned to the designer and corrections made.

Upon completion of the in-house plan checking by the design team, and prior to submittal for City review, copies of all calculations and drawings are submitted to the QA/QC Manager, Mr. Naghavi for his review. The review comments will then be discussed between the QA team and the design team and addressed appropriately.

CNC's successful relationship with our clients over the past 28 years of service is due in large part to our quality control program. We will provide the city of Costa Mesa with excellence in quality and responsiveness.

Deliverables:

- Redlined check prints of drawings and calculations, dated and initialed by the QA/QC Manager.

EXHIBIT C

FEE SCHEDULE

ENGINEERING | SURVEYING | CONSTRUCTION

Mr. Raja Sethuraman, P.E.
City of Costa Mesa
Public Services/Engineering
77 Fair Drive, 4th Floor
P.O. Box 1200
Costa Mesa, CA 92628-1200

January 13, 2014

Subject: Fee Proposal for Engineering and Environmental Services for Improvements on Red Hill Avenue

Dear Mr. Sethuraman:

CNC Engineering (CNC) appreciates the opportunity to submit our fee proposal to provide Engineering and Environmental Services for Improvements on Red Hill Avenue. Attachment A shows the hourly breakdown for performance of individual project tasks for each project. The total not to exceed fee for performance of the services as outlined in the technical proposal is as follows:

PHASE	Fee
PHASE I - Survey & Preliminary Design	$28,580
PHASE II - Environmental Study	$10,831
PHASE III - PS&E	$62,740
PHASE IV - Construction Authorization	$3,400
Total Not To Exceed Amount	**$105,551**

Additional Environmental Documents, if necessary:

Cultural Resources	$2,248
Air Quality	$3,205
Acoustical	$2,858
Visual Resources	$2,032

Attached also find the hourly breakdown and fee schedule for all of our proposed sub-consultants. This proposal is valid for a period of ninety (90) days from the date of submittal. Should CNC be selected as the most qualified team for this project, we are available to meet with City staff to discuss any portion of the scope/fee/schedule of this proposal.

Respectfully Submitted,
CNC Engineering
S. Nazarie
Shahab (Sean) Nazarie, P.E.
Director of Engineering

Attachments

Attachment A
DESIGN AND ENVIRONMENTAL SERVICES FOR IMPROVEMENTS ON REDHILL AVENUE
PREPARED FOR THE CITY OF COSTA MESA
PREPARED BY CNC ENGINEERING

TASK	DESCRIPTION	PROJ MGR	QA/QC MGR	PROJ ENGR	DESIGN ENGR	SURV CREW	ADMIN ASS'T	SUB CONTRACT	EST TOTAL HRS	TOTAL NTE AMOUNT
		$150	$150	$125	$90	$165	$60	LUMP SUM		
	PHASE I- Survey, Prelim Design, Meetings									
1	Meetings & Coordination	24					8		32	$4,080
2	Data Collection & Permits	2		6	4				12	$1,410
3	Field Survey			1		24			25	$4,085
4	Utility Investigation			4	8		2		14	$1,340
5	Mapping		1	1	16				18	$1,715
6	Preliminary Design & Cost Statements	2	2	12	24		2	$11,570	42	$15,950
	Subtotal	**28**	**3**	**24**	**52**	**24**	**12**	**$11,570**	**143**	**$28,580**
	PHASE II- Environmental Study									
1	Field Review Form	2		2			1		5	$610
2	PES/CEQA/NEPA & ADL Study	4		2			2	$9,251	8	$10,221
	Subtotal	**4**	**0**	**2**	**0**		**2**	**$9,251**	**13**	**$10,831**
	PHASE III- PS&E									
1	Utility Coordination			4	4		2		10	$980
2	Drainage Report	2	2	8	8		1		21	$2,380
3	WPCP	2	2	16	12		1		33	$3,740
4	Cross Sections	1	2	8	32				43	$4,330
5	Traffic Control Plans	1	1	8	12				22	$2,380
6	Isometric Color Renderings of Planting	2	2					$2,760	4	$3,360
7	Street Improvement Plans	4	4	40	40				88	$9,800
8	Landscape/ Hardscape Plans	1		2			2	$18,210	5	$18,730
9	Signing & Striping Plans	1	2	8	8				19	$2,170
10	Special Provisions	4	4	24			8		40	$4,680
11	Opinion of Probabable Construction Cost	1	2	6	12		2		23	$2,400
12	Processing & Approval	2	3	12	13		2		32	$3,540
13	Project Contract Documents	1		2	2		2		7	$700
14	RE Files	1		2	2		2		7	$700
15	Construction Support Services	4		4	4		2	$1,270	14	$2,850
	Subtotal	**27**	**24**	**144**	**149**		**24**	**$22,240**	**368**	**$62,740**
	PHASE IV- CT Const. Auth. Forms	8	4	8	4		4		28	$3,400
ESTIMATED LABOR HOURS		**59**	**27**	**170**	**201**	**24**	**38**		**524**	
TOTAL NOT-TO-EXCEED AMOUNT								**$43,061**		**$105,551**
	Additional Environmenal Documents, If Necessary:									
	Cultural Resources	2		2			2	$1,578	6	$2,248
	Air Quality	2		2			2	$2,535	6	$3,205
	Acoustical	2		2			2	$2,188	6	$2,858
	Visual Resources	2		2			2	$1,362	6	$2,032

