



AGENDA

**REGULAR MEETING
CYPRESS CITY COUNCIL
September 9, 2024
6:00 P.M. - General Session**

www.cypressca.org

**5275 Orange Avenue
Cypress, California**

Interested in speaking to the City Council? Information about participating in the City Council meeting appears at the end of the agenda.

CALL TO ORDER

6:00 P.M.
Council Chambers

ROLL CALL

Cypress City Council, also acting as the Ex-Officio Governing Board of Directors of the Cypress Recreation and Park District

Mayor Scott Minikus
Mayor Pro Tem Bonnie Peat
Council Member David Burke
Council Member Anne Mallari
Council Member Frances Marquez

PRESENTATIONS

Veteran Recognition Presentation

Senator Janet Nguyen Legislative Update

ORAL COMMUNICATIONS ON AGENDA ITEMS (Three minutes per speaker. The City Council may adjust the time allotted per speaker.)

The public may address the City Council on agenda items prior to any action taken. Although Council Members may provide brief responses, the City Council may not engage in a discussion with members of the public during the meeting. Please complete a Speaker's Card to address the City Council in-person. Please follow the instructions at the end of the agenda and wait for the Mayor/City Clerk to call on you to address the City Council virtually. Speakers providing in-person comments will be called first. Members of the public are encouraged to communicate with the City Council via email at adm@cypressca.org or by calling 714-229-6699.

CONSENT CALENDAR

All matters listed on the Consent Calendar are to be approved with one motion unless a Council Member requests separate action on a specific item. Council Members voting no or abstaining on a Consent Calendar item may do so without removing the item from the Consent Calendar.

1. Approve Minutes - Meetings of July 8, July 11, August 9, and August 21, 2024

Prepared by: Alisha Farnell, City Clerk

Recommendation: Approve as submitted.

2. Introduce and/or Adopt All Ordinances and Resolutions Presented for Consideration by Title Only and to Waive Further Reading

3. Adopt a Resolution to Amend the Conflict of Interest Code

Prepared by: Alisha Farnell, City Clerk

Recommendation: Adopt a Resolution amending the Conflict of Interest Code for the City and Recreation and Park District, which supersedes all prior Conflict of Interest Codes and amendments previously adopted.

4. Approve a Funding Reallocation for FY 2023-24 Capital Project Expenditures

Prepared by: Doug Dancs, Director of Public Works

Recommendation:

1. Approve a \$650,000 funding transfer from the Road Maintenance and Rehabilitation Account (RMRA) Gas Tax Fund to the City Capital Projects Fund in FY 2023-24 for use on the Concrete Rehabilitation project rather than the Residential Street Resurfacing project; and

2. Approve the funding transfer of \$650,000 from the Infrastructure Reserve Bank (\$450,000) and the General Fund (\$200,000) to the City Capital Project fund in FY 2023-24 for use on the Residential Street Resurfacing project rather than the Concrete Rehabilitation project.

5. Approve a Contract for Park Facility Lock Up Services

Prepared by: Doug Dancs, Director of Public Works

Recommendation: Approve a two-year contract for park facility lock up services to California Safety Agency for \$45,990.

6. Approve Revisions to the Agreement for Recreation Management Software with CivicPlus, LLC

Prepared by: Jeff Draper, Director of Recreation and Community Services

Recommendation: Approve the renewal Statement of Work and Master Services Agreement with CivicPlus, LLC.

7. Approve an Agreement for Youth Sports Officials

Prepared by: Jeff Draper, Director of Recreation and Community Services

Recommendation: Approve a one-year agreement for youth sports officiating with West Coast Officials for an amount not to exceed \$16,632.

8. Approve Supplemental Appropriations and Increases to Estimated Revenues and Transfers for FY 2023-24

Prepared by: Matt Burton, Director of Finance and Administrative Services

Recommendation:

1. Approve FY 2023-24 supplemental appropriations of \$1,780,950 and increase estimated revenues by \$20,800 for the City; and
2. Approve FY 2023-24 supplemental appropriations of \$224,923 for the Cypress Recreation and Park District; and
3. Approve a \$427,196 transfer from the District's Park Development Fund to the General Fund; and
4. Approve a \$427,196 payment to the City's Infrastructure fund to apply against the outstanding Repayment Agreement and Promissory Note between the City and Park District for the construction of Lexington Park.

9. Adopt a Resolution Establishing Benefits for Management Employees

Prepared by: Matt Burton, Director of Finance and Administrative Services

Recommendation: Adopt a Resolution establishing the Schedule of Benefits for Management employees.

