CITY OF COSTA MESA
PROFESSIONAL SERVICES AGREEMENT
WITH
ECORP CONSULTING, INC.

THIS PROFESSIONAL SERVICES AGREEMENT ("Agreement") is made and entered into this 18th day of March, 2019 ("Effective Date"), by and between the CITY OF COSTA MESA, a municipal corporation ("City"), and ECORP CONSULTING, 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 provide environmental consulting 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 Consultant's Proposal, attached hereto as Exhibit "A" and incorporated herein by this reference.

1.2. Professional Practices. All professional services to be provided by Consultant pursuant to this Agreement shall be provided by personnel experienced in their respective fields and in a manner consistent with the standards of care, diligence and skill ordinarily exercised by professional consultants in similar fields and circumstances in accordance with sound professional practices. 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 or her designee. If the quality of work is not satisfactory, City in its discretion has the right to:

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

(b) Require Consultant to repeat the work at no additional fee until it is satisfactory; and/or

(c) Terminate the Agreement as hereinafter set forth.

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

1.5. Non-Discrimination. In performing this Agreement, Consultant shall not engage in, nor permit its agents to engage in, discrimination in employment of persons because of their race, religious creed, color, national origin, ancestry, physical disability, mental disability, medical condition, genetic information, marital status, sex, gender, gender identity, gender expression, age, sexual orientation, or military or veteran status, 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 A. Consultant's total compensation shall not exceed Forty-Seven Thousand Four Hundred Fifty Dollars ($47,450.00).

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 Manager or designee, 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 from the Effective Date until three (3) years after termination of this Agreement.

3.0. TIME OF PERFORMANCE

3.1. Commencement and Completion of Work. Unless otherwise agreed to in writing by the parties, 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 A. 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 two (2) years, ending on March 17, 2021, 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 "B" 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 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, and (b) 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:

ECORP Consulting, Inc.
215 North 5th Street
Redlands, CA 92374
Tel: (909) 307-0046
Attn: Jesus Olmos

IF TO CITY:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Tel: (714) 754-5611
Attn: Mel Lee

Courtesy copy to:

City of Costa Mesa
77 Fair Drive
Costa Mesa, CA 92626
Attn: Finance Dept. | Purchasing

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

6.6. Attorneys' Fees. In the event that litigation is brought by any party in connection

with this Agreement, the prevailing party shall be entitled to recover from the opposing party all costs and expenses, including reasonable attorneys' fees, incurred by the prevailing party in the exercise of any of its rights or remedies hereunder or the enforcement of any of the terms, conditions, or provisions hereof.

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

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

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

6.10. Independent Contractor. Consultant is and shall be acting at all times as an independent contractor and not as an employee of City. Consultant shall have no power to incur any debt, obligation, or liability on behalf of City or otherwise act on behalf of City as an agent. Neither City nor any of its agents shall have control over the conduct of Consultant or any of Consultant's employees, except as set forth in this Agreement. Consultant shall not, at any time, or in any manner, represent that it or any of its agents 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.

ECORP Consulting, Inc.
CONSULTANT

Signature Donald R. Mitchell, Vice President
Southern California Operations/Secretary

Date: March 18, 2019

[redacted]

[Name and Title]

Social Security or Taxpayer ID Number

CITY OF COSTA MESA

Tamara Letourneau

Date: 3/29/19

Tamara Letourneau
Acting City Manager

ATTEST:

Brenda Green 4/1/19

Brenda Green
City Clerk

APPROVED AS TO FORM:

Kimberly Hall Barlow

Date: 3/29/19

Kimberly Hall Barlow
City Attorney

APPROVED AS TO INSURANCE:

Ruth

Date: 3/25/19

Ruth Wang
Risk Management

APPROVED AS TO CONTENT:

Mel Lee

Date: 3/21/19

Mel Lee
Project Manager

DEPARTMENTAL APPROVAL:

Date: 3.21.19

Barry Curtis
Economic and Development Services
Director

APPROVED AS TO PURCHASING:

Kelly Telford

Date: 3/26/19

Kelly Telford
Finance Director

EXHIBIT A

CONSULTANT'S PROPOSAL

ECORP Consulting, Inc.
ENVIRONMENTAL CONSULTANTS

March 5, 2019
(P16-183.05)

Mel Lee, AICP
Senior Planner
City of Costa Mesa
77 Fair Drive, Costa Mesa, 92628
Via e-mail to: mel.lee@costamesaca.gov

Subject: Proposal for California Environmental Quality Act (CEQA) Documentation for Audi Fletcher Jones, City of Costa Mesa, California

Dear Mr. Lee:

ECORP Consulting, Inc. (ECORP) is pleased to submit this proposal to provide CEQA support services for the subject project. This proposal presents ECORP's proposed technical approach, schedule, and cost to complete these environmental services. We have included one subconsultant, KOA Corporation (KOA), to prepare the preliminary traffic impact study.