Firm: UltraSystems

Labor

Classification	Name	Loaded Rate	Red Hill Ave Hours	Red Hill Ave Labor
Project Director		$ 170.00	2.00	$ 340.00
Sr. Project Manager		$ 130.00	11.00	$ 1,430.00
Sr. Scientist		$ 130.00	42.67	$ 5,546.67
Sr. Planner		$ 100.00	4.00	$ 400.00
Sr. Biologist		$ 100.00	5.33	$ 533.33
Associate Planner		$ 90.00	56.00	$ 5,040.00
Associate Biologist		$ 90.00	16.00	$ 1,440.00
GIS		$ 78.00	10.67	$ 832.00
Word Processing		$ 65.00	6.00	$ 390.00
Adminsitrative		$ 65.00	2.00	$ 130.00
Subtotal Labor:				$ 16,082.00

Direct Costs

Mileage	$ 50.00
Reproduction, Mailing,	$ 416.67
Laboratory Analysis (ADL Soil Lead/pH)	$ 365.00
Total Direct Costs:	$ 831.67

Total Cost $ 16,914

63

PROPOSAL

January 13, 2014

Kobata Associates, Inc. will provide the following Landscape Architectural Services to CNC Engineering for Red Hill Avenue Streetscape Project from Bristol Street and McCormick Avenue, City of Costa Mesa, CA:

Service "A" Preliminary Landscape Design

1. Meet with City Staff to discuss program and requirements for landscape design of medians.
2. Prepare Conceptual Landscape Plan implementing City's program and requirements.
3. Review Conceptual Landscape Plan with City and revise as necessary.
4. Prepare final Conceptual Landscape Plan to include plant palettes, photos of plant material colored site plan and two isometric views.
5. Prepare preliminary statement of probable cost based on Final Conceptual Landscape Plan.
6. Attend meetings (4) with public (town hall) and City Council for presentation of streetscape plan.

Service "B" Construction Documents

Upon approval of preliminary landscape design, the following construction documents shall be prepared:

1. Construction drawings to consist of Construction/Dimension Plan, Irrigation Plan, Planting Plan and Landscape Details.
2. Technical Specifications (Green Book)
3. Bid Form
4. Final Statement of Probable Cost
5. Plans to be submitted at percentages of completion.

Service "C" Construction Services:

1. Provide response to Contractor's Request for Information (RFI) about the plans and specifications.
2. Provide as-built record drawings based on as-built information provided by the City's Construction Manager and the Contactor.

Basic Compensation for Services "A", "B" and "C" shall be the sum of Thirty One Thousand Fifty Dollars ($31,050.00). Fee breakdown is as follows:

Service "A" – Preliminary Landscape Design	$ 11.570.00
Service "B" - Construction Documents	18,210.00
Service "C" – Construction Services	1,270.00

Reimbursables

Reimbursable expenses include actual expenditures made by our Firm in the interest of the project for the following incidental expenses and are in addition to the Basic Compensation outlined above.

1. Reproduction and binding of all drawings and documents (other than internal check prints.)
2. Fees paid for securing approval of authorities having jurisdiction over the project.
3. Mylars

Responsibility of CNC Engineering:

1. To provide the Consultant with all available plans and documents regarding the site.
2. To inform the Consultant of all other agencies involved for coordination and approvals.
3. Auto Cad base drawings in 2004.