The project proposes a ground-up 2-story, approximately 58,900 square foot sales and service center for Audi in Costa Mesa, CA on approximately 5.2 acres currently occupied by a retail building (former hardware store). The project consists of demolition of the existing retail use/building, and replacement with an auto dealership, including auto display area, service garage with parking bays, and perimeter parking. The buildings consist of sales/office, service operation with a parked roof above the service operation. The sales/office spaces are to include Sales, Finance and Insurance, Delivery, Showroom, Service Write-up, and Administrative offices. The service spaces will contain service bays, car wash, employee facilities and parts department. The project site is in the C-2 General Business Zone.

The environmental analysis will address the incremental increase in impacts resulting from the new auto dealership use as compared to the existing use (retail)/building.

SCOPE OF WORK

Task 1 – Initial Study/Mitigated Negative Declaration

Task 1A – Administrative Draft IS/MND

An IS/MND will be prepared using the approved checklist format from the City or Appendix G of the CEQA Guidelines. ECORP will prepare a description of the project including the location of the project area (including a project map), a brief description of the environmental setting; an

identification of environmental effects using the above-referenced checklist format, a brief substantiation of the checklist entries, and a list of references and preparers. ECORP will provide mitigation measures (if required) that can be developed using existing data.

A site visit by an Environmental Scientist will be conducted. In addition, record/database searches for biological, cultural, and paleontological resources, as well as a current hazardous wastes site search will be conducted.

We have assumed we will receive copies of any previously prepared technical reports, plans, and other project information from the City, including electronic versions, to the extent possible.

Task 1A Deliverables:

- An electronic copy of the Administrative Draft IS/MND will be submitted to the City via email for review and comment.

Task 1B – Prepare Draft IS/MND

After receipt of one (1) set of integrated comments on the Administrative Draft IS/MND from the City, we will revise the IS/MND accordingly. ECORP will provide five (5) bound copies and one (1) electronic copy of the environmental document to the City for internal use. ECORP will mail twenty (20) copies of the document to addressees on the mailing list and fifteen (15) copies to the State Clearinghouse. We have assumed that the City and ECORP will work together to assemble the mailing list.

Task 1C – Prepare Public and Agency Notices

ECORP will prepare the following notices as required by CEQA:

- Notice of Intent (NOI) to Adopt a Mitigated Negative Declaration
- Notice of Completion (NOC) (State Clearinghouse Cover)
- Notice of Determination (NOD)

One copy of each of these notices will be filed with the Orange County Clerk and the State Clearinghouse, as appropriate. One electronic copy of each notice will be provided to the City. It has been assumed that the City will pay the CDFW fee when the NOD is posted.

The NOI needs to either be posted on-site, mailed to the surrounding property owners, or published in a newspaper of general circulation. We assume that the City will post the notice using one or more of these methods.

Task 1D – Final IS/MND and MMRP

The Lead Agency (City) must consider any comments received on the MND when making a decision on the project. For costing purposes, we have assumed that 10 comment letters containing 2

comments each will be received (or a total of 20 comments). The Final IS/MND will include responses to comments received on the Draft IS/MND, any changes to the Draft IS/MND, and the Mitigation Monitoring and Reporting Program (MMRP, if required), prepared in accordance with CEQA Guidelines Section 15097. The MMRP will be prepared in a table format. ECORP will prepare this document, with input from the City.

An Administrative Final IS/MND and MMRP will be prepared. After review by the City, the Final IS/MND and MMRP will be provided. ECORP will send the Final IS/MND and MMRP to agencies, organizations, and individuals that commented on the project, and also notify them of the date and time of the public hearing for consideration of the project, as required by CEQA.

Task 1D Deliverables:

- Electronic submittal of the Administrative Final IS/MND and MMRP
- Five (5) bound copies and one (1) electronic copy of the Final IS/MND. Five (5) bound copies will be mailed to commenting agencies and interested parties, for a total of 10 bound copies.

Task 2 – Technical Studies and Support

Task 2A – Technical Study CEQA Adequacy Review

ECORP anticipates that several technical studies may be prepared by the Applicant for ECORP review for CEQA adequacy to support the IS/MND. These studies may include a Phase I Environmental Site Assessment, a preliminary Geotechnical/Soils Report, Hydrology/Water Quality data, and Photometric Study. ECORP will review these studies for CEQA adequacy and inform the City if there are any gaps, inconsistencies, or discrepancies in the analysis. This task includes the review of up to four studies (apart from the applicant-provided ATE Trip Generation Analysis separately identified for KOA review in Task 2D).

Task 2B – Air Quality/Greenhouse Gas Analysis (ECORP)

As part of the environmental analysis for the proposed project, ECORP will prepare an air quality and greenhouse gas technical study to satisfy CEQA requirements. The analysis will be prepared as follows:

- Identify the existing air quality setting in the area.
- Identify applicable international, federal, state, SCAQMD's, and local rules and regulations including the State greenhouse gas (GHG) regulations Assembly Bills (AB) 32 and 1493, Senate Bills (SB) 32, 97, 107, 375, 527, 1368, and 1771, and Executive Orders S-3-05 and S-14-08.
- Obtain existing air quality data from air quality monitoring stations within the study area utilizing California Air Resources Board (CARB) data sources. Data will be obtained for air pollutants, including ozone, carbon monoxide (CO), nitrogen dioxide (NO_2), PM_{10}, and $PM_{2.5}$.

- Identify greenhouse gases (GHGs) and their associated impacts to global climate change.
- Identify thresholds of significance for the criteria pollutants and GHGs.
- Evaluate and quantify regional criteria pollutant and GHG emissions associated with demolition and construction activities for the proposed project utilizing the CalEEMod Model. If significant emission levels are found to be created from construction activities, feasible mitigation will be developed and quantified.
- Evaluate local NOx, CO, PM_{10}, and $PM_{2.5}$ construction and operational emissions at the nearest sensitive receptors located adjacent to the boundary of the project. The emissions will be compared against the SCAQMD Look-Up Tables and will follow the methodology described in the SCAQMD Localized Significance Threshold Methodology (July 2008).
- Evaluate and quantify regional criteria pollutant and GHG emissions associated with the operations of the proposed project utilizing the CalEEMod Model. All feasible mitigation will be identified and quantified through use of the CalEEMod Model, as necessary.
- If the traffic study data deems it necessary, prepare a micro-scale CO screening analysis of the study area intersections based on the conditions in the traffic study prepared for the proposed project and verify if it is in accordance with the SCAQMD requirements as described in the CEQA Air Quality Handbook.
- Address construction demolition and provide a qualitative odor analysis from the construction and operation of the proposed project.
- Compare the operational GHG emissions to all applicable GHG emissions thresholds including AB 32, SB 375 and SCAQMD's draft GHG emissions threshold of 3,000 metric tons of CO_2e per year for all land uses. If the GHG emissions exceed any applicable thresholds, provide mitigation to reduce the GHG emissions.
- As the City of Costa Mesa does not currently have a Climate Action Plan, the project will be compared to goals of the California Air Resources Board (CARB) Scoping Plan.
- Prepare an air quality and global climate change assessment documenting the results of the of the previous work tasks.
- Review the City's comments, whether verbal or written, and revise draft air quality impact analysis (if necessary) and provide the final version.

Task 2C – Energy Use Analysis (ECORP)

ECORP's analysis will address Section VI. Energy Issues a) and b), recently added to the CEQA Guidelines Appendix G. ECORP will evaluate the project's energy use for all project phases and components, including transportation-related energy, during construction and operation. Relevant considerations may include building code compliance, project size, location, orientation, equipment use and any renewable energy features that may be incorporated into the project. The project's relationship to state or local plans for renewable energy or energy efficiency will be addressed. Further guidance on information that may be provided is included in CEQA Guidelines Appendix F.