KOBATA ASSOCIATES, INC,

_____

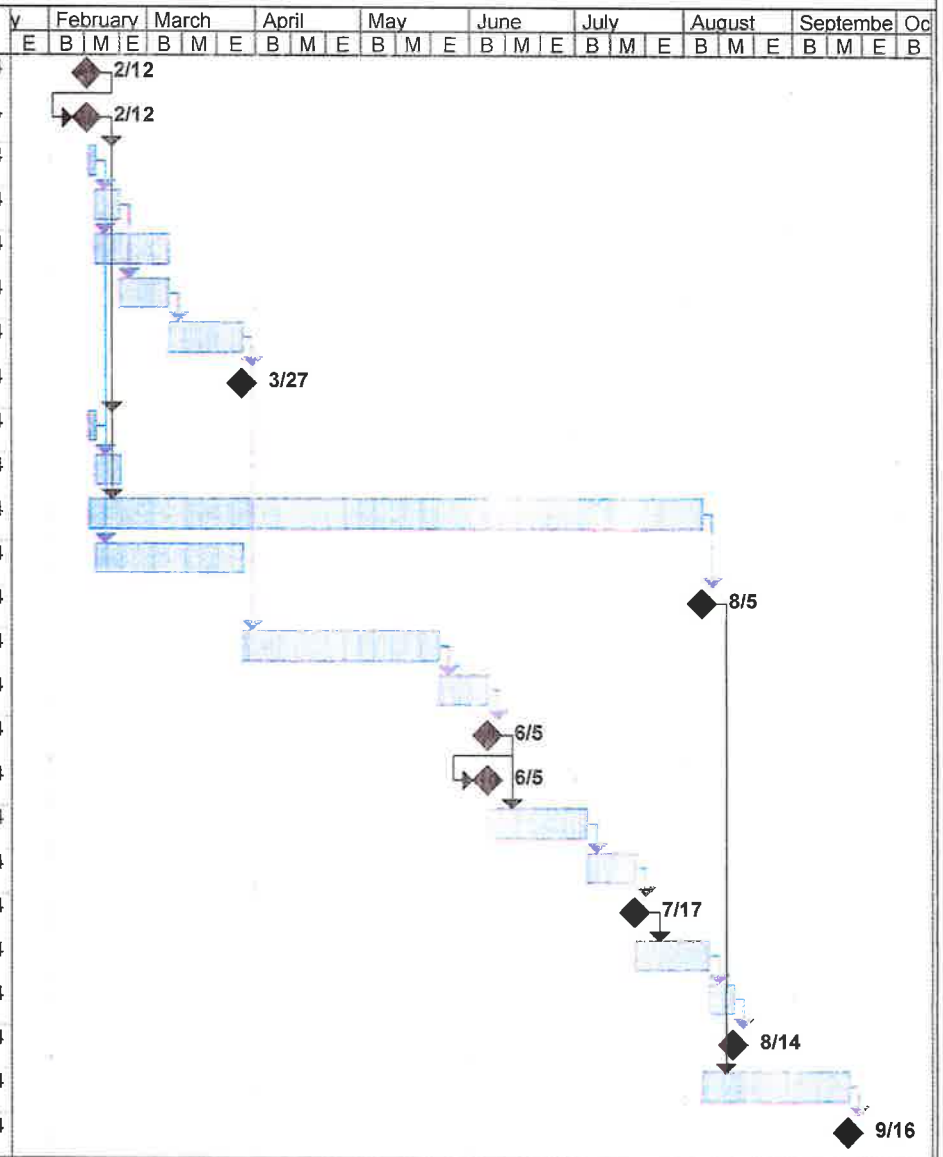
Roger K. Kobata, President

EXHIBIT D

PROJECT SCHEDULE

CITY OF COSTA MESA
DESIGN AND ENVIRONMENTAL SERVICES FOR IMPROVEMENTS ON REDHILL AVENUE

ID	Task Name	Duration	Start	Finish
1	Notice To Proceed	0 days	Wed 2/12/14	Wed 2/12/14
2	Kick-off Meeting	0 days	Wed 2/12/14	Wed 2/12/14
3	Data Collection & Permits	2 days	Wed 2/12/14	Thu 2/13/14
4	Field Survey	5 days	Fri 2/14/14	Thu 2/20/14
5	Utility Investigation	15 days	Fri 2/14/14	Thu 3/6/14
6	Mapping	10 days	Fri 2/21/14	Thu 3/6/14
7	Preliminary Design	15 days	Fri 3/7/14	Thu 3/27/14
8	Community Meeting	0 days	Thu 3/27/14	Thu 3/27/14
9	Field Review Form	2 days	Wed 2/12/14	Thu 2/13/14
10	Field Review Form Approval Process	5 days	Fri 2/14/14	Thu 2/20/14
11	PES & Technical Studies	125 days	Wed 2/12/14	Tue 8/5/14
12	ADL Study	30 days	Fri 2/14/14	Thu 3/27/14
13	Obtain Categorical Exclusion	0 days	Tue 8/5/14	Tue 8/5/14
14	70% PS&E	40 days	Fri 3/28/14	Thu 5/22/14
15	City Review of 70% PS&E	10 days	Fri 5/23/14	Thu 6/5/14
16	70% Review Job Walk	0 days	Thu 6/5/14	Thu 6/5/14
17	Community Meeting	0 days	Thu 6/5/14	Thu 6/5/14
18	Address 70% Review Comments	20 days	Fri 6/6/14	Thu 7/3/14
19	City Review of 90% PS&E	10 days	Fri 7/4/14	Thu 7/17/14
20	90% Review Job Walk	0 days	Thu 7/17/14	Thu 7/17/14
21	Address 90% Review Comments	15 days	Fri 7/18/14	Thu 8/7/14
22	Final PS&E Review	5 days	Fri 8/8/14	Thu 8/14/14
23	Final Design Approval	0 days	Thu 8/14/14	Thu 8/14/14
24	Construction Authorization Process	30 days	Wed 8/6/14	Tue 9/16/14
25	E-76 Permit Granted	0 days	Tue 9/16/14	Tue 9/16/14



Project: Project Schedule
Date: Mon 1/13/14

Task		Milestone		External Tasks	
Split		Summary		External Milestone	
Progress		Project Summary		Deadline	

6

EXHIBIT E

CERTIFICATES OF INSURANCE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 1/22/2014