Task 2D – Preliminary Traffic Impact Study (KOA)

KOA will review project plans and will review the Associated Transportation Engineers (ATE) Trip Generation Analysis for the Fletcher Jones Automotive Facility (5/24/18) for adequacy and use in supporting IS/MND transportation/traffic findings. The potential need for additional data, including previous project site use trip generation and/or additional comparisons fo trip generation rates from similar auto dealership facilities will be addressed. If needed, KOA will provide recommendations for further study.

Project Team Coordination

KOA will coordinate with the project team and the City of Costa Mesa to obtain any data, analyses, documents, or any other information available relevant to the project site and surrounding area in order to properly review all existing data and conduct the preliminary traffic impact study. KOA may also use data provided in the Institute of Transportation Engineers (ITE) publication Trip Generation, Tenth Edition for the study.

After reviewing all available data, KOA will identify any additional data needed to conduct the preliminary traffic impact study. If no further data is needed, KOA will conduct the preliminary traffic impact study.

Project Analysis (Preliminary Traffic Impact Study)

KOA will conduct a preliminary traffic impact study which may include preliminary calculations of project trips along the project roadways and intersections. KOA will use available existing data to evaluate the "Existing" and "Existing Plus Project" traffic conditions, at a high planning level, to determine if any potential impacts would occur due to the proposed project.

Based on the preliminary traffic impact analysis, if it is determined that there may be potential impacts due to the proposed project, further detailed analysis will be needed. This may also require collecting new data, such as, but not limited to, peak hour intersection turning movement counts and average daily traffic (ADT) data. A separate scope and cost will be provided if it is determined that a detailed analysis is needed based on the preliminary traffic impact study.

KOA will present the results of the preliminary traffic analyses in graphical and tabular format, and qualitatively in the text of a Technical Memorandum.

Site Access and Circulation

KOA will analyze on-site circulation and access at the project driveways, including identifying the appropriate level of traffic control at the project entrances/exits. KOA will review the proposed site plan and provide any recommendations needed regarding site access and circulation.

Technical Memorandum Preparation

KOA will prepare and submit a draft Preliminary Traffic Impact Study Technical Memorandum to the project team members for review that details all of the above-mentioned items, traffic analysis, findings, and conclusions. The draft Technical Memorandum will contain all the tabular information, graphic, and appendix materials. The draft Technical Memorandum will be updated, if there are project team comments, and a final Preliminary Traffic Impact Study Technical Memorandum will be submitted to the City of Costa Mesa.

Task 2E – Tribal Cultural Resources (AB 52) Consultation Support (ECORP)

Consultation with California Native American tribes under Assembly Bill 52 (AB 52) is the responsibility of the CEQA lead agency. However, ECORP can assist the City of Costa Mesa with the consultation process. ECORP will coordinate with the City to determine which tribes have submitted general requests to consult under AB 52. ECORP will draft letters with information about the project for the City and submit the draft letters to the City electronically. We have assumed that the City staff will print the letters on agency letterhead, obtain the required internal signatures, and provide ECORP with the letters for mailing to the tribes and individuals who have submitted general request letters within 14 days of determining that the project application is complete, as required by AB 52.

For tribes that respond within 30 days with a request to consult, ECORP will assist the City in initiating consultation. Consultation must be initiated within 30 days of receiving the written request to consult. ECORP will assist the City by arranging meeting times for consultation or field visits. Native American consultation meetings will be led by City staff with technical assistance from ECORP. ECORP will document the consultation process and comments discussed and advise the City on how to come to conclusion to the consultation, as specified by AB 52. For costing purposes, ECORP has included an allowance for one (1) on-site meeting will as part of the AB 52 process.

After comments have been addressed in the CEQA document as appropriate, or a robust administrative record has been assembled to document unsuccessful attempts to consult with one or more tribes under AB 52, ECORP will draft an AB 52 conclusion letter for the City to send to the tribes. The letter will summarize the consultation efforts under AB 52, the comments received, and the measures taken to address those comments. If any comments are not reasonable or feasible to address, then the letter will also state why that is the case. The purpose of the letter is to officially conclude the AB 52 consultation and close out the administrative record, thereby demonstrating compliance. ECORP assumes that the City will maintain an administrative record documenting all AB 52 Consultation activities and results.

Task 3 – Meetings

ECORP will attend three (3) meetings with City staff as needed for this project. This includes a Project Kickoff meeting with City staff and Applicant if desired, and an allowance for two (2) additional meetings during the course of the project. For costing purposes, we assume a one (1) to two (2) hour

meeting. ECORP will also attend a Planning Commission hearing and City Council hearing. For costing purposes, we assume a two (2) to three (3) hour meeting.

SCHEDULE

ECORP is confident that we can meet the expected time frame for the completion of the IS/MND according to the schedule below. This schedule can be modified based on the needs of the City. We propose to prepare the Administrative Draft IS/MND concurrently with the technical studies to stay on schedule. The technical studies will need to be completed prior to the Draft IS/MND (Task 1B) being completed and the start of the 30-day public review period.

Tasks	Time Frame for Completion
Task 1: Initial Study/Mitigated Negative Declaration	
Task 1A: Administrative Draft IS/MND	7 weeks from notice to proceed (will include the results of the technical studies prepared as part of Task 2 and the results at the AB 52 Consultation)
City Review	2 weeks
Task 1B: Draft IS/MND	1 week from receipt of city comments
Task 1C: Notice of Intent/Notice of Completion	With Draft IS/MND
Public/Agency Review	30 calendar days
Task 1D: Final IS/MND & MMRP (includes Responses to Comments)	2 weeks from end of public review period
City Review	1 week
Notice of Determination	Filed with the County Clerk of Orange within 5 days of MND adoption
Task 2: Technical Studies and Support	
Task 2A: Technical Study CEQA Adequacy Review	Prepared concurrently with Task 1A
Task 2B: Air Quality/Greenhouse Gas Analysis	Prepared concurrently with Task 1A
Task 2C: Energy Use Analysis	Prepared concurrently with Task 1A
Task 2D: Preliminary Traffic Impact Study (KOA)	Prepared concurrently with Task 1A
Task 2E: Tribal Cultural Resources (AB 52) Consultation Support	Although AB 52 stipulates a schedule for the initiation of consultation (within 14 days of the initiation of the CEQA process), the law contains no timeline for the conclusion of consultation. The schedule for AB 52 consultation is dependent on whether any Tribes request consultation and the presence or absence of Tribal Cultural Resources within the project area.
Task 3: Meetings	
Assumes 3 meetings w/City Staff and 2 Public Hearings	As scheduled

COST ESTIMATE

ECORP will complete the above scope of work (Tasks 1 through 3) on a time-and-materials basis. Our costs are detailed below.

Table 1 – Cost Breakdown

Activity	Cost
Task 1 – Initial Study/Mitigated Negative Declaration	
1A – Administrative Draft IS/MND	$13,900
1B – Draft IS/MND	$5,000
1C – Notices (NOI, NOC, NOD)	$950
1D – Final IS/MND & MMRP (includes Responses to Comments)	$2,700
Task 1 Subtotal	***$22,550***
Task 2 – Technical Studies and Support	
2A – Technical Study CEQA Adequacy Review	$1,500
2B – Air Quality/Greenhouse Gas Analysis	$6,600
2C – Energy Use Analysis	$2,600
2D – Preliminary Traffic Impact Study (KOA)	$5,800
2E – Tribal Cultural Resources (AB52) Consultation Support	$3,600
Task 2 Subtotal	***$20,100***
Task 3 – Meetings	
Assumes 3 meetings w/City Staff and 2 Public Hearings	$4,800
Task 3 Subtotal	***$4,800***
TOTAL COST ESTIMATE	**$47,450**

Cost Assumptions

- Schedule estimates are based on our best judgment of the requirements known at the time of the proposal and can be influenced favorably or adversely by the City's needs and other circumstances. ECORP Consulting, Inc. will perform the services and accomplish the objectives within the presented costs and schedule. However, if the scope of work or schedule changes, ECORP Consulting, Inc., will offer separate proposals for any out-of-scope work.
- ECORP Consulting, Inc., assumes that, by receipt of notice to proceed, full access to the property will be provided by the City, including keys to locked gates and advance notice to existing property tenants of our right of entry.
- ECORP Consulting, Inc. shall not be held responsible for work delays or cancellations caused by strikes, accidents, acts of God, delays imposed by the City, or other delays beyond the control of ECORP Consulting, Inc.