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

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

PRODUCER
Wood Gutmann & Bogart
License #0679263
15901 Red Hill Ave., Suite 100
Tustin CA 92780

CONTACT NAME: Michele Fedoruk
PHONE (A/C, No, Ext): 714-505-7000 FAX (A/C, No): 714-573-1770
E-MAIL ADDRESS: Michele@wgbib.com

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : Peerless Insurance Company	24198
INSURER B : Golden Eagle Insurance Corp.	10836
INSURER C : Endurance American Specialty	
INSURER D :	
INSURER E :	
INSURER F :	

INSURED
C&C Engineering Inc.
DBA CNC Engineering
2121 Alton Parkway
Suite 200
Irvine CA 92606

CNCEN-1

COVERAGES **CERTIFICATE NUMBER:** 1966071679 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
A	**GENERAL LIABILITY**			CBP9599149	5/25/2013	5/25/2014	EACH OCCURRENCE	$1,000,000
	X COMMERCIAL GENERAL LIABILITY						DAMAGE TO RENTED PREMISES (Ea occurrence)	$500,000
	CLAIMS-MADE X OCCUR						MED EXP (Any one person)	$10,000
							PERSONAL & ADV INJURY	$1,000,000
							GENERAL AGGREGATE	$2,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						PRODUCTS - COMP/OP AGG	$2,000,000
	POLICY PRO-JECT LOC							$
A	**AUTOMOBILE LIABILITY**			BA8440326	5/25/2013	5/25/2014	COMBINED SINGLE LIMIT (Ea accident)	$1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	ALL OWNED AUTOS / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS / X NON-OWNED AUTOS						PROPERTY DAMAGE (Per accident)	$
							Comp/Coll Ded	$500
B	**UMBRELLA LIAB** X OCCUR			CU9599349	5/25/2013	5/25/2014	EACH OCCURRENCE	$5,000,000
	EXCESS LIAB CLAIMS-MADE						AGGREGATE	$5,000,000
	DED RETENTION $							$
B	**WORKERS COMPENSATION AND EMPLOYERS' LIABILITY** Y / N	N / A		WC8956802	5/25/2013	5/25/2014	X WC STATU-TORY LIMITS / OTH-ER	
	ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? **(Mandatory In NH)** If yes, describe under DESCRIPTION OF OPERATIONS below						E.L. EACH ACCIDENT	$1,000,000
							E.L. DISEASE - EA EMPLOYEE	$1,000,000
							E.L. DISEASE - POLICY LIMIT	$1,000,000
C	Professional Liability			PPL10002103803	5/25/2013	5/25/2014	Each Claim	$5,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (Attach ACORD 101, Additional Remarks Schedule, if more space is required)

Re: Red Hill Avenue Project.
CERTIFICATE HOLDER VESTING: City of Costa Mesa
GENERAL LIABILITY:
Certificate holder is named as additional insured on the General Liability per attached GECG 602 (01/11).Primary and Non-Contributory applies on the General Liability per attached 22 111 01 07.
AUTOMOBILE LIABILITY:
See Attached...

CERTIFICATE HOLDER

City of Costa Mesa
77 Fair Drive, 4th Floor
Costa Mesa CA 92628

CANCELLATION

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

AUTHORIZED REPRESENTATIVE

(69)

© 1988-2010 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

AGENCY CUSTOMER ID: CNCEN-1

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY		NAMED INSURED
Wood Gutmann & Bogart		C&C Engineering Inc. DBA CNC Engineering 2121 Alton Parkway Suite 200 Irvine CA 92606
POLICY NUMBER		
CARRIER	NAIC CODE	EFFECTIVE DATE:

ADDITIONAL REMARKS

THIS ADDITIONAL REMARKS FORM IS A SCHEDULE TO ACORD FORM,

FORM NUMBER: 25 FORM TITLE: CERTIFICATE OF LIABILITY INSURANCE

Certificate holder is named as additional insured on the Auto per attached GECA 701 09 04.
WORKERS COMPENSATION:
Waiver of Subrogation applies to the Workers' Compensation per attached WC040306 (04/84).

70

© 2008 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD

Forming a part of

Policy Number: WC 8956802	
Coverage Is Provided In PEERLESS INDEMNITY INSURANCE - A STOCK COMPANY	
Named Insured: **C&C ENGINEERING INC** **DBA CNC ENGINEERING**	**Agent:** **WOOD GUTMANN & BOGART INSURANC** **E BROKERS** **Agent Code: 4292828** **Agent Phone: (714)-505-7000**

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT – CALIFORNIA

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

You must maintain payroll records accurately segregating the remuneration of your employees while engaged in the work described in the Schedule.

The additional premium for this endorsement shall be of the California workers' compensation premium otherwise due on such remuneration.

Schedule

Person or Organization	Job Description
ANY INDIVIDUAL OR ORGANIZATION THAT REQUIRES THE NAMED INSURED TO WAIVE THEIR RIGHT OF SUBROGATION BY CONTRACT.	

This endorsement changes the policy to which it is attached and is effective on the date issued unless otherwise stated.