- It is assumed that ECORP Consulting, Inc. can use and rely on the data and information contained in the project related documents provided by the City. ECORP Consulting, Inc., will perform a CEQA adequacy review of these documents, and will not be responsible for the content or accuracy of these studies. Should the CEQA adequacy review identify the need for new or substantially revised technical reports to be prepared by ECORP, such revisions or reports would be an addition to the scope of work based on agreed upon fees.
- This cost is valid for a period of 90 days from the date of this the proposal. Beyond 90 days, ECORP Consulting, Inc., reserves the right to reevaluate the cost.
- Expert Witness Testimony, including Depositions, is billed on a time-and-materials basis at time and a half.
- If a technical study identifies an impact that would remain significant after mitigation (potentially requiring an Environmental Impact Report [EIR]), then ECORP will immediately notify the City to determine if there may be an engineering solution to minimize or avoid the impact. For the purposes of this scope of work and cost, we have assumed the preparation of an MND. If the impact cannot be reduced to less than significant, ECORP will prepare a separate scope and cost for EIR preparation.
- Color copies, equipment, and other direct expenses are reimbursed with a 14% administrative handling charge (excluding mileage). These charges are included in the cost estimate, above.

Thank you for the opportunity to submit this proposal. This scope of work will be completed under the same terms and conditions of our existing As-Needed Environmental Services contract with the City.

If you have any questions regarding this proposal, please contact me at (909) 307-0046 or via e-mail at folmos@ecorpconsulting.com.

Sincerely,
ECORP Consulting, Inc.

Jesus A. Olmos

Jesus "Freddie" Olmos
Senior Environmental Scientist/
Assistant CEQA Group Manager

EXHIBIT B

CERTIFICATES OF INSURANCE

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY): 3/14/2019

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 have ADDITIONAL INSURED provisions or 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
Owen-Dunn Insurance Services
1455 Response Road, Suite 260
Sacramento CA 95815

CONTACT NAME: Candace Alicea
PHONE (A/C, No, Ext): 916-993-2700 FAX (A/C, No): 916-993-2683
E-MAIL ADDRESS: info@owendunn.com

INSURED ECORCON-01
ECORP Consulting, Inc.
2525 Warren Drive
Rocklin CA 95677

INSURER(S) AFFORDING COVERAGE	NAIC #
INSURER A : STATE COMPENSATION INSURANCE FUND	35076
INSURER B : Travelers Indemnity Company of CT	25682
INSURER C : RSUI Indemnity Company	22314
INSURER D : Colony Insurance Company	39993
INSURER E :	
INSURER F :	

COVERAGES **CERTIFICATE NUMBER:** 1858662394 **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 INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS	
B	X COMMERCIAL GENERAL LIABILITY	Y	Y	6806H184619	10/1/2018	10/1/2019	EACH OCCURRENCE	$ 1,000,000
	CLAIMS-MADE X OCCUR						DAMAGE TO RENTED PREMISES (Ea occurrence)	$ 1,000,000
							MED EXP (Any one person)	$ 10,000
							PERSONAL & ADV INJURY	$ 1,000,000
	GEN'L AGGREGATE LIMIT APPLIES PER:						GENERAL AGGREGATE	$ 2,000,000
	POLICY X PRO-JECT LOC						PRODUCTS - COMP/OP AGG	$ 2,000,000
	OTHER:							$
B	AUTOMOBILE LIABILITY			BA3G993735	10/1/2018	10/1/2019	COMBINED SINGLE LIMIT (Ea accident)	$ 1,000,000
	X ANY AUTO						BODILY INJURY (Per person)	$
	OWNED AUTOS ONLY / SCHEDULED AUTOS						BODILY INJURY (Per accident)	$
	X HIRED AUTOS ONLY / X NON-OWNED AUTOS ONLY						PROPERTY DAMAGE (Per accident)	$
								$
C	UMBRELLA LIAB X OCCUR			NHA245826	10/1/2018	10/1/2019	EACH OCCURRENCE	$ 5,000,000
	X EXCESS LIAB CLAIMS-MADE						AGGREGATE	$ 5,000,000
	DED RETENTION $							$
A A	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANYPROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	N / A		910702118 L&H 090490718	7/1/2018 7/1/2018	7/1/2019 7/1/2019	X PER STATUTE OTH-ER	Incl. USL&H
							E.L. EACH ACCIDENT	$ 1,000,000
							E.L. DISEASE - EA EMPLOYEE	$ 1,000,000
							E.L. DISEASE - POLICY LIMIT	$ 1,000,000
D	Pollution Liability Professional Liability -Retroactive Date: 8/1/1998			CPLUS307583	10/1/2018	10/1/2019	Aggregate/Each Cond Aggregate/Each Claim Poll & Prof Liab. Ded	2,000,000 2,000,000 25,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)
General Liability Additional Insured applies per terms and conditions of the attached endorsement(s).
Primary Wording for General Liability applies per terms and conditions of the attached endorsement.
General Liability Waiver of Subrogation applies per terms and conditions of the attached endorsement.
Auto Liability Additional Insured applies per terms and conditions of the attached endorsement(s).
Primary Wording for Auto Liability applies per terms and conditions of the attached endorsement.
Auto Liability Waiver of Subrogation applies per terms and conditions of the attached endorsement.
Workers Compensation Waiver of Subrogation applies per terms and conditions of the attached endorsement.
RE: City of Costa Mesa, On-Call Environmental Analysis Services – Audi Fletcher Jones Project
See Attached...