(The information below is required only when this endorsement is issued subsequent to preparation of the policy.)

Endorsement Effective Policy No. Endorsement No.
Insured Insurance Company

Countersigned By _____

71

WC040306 (04/84)

AGENT COPY

(5) Submit to examination, at our expense, by physicians of our choice, as often as we reasonably require.

c. If there is "loss" to a covered "auto" or its equipment you must also do the following:

(1) Promptly notify the police if the covered "auto" or any of its equipment is stolen.

(2) Take all reasonable steps to protect the covered "auto" from further damage. Also keep a record of your expenses for consideration in the settlement of the claim.

(3) Permit us to inspect the covered "auto" and records proving the "loss" before its repair or disposition.

(4) Agree to examinations under oath at our request and give us a signed statement of your answers.

3. **Legal Action Against Us**

No one may bring a legal action against us under this Coverage Form until:

a. There has been full compliance with all the terms of this Coverage Form; and

b. Under Liability Coverage, we agree in writing that the "insured" has an obligation to pay or until the amount of that obligation has finally been determined by judgment after trial. No one has the right under this policy to bring us into an action to determine the "insured's" liability.

4. **Loss Payment - Physical Damage Coverages**

At our option we may:

a. Pay for, repair or replace damaged or stolen property;

b. Return the stolen property, at our expense. We will pay for any damage that results to the "auto" from the theft; or

c. Take all or any part of the damaged or stolen property at an agreed or appraised value.

If we pay for the "loss", our payment will include the applicable sales tax for the damaged or stolen property.

5. **Transfer Of Rights Of Recovery Against Others To Us**

If any person or organization to or for whom we make payment under this Coverage Form has rights to recover damages from another, those rights are transferred to us. That person or organization must do everything necessary to secure our rights and must do nothing after "accident" or "loss" to impair them.

B. **General Conditions**

1. **Bankruptcy**

Bankruptcy or insolvency of the "insured" or the "insured's" estate will not relieve us of any obligations under this Coverage Form.

2. **Concealment, Misrepresentation Or Fraud**

This Coverage Form is void in any case of fraud by you at any time as it relates to this Coverage Form. It is also void if you or any other "insured", at any time, intentionally conceal or misrepresent a material fact concerning:

a. This Coverage Form;

b. The covered "auto";

c. Your interest in the covered "auto"; or

d. A claim under this Coverage Form.

3. **Liberalization**

If we revise this Coverage Form to provide more coverage without additional premium charge, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

4. **No Benefit To Bailee - Physical Damage Coverages**

We will not recognize any assignment or grant any coverage for the benefit of any person or organization holding, storing or transporting property for a fee regardless of any other provision of this Coverage Form.

5. **Other Insurance**

a. For any covered "auto" you own, this Coverage Form provides primary insurance. For any covered "auto" you don't own, the insurance provided by this Coverage Form is excess over any other collectible insurance. However, while a covered "auto" which is a "trailer" is connected to another vehicle, the Liability Coverage this Coverage Form provides for the "trailer" is:

(1) Excess while it is connected to a motor vehicle you do not own.

(2) Primary while it is connected to a covered "auto" you own.

b. For Hired Auto Physical Damage Coverage, any covered "auto" you lease, hire, rent or borrow is deemed to be a covered "auto" you own. However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

c. Regardless of the provisions of Paragraph a. above, this Coverage Form's Liability Coverage is primary for any liability assumed under an "insured contract".

72

© ISO Properties, Inc., 2000

INSURED COPY

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

COMMERCIAL LIABILITY GOLD ENDORSEMENT

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SECTION I – COVERAGES

COVERAGE A. BODILY INJURY AND PROPERTY DAMAGE LIABILITY

2. Exclusions

Item 2.g. 2) is replaced with the following:

2.g. 2) A watercraft you do not own that is:

a) less than 50 feet long; and

b) Not being used to carry persons or property for a charge.

Item 2.g. 6) is added:

6) An aircraft in which you have no ownership interest and that you have chartered with crew.

The last paragraph of 2. Exclusions is replaced with the following:

Exclusions c. through n. do not apply to damage by fire, explosion, sprinkler leakage, or lightning to premises while rented to you, temporarily occupied by you with the permission of the owner, or managed by you under a written agreement with the owner. A separate limit of insurance applies to this coverage as described in **Section III – Limits of Insurance.**

SECTION I – COVERAGES

COVERAGE C. MEDICAL PAYMENTS

If Medical Payments Coverage is provided under this policy, the following is changed:

3. Limits

The medical expense limit provided by this policy shall be the greater of:

a. $10,000; or

b. The amount shown in the declarations.

Coverage C. Medical Payments is primary and not contributing with any other insurance, even if that other insurance is also primary.

The following is added:

COVERAGE D. PRODUCT RECALL NOTIFICATION EXPENSES

Insuring Agreement

We will pay "product recall notification expenses" incurred by you for the withdrawal of your products, provided that:

a. Such withdrawal is required because of a determination by you during the policy period, that the use or consumption of your products could result in "bodily injury" or "property damage"; and

b. The "product recall notification expenses" are incurred and reported to us during the policy period.

The most we will pay for "product recall notification expenses" during the policy period is $100,000.

SUPPLEMENTARY PAYMENTS – COVERAGES A AND B

Item b. and d. are replaced with:

b. The cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which the Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit" including actual loss of earnings up to $500 a day because of time off from work.

73

Includes copyrighted material of Insurance Services Offices Inc., with its permission.

SECTION II – WHO IS AN INSURED

Item 4. is replaced with:

4. Any subsidiaries, companies, corporations, firms, or organizations you acquire or form during the policy period over which you maintain a controlling interest of greater than 50% of the stock or assets, will qualify as a Named Insured if:

   a) you have the responsibility of placing insurance for such entity; and

   b) coverage for the entity is not otherwise more specifically provided; and

   c) the entity is incorporated or organized under the laws of the United States of America.

   However; coverage under this provision does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the entity, or "personal injury" or "advertising injury" arising out of an offense committed before you acquired or formed the entity.

   Coverage under this provision is afforded only until the end of the policy period, or the twelve (12) month anniversary of the policy inception date whichever is earlier.

SECTION III – LIMITS OF INSURANCE

Paragraph 2 is amended to include:

The General Aggregate Limit of Insurance applies separately to each "location" owned by you, rented to you, or occupied by you with the permission of the owner.

Paragraph 6. is replaced with the following:

6. Subject to 5. above, the Fire Damage Limit is the most we will pay under Coverage A for damages because of "property damage" to premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner, arising out of any one fire, explosion or sprinkler leakage incident.

The Fire Damage Limit provided by this policy shall be the greater of:

   a. $500,000; or

   b. The amount shown in the Declarations.

SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS

Item 2. a. is replaced with:

2. **Duties In The Event of Occurrence, Offense, Claim or Suit**

   a. You must promptly notify us. Your duty to promptly notify us is effective when any of your executive officers, partners, members, or legal representatives is aware of the "occurrence", offense, claim, or "suit". Knowledge of an "occurrence", offense, claim or "suit" by other employee(s) does not imply you also have such knowledge. To the extent possible, notice to us should include:

      1) How, when and where the "occurrence" or offense took place;

      2) The names and addresses of any injured persons and witnesses; and

      3) The nature and location of any injury or damage arising out of the "occurrence", offense, claim or "suit".

Item 4. b. 1) b) is replaced with:

   b. **Excess Insurance**

      1) b) That is Fire, Explosion or Sprinkler Leakage insurance for premises while rented to you, temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner; or

Item 6. is amended to include:

6. **Representations**

   d. If you unintentionally fail to disclose any hazards existing at the inception date of your policy, we will not deny coverage under this Coverage Part because of such failure. However, this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.

Includes copyrighted material of Insurance Services Offices Inc., with its permission.

Item 8. is replaced with:

8. Transfer of Rights Of Recovery Against Others To Us

a. If the insured has rights to recover all or part of any payment we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring suit or transfer those rights to us and help us enforce them.

b. If required by a written "insured contract", we waive any right of recovery we may have against any person or organization because of payments we make for injury or damage arising out of your ongoing operations or "your work" done under that written "insured contract" for that person or organization and included in the "products-completed operations hazard".

Item 10. and Item 11. are added:

10. Cancellation Condition

If we cancel this policy for any reason other than nonpayment of premium we will mail or deliver written notice of cancellation to the first Named Insured at least 60 days prior to the effective date of cancellation.

11. Liberalization

If we adopt a change in our forms or rules which would broaden your coverage without an extra charge, the broader coverage will apply to this policy. This extension is effective upon the approval of such broader coverage in your state.

SECTION V – DEFINITIONS

The following definitions are added or changed:

9. "Insured contract"

a. Is changed to:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, explosion or sprinkler leakage to premises while rented to you, or temporarily occupied by you with permission of the owner, or managed by you under a written agreement with the owner is not an "insured contract".

23 and 24 are added:

23. "Location" means premises involving the same or connecting lots, or premises whose connection is interrupted only by a street, roadway, waterway or right-of-way of a railroad.

24. "Product recall notification expenses" means the reasonable additional expenses (including, but not limited to, cost of correspondence, newspaper and magazine advertising, radio or television announcements and transportation cost), necessarily incurred in arranging for the return of products, but excluding costs of the replacement products and the cash value of the damaged products.

The following Provisions are also added to this Coverage Part:

A. ADDITIONAL INSUREDS – BY CONTRACT, AGREEMENT OR PERMIT

1. Paragraph 2. under **SECTION II – WHO IS AN INSURED** is amended to include as an insured any person or organization when you and such person or organization have agreed in writing in a contract, agreement or permit that such person or organization be added as an additional insured on your policy to provide insurance such as is afforded under this Coverage Part. Such person or organization is not entitled to any notices that we are required to send to the Named Insured and is an additional insured only with respect to liability arising out of:

a. Your ongoing operations performed for that person or organization; or

b. Premises or facilities owned or used by you.