CERTIFICATE HOLDER

City of Costa Mesa
and its elected and appointed boards, officers,
agents, and employees
Development Services
77 Fair Drive
Costa Mesa CA 92626

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
C. Alicea

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AGENCY CUSTOMER ID: ECORCON-01

LOC #:

ADDITIONAL REMARKS SCHEDULE

AGENCY Owen-Dunn Insurance Services	NAMED INSURED ECORP Consulting, Inc. 2525 Warren Drive Rocklin CA 95677
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

The following are Additional Insured if required by written contract: The City of Costa Mesa, and its elected and appointed boards, officers, agents, and employees

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ENDORSEMENT AGREEMENT

STATE COMPENSATION INSURANCE FUND

HOME OFFICE
SAN FRANCISCO

ALL EFFECTIVE DATES ARE AT 12:01 AM PACIFIC STANDARD TIME OR THE TIME INDICATED AT PACIFIC STANDARD TIME

WAIVER OF SUBROGATION
BLANKET BASIS

REP B1
9107021-18
RENEWAL
NF
1-79-98-72

Effective July 1, 2018 at 12:01 A.M.
And Expiring July 1, 2019 at 12:01 A.M.

ECORP CONSULTING, INC.
2525 Warren Dr
Rocklin, CA 95677

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.

THE ADDITIONAL PREMIUM FOR THIS ENDORSEMENT SHALL BE 2.00% OF THE TOTAL POLICY PREMIUM.

SCHEDULE

PERSON OR ORGANIZATION	JOB DESCRIPTION
ANY PERSON OR ORGANIZATION FOR WHOM THE NAMED INSURED HAS AGREED BY WRITTEN CONTRACT TO FURNISH THIS WAIVER	BLANKET WAIVER OF SUBROGATION

NOTHING IN THIS ENDORSEMENT CONTAINED SHALL BE HELD TO VARY, ALTER, WAIVE OR EXTEND ANY OF THE TERMS, CONDITIONS, AGREEMENTS, OR LIMITATIONS OF THIS POLICY OTHER THAN AS STATED. NOTHING ELSEWHERE IN THIS POLICY SHALL BE HELD TO VARY, ALTER, WAIVE OR LIMIT THE TERMS, CONDITIONS, AGREEMENTS OR LIMITATIONS OF THIS ENDORSEMENT.

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 conceals or misrepresents 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 Covered Autos Liability Coverage this Coverage Form provides for the "trailer" is:

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

      (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 Covered Autos Liability Coverage is primary for any liability assumed under an "insured contract".

   d. When this Coverage Form and any other Coverage Form or policy covers on the same basis, either excess or primary, we will pay only our share. Our share is the proportion that the Limit of Insurance of our Coverage Form bears to the total of the limits of all the Coverage Forms and policies covering on the same basis.