With respect to provision **1.a.** above, a person's or organization's status as an insured under this endorsement ends when your operations for that person or organization are completed.

With respect to provision **1.b.** above, a person's or organization's status as an insured under this endorsement ends when their contract or agreement with you for such premises or facilities ends.

Includes copyrighted material of Insurance Services Offices Inc., with its permission.

2. This endorsement provision **A.** does not apply:

   a. Unless the written contract or agreement has been executed, or permit has been issued, prior to the "bodily injury", "property damage" or "personal and advertising injury";

   b. To "bodily injury" or "property damage" occurring after:

      (1) All work, including materials, parts or equipment furnished in connection with such work, in the project (other than service, maintenance or repairs) to be performed by or on behalf of the additional insured(s) at the site of the covered operations has been completed; or

      (2) That portion of "your work" out of which the injury or damage arises has been put to its intended use by any person or organization other than another contractor or subcontractor engaged in performing operations for a principal as a part of the same project;

   c. To the rendering of or failure to render any professional services including, but not limited to, any professional architectural, engineering or surveying services such as:

      (1) The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and

      (2) Supervisory, inspection, architectural or engineering activities;

   d. To "bodily injury", "property damage" or "personal and advertising injury" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing;

   e. To any person or organization included as an insured under provision **B.** of this endorsement;

   f. To any person or organization specifically designated an additional insured for ongoing operations by a separate ADDITIONAL INSURED – OWNERS, LESSEES OR CONTRACTORS endorsement issued by us and made a part of this policy.

B. ADDITIONAL INSURED – VENDORS

Paragraph **2.** under **SECTION II – WHO IS AN INSURED** is amended to include as an insured any person or organization (referred to below as "vendor") with whom you agreed, in a written contract or agreement to provide insurance such as is afforded under this policy, but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business, subject to the following additional exclusions:

1. The insurance afforded the vendor does not apply to:

   a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;

   b. Any express warranty unauthorized by you;

   c. Any physical or chemical change in the product made intentionally by the vendor;

   d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or substitution of parts under instructions from the manufacturer, and then repackaged in the original container;

   e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the course of business, in connection with the distribution or sale of the products;

   f. Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;

   g. Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or

   h. To "bodily injury" or "property damage" arising out of any act, error or omission that results from the additional insured's sole negligence or wrongdoing.

2. This insurance does not apply to any insured person or organization, from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

Includes copyrighted material of Insurance Services Offices Inc., with its permission.

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

AMENDMENT OF OTHER INSURANCE CONDITION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

A. The following is added to provision **a. Primary Insurance** of paragraph **4. Other Insurance** under **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

However, when an additional insured has been added to this Coverage Part by attachment of an endorsement, we will not seek contribution from the "additional insured's own insurance" provided that:

(1) You and the additional insured have agreed in a written contract that this insurance is primary and non-contributory; and

(2) The "bodily injury" or "property damage" occurs, or the "personal and advertising injury" is committed, subsequent to the execution of such contract.

B. For the purposes of this endorsement the following is added to **SECTION V – DEFINITIONS**:

"Additional insured's own insurance" means other insurance for which the additional insured is designated as a Named Insured.

Includes copyrighted material of Insurance Services Office, Inc., with its permission.

COMMERCIAL AUTO GOLD ENDORSEMENT

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

SECTION II – LIABILITY COVERAGE

A. COVERAGE

1. WHO IS AN INSURED

The following is added:

d. Any organization, other than a partnership or joint venture, over which you maintain ownership or a majority interest on the effective date of this Coverage Form, if there is no similar insurance available to that organization.

e. Any organization you newly acquire or form other than a partnership or joint venture, and over which you maintain ownership of a majority interest. However, coverage under this provision does not apply:

(1) If there is similar insurance or a self-insured retention plan available to that organization; or

(2) To "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

f. Any volunteer or employee of yours while using a covered "auto" you do not own, hire or borrow in your business or your personal affairs. Insurance provided by this endorsement is excess over any other insurance available to any volunteer or employee.

g. Any person, organization, trustee, estate or governmental entity with respect to the operation, maintenance or use of a covered "auto" by an insured, if:

(1) You are obligated to add that person, organization, trustee, estate or governmental entity as an additional insured to this policy by:

(a) an expressed provision of an "insured contract", or written agreement; or

(b) an expressed condition of a written permit issued to you by a governmental or public authority.

(2) The "bodily injury" or "property damage" is caused by an "accident" which takes place after:

(a) You executed the "insured contract" or written agreement; or

(b) the permit has been issued to you.

2. COVERAGE EXTENSIONS

a. Supplementary Payments

Subparagraphs (2) and (4) are amended as follows:

(2) Up to $2500 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

(4) All reasonable expenses incurred by the "Insured" at our request, including actual loss of earning up to $500 a day because of time off from work.