6. **Premium Audit**

   a. The estimated premium for this Coverage Form is based on the exposures you told us you would have when this policy began. We will compute the final premium due when we determine your actual exposures. The estimated total premium will be credited against the final premium due and the first Named Insured will be billed for the balance, if any. The due date for the final premium or retrospective premium is the date shown as the due date on the bill. If the estimated total premium exceeds the final premium due, the first Named Insured will get a refund.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET WAIVER OF SUBROGATION

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
GARAGE COVERAGE FORM
MOTOR CARRIER COVERAGE FORM
TRUCKERS COVERAGE FORM

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

Paragraph **5. Transfer of Rights Of Recovery Against Others To Us** of the CONDITIONS section is replaced by the following:

5. Transfer Of Rights Of Recovery Against Others To Us

We waive any right of recovery we may have against any person or organization to the extent required of you by a written contract executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of the operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM
MOTOR CARRIER COVERAGE FORM

The following is added to the Paragraph **A.1.c.**, **Who Is An Insured**, of **SECTION II – COVERED AUTOS LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Covered Autos Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in **SECTION II**.

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BLANKET ADDITIONAL INSURED (ARCHITECTS, ENGINEERS AND SURVEYORS)

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

1. The following is added to **SECTION II – WHO IS AN INSURED**:

   Any person or organization that you agree in a "written contract requiring insurance" to include as an additional insured on this Coverage Part, but:

   a. Only with respect to liability for "bodily injury", "property damage" or "personal injury"; and

   b. If, and only to the extent that, the injury or damage is caused by acts or omissions of you or your subcontractor in the performance of "your work" to which the "written contract requiring insurance" applies, or in connection with premises owned by or rented to you.

   The person or organization does not qualify as an additional insured:

   c. With respect to the independent acts or omissions of such person or organization; or

   d. For "bodily injury", "property damage" or "personal injury" for which such person or organization has assumed liability in a contract or agreement.

   The insurance provided to such additional insured is limited as follows:

   e. This insurance does not apply on any basis to any person or organization for which coverage as an additional insured specifically is added by another endorsement to this Coverage Part.

   f. This insurance does not apply to the rendering of or failure to render any "professional services".

   g. In the event that the Limits of Insurance of the Coverage Part shown in the Declarations exceed the limits of liability required by the "written contract requiring insurance", the insurance provided to the additional insured shall be limited to the limits of liability required by that "written contract requiring insurance". This endorsement does not increase the limits of insurance described in Section **III** – Limits Of Insurance.

   h. This insurance does not apply to "bodily injury" or "property damage" caused by "your work" and included in the "products-completed operations hazard" unless the "written contract requiring insurance" specifically requires you to provide such coverage for that additional insured, and then the insurance provided to the additional insured applies only to such "bodily injury" or "property damage" that occurs before the end of the period of time for which the "written contract requiring insurance" requires you to provide such coverage or the end of the policy period, whichever is earlier.

2. The following is added to Paragraph **4.a.** of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

   The insurance provided to the additional insured is excess over any valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured for a loss we cover. However, if you specifically agree in the "written contract requiring insurance" that this insurance provided to the additional insured under this Coverage Part must apply on a primary basis or a primary and non-contributory basis, this insurance is primary to other insurance available to the additional insured which covers that person or organizations as a named insured for such loss, and we will not share with the other insurance, provided that:

   (1) The "bodily injury" or "property damage" for which coverage is sought occurs; and

   (2) The "personal injury" for which coverage is sought arises out of an offense committed;

   after you have signed that "written contract requiring insurance". But this insurance provided to the additional insured still is excess over valid and collectible other insurance, whether primary, excess, contingent or on any other basis, that is available to the additional insured when that person or organization is an additional insured under any other insurance.

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3. The following is added to Paragraph **8.**, **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – COMMERCIAL GENERAL LIABILITY CONDITIONS**:

   We waive any right of recovery we may have against any person or organization because of payments we make for "bodily injury", "property damage" or "personal injury" arising out of "your work" performed by you, or on your behalf, done under a "written contract requiring insurance" with that person or organization. We waive this right only where you have agreed to do so as part of the "written contract requiring insurance" with such person or organization signed by you before, and in effect when, the "bodily injury" or "property damage" occurs, or the "personal injury" offense is committed.

4. The following definition is added to the **DEFINITIONS** Section:

   "Written contract requiring insurance" means that part of any written contract under which you are required to include a person or organization as an additional insured on this Coverage Part, provided that the "bodily injury" and "property damage" occurs and the "personal injury" is caused by an offense committed:

   a. After you have signed that written contract;

   b. While that part of the written contract is in effect; and

   c. Before the end of the policy period.

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EXHIBIT C

CITY COUNCIL POLICY 100-5

CITY OF COSTA MESA, CALIFORNIA

COUNCIL POLICY

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.