Includes copyrighted material of Insurance Services Offices, Inc. with its permission

SECTION III – PHYSICAL DAMAGE COVERAGE

A. COVERAGE

The following is added:

5. Hired Auto Physical Damage

a. Any "auto" you lease, hire, rent or borrow from someone other than your employees or partners or members of their household is a covered "auto" for each of your physical damage coverages.

b. The most we will pay for "loss" in any one "accident" is the smallest of:

(1) $50,000

(2) The actual cash value of the damaged or stolen property as of the time of the "loss"; or

(3) The cost of repairing or replacing the damaged or stolen property with other property of like kind and quality.

If you are liable for the "accident", we will also pay up to $500 per "accident" for the actual loss of use to the owner of the covered "auto".

c. Our obligation to pay for, repair, return or replace damaged or stolen property will be reduced by an amount that is equal to the amount of the largest deductible shown for any owned "auto" for that coverage. However, any Comprehensive Coverage deductible shown in the Declarations does not apply to "loss" caused by fire or lightning.

d. For this coverage, the insurance provided is primary for any covered "auto" you hire without a driver and excess over any other collectible insurance for any covered "auto" that you hire with a driver.

5. Rental Reimbursement Coverage

We will pay up to $75 per day for up to 30 days, for rental reimbursement expenses incurred by you for the rental of an "auto" because of "loss" to a covered "auto". Rental Reimbursement will be based on the rental of a comparable vehicle, which in many cases may be substantially less than $75 per day, and will only be allowed for a period of time it should take to repair or replace the vehicle with reasonable speed and similar quality, up to a maximum of 30 days. We will also pay up to $500 for reasonable and necessary expenses incurred by you to remove and replace your materials and equipment from the covered "auto".

If "loss" results from the total theft of a covered "auto" of the private passenger type, we will pay under this coverage only that amount of your rental reimbursement expenses which is not already provided under paragraph **4. Coverage Extension.**

8. Lease Gap Coverage

If a long-term leased "auto" is a covered "auto" and the lessor is named as an Additional Insured – Lessor, in the event of a total loss, we will pay your additional legal obligation to the lessor for any difference between the actual cash value of the "auto" at the time of the loss and the "outstanding balance" of the lease.

"Outstanding balance" means the amount you owe on the lease at the time of loss less any amounts representing taxes; overdue payments; penalties, interest or charges resulting from overdue payments; additional mileage charges; excess wear and tear charges; and lease termination fees.

B. EXCLUSIONS

The following is added to Paragraph 3:

The exclusion for "loss" caused by or resulting from mechanical or electrical breakdown does not apply to the accidental discharge of an airbag.

Paragraph 4 is replaced with the following:

4. We will not pay for "loss" to any of the following:

a. Tapes, records, disks or other similar audio, visual or data electronic devices designed for use with audio, visual or data electronic equipment.

Includes copyrighted material of Insurance Services Offices, Inc. with its permission

b. Equipment designed or used for the detection or location of radar.

c. Any electronic equipment that receives or transmits audio, visual or data signals.

Exclusion 4.c. does not apply to:

(1) Electronic equipment that receives or transmits audio, visual or data signals, whether or not designed solely for the reproduction of sound, if the equipment is permanently installed in the covered "auto" at the time of the "loss" and such equipment is designed to be solely operated by use of the power from the "auto's" electrical system, in or upon the covered "auto"; or

(2) Any other electronic equipment that is:

(a) Necessary for the normal operation of the covered "auto" or the monitoring of the covered "auto's" operating system; or

(b) An integral part of the same unit housing any sound reproducing equipment described in (1) above and permanently installed in the opening of the dash or console of the covered "auto" normally used by the manufacturer for installation of a radio.

D. DEDUCTIBLE

The following is added:

No deductible applies to glass damage if the glass is repaired rather than replaced.

SECTION IV. – BUSINESS AUTO CONDITIONS

A. LOSS CONDITIONS

Item 2.a. and b. are replaced with:

2. Duties In The Event of Accident, Claim, Suit, or Loss

a. You must promptly notify us. Your duty to promptly notify us is effective when any of your executive officers, partners, members, or legal representatives is aware of the accident, claim, "suit", or loss. Knowledge of an accident, claim, "suit", or loss, by other employee(s) does not imply you also have such knowledge.

b. To the extent possible, notice to us should include:

(1) How, when and where the accident or loss took place;

(2) The names and addresses of any injured persons and witnesses; and

(3) The nature and location of any injury or damage arising out of the accident or loss.

The following is added to **5.**

We waive any right of recovery we may have against any additional insured under **Coverage A. 1. Who Is An Insured g.**, but only as respects loss arising out of the operation, maintenance or use of a covered "auto" pursuant to the provisions of the "insured contract", written agreement, or permit.

B. GENERAL CONDITIONS

9. is added:

9. UNINTENTIONAL FAILURE TO DISCLOSE HAZARDS

Your unintentional failure to disclose any hazards existing at the effective date of your policy will not prejudice the coverage afforded. However, we have the right to collect additional premium for any such hazard.

COMMON POLICY CONDITIONS

2.b. is replaced by the following:

b. 60 days before the effective date of cancellation if we cancel for any other reason.

Includes copyrighted material of Insurance Services Offices, Inc. with its permission

(81)

EXHIBIT F

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;

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;

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.