10. Award On-call Contracts for Network Consulting Services

Prepared by: Matt Burton, Director of Finance and Administrative Services

Recommendation:

1. Award a Professional Contract Services Contract to ADS Consulting Group, Inc. for On-Call Network Consulting Services; and
2. Award a Professional Contract Services Contract to LAN WAN Enterprise for On-Call Network Consulting Services.

NEW BUSINESS

None.

ITEMS REMOVED FROM CONSENT CALENDAR

ORAL COMMUNICATIONS (Three minutes per speaker. The City Council may adjust the time allotted per speaker.)

The public may address the City Council on any item within the subject matter jurisdiction of the City Council. Although Council Members may provide brief responses, the City Council may not discuss nor take action on items that are not on the agenda. Please complete a Speaker's Card to address the City Council in-person. Members of the public are encouraged to communicate with the City Council via email at adm@cypressca.org or by calling 714-229-6699.

COUNCIL MEMBER REPORTS FROM CITY-AFFILIATED BOARDS AND COMMITTEES AND REMARKS

COUNCIL MEMBER ITEMS FOR FUTURE CONSIDERATION

CITY MANAGER REMARKS

ADJOURNMENT

The next meeting will be an adjourned Regular Meeting, to be held on Monday, September 23, 2024, beginning at 5:30 p.m. in the Executive Board Room.

Council Members and the public should promptly exit the Council Chambers and proceed through the Civic Center to the parking lot.

I hereby certify under penalty of perjury under the laws of the State of California, that the foregoing Agenda was posted on the City Hall bulletin board and City website not less than 72 hours prior to the meeting. Dated this 6th day of September, 2024.

Alisha Farnell, City Clerk

PUBLIC PARTICIPATION

Members of the public can participate in the City Council meeting in the following ways:

1. Attend In-Person. First-come, first-served seating is available. All attendees must be free of any symptoms associated with contagious illnesses.
2. Attend Virtually via Webinar. Follow this link: <https://attendee.gotowebinar.com/register/2488719722269824087>. Advanced registration is recommended.

The public may address the City Council virtually during Oral Communications on Agenda Items and Public Hearings. Virtual participants must click the 'hand raise' button prior to the end of the first in-person speaker to indicate they wish to address the City Council. Upon clicking the 'hand raise' button, please unmute your microphone and wait for the Mayor/City Clerk to call on you.



= Hand Raise



= Unmute

3. Submit Public Comments Prior to the Meeting. The public may submit comments via email to cityclerk@cypressca.org. Comments submitted by 3:00 p.m. on the day of the meeting will be added to the meeting record.
4. Watch the Meeting. The City Council meeting can be viewed on Spectrum Cable Channel 36 or on the City's website at www.cypressca.org/watchlive.
5. Listen to the Meeting. Listen-only teleconferencing is available by calling (631) 992-3221 and entering Access Code 580-417-299. No registration or audio pin is necessary.

INVOCATION POLICY

The City Council does not endorse the content of the invocation and does not endorse the invitational speaker's particular faith, belief and/or religious denomination. The City Council has an established neutral policy for selecting and scheduling invitational speakers. The City Council's policy on invocations is available from the City Clerk.

AMERICANS WITH DISABILITIES ACT

In compliance with the Americans With Disabilities Act, if you need special assistance to participate in this meeting, you should contact the City Clerk at (714) 229-6685 at least 72 hours prior to the meeting to enable the City to make reasonable arrangements to assure accessibility to this meeting.



CITY OF CYPRESS
CITY COUNCIL REPORT

City Council Regular

1.

FROM: Alisha Farnell, City Clerk

DATE: 09/09/2024

SUBJECT: Approve Minutes - Meetings of July 8, July 11, August 9, and August 21, 2024

RECOMMENDATION

Approve as submitted.

BUDGET IMPACT

None.

LEGAL REVIEW

None required.

APPROVED BY: Peter Grant, City Manager

Attachments

July 8, 2024 Special Meeting Minutes
July 8, 2024 Special Joint Meeting Minutes
July 8, 2024 Regular Meeting Minutes
July 11, 2024 Special Meeting Minutes
August 9, 2024 Special Meeting Minutes
August 21, 2024 Special Meeting Minutes

SPECIAL MEETING
CYPRESS CITY COUNCIL
JULY 8, 2024
4:30 P.M.

A regular meeting of the Cypress City Council was called to order at 4:31 p.m. by Mayor Minikus in the Executive Board Room, 5275 Orange Avenue, Cypress, California.

ROLL CALL

Cypress City Council, also acting as the Ex-Officio Governing Board of Directors of the Cypress Recreation and Park District

Mayor Scott Minikus
Mayor Pro Tem Bonnie Peat
Council Member David Burke
Council Member Anne Mallari
Council Member Frances Marquez

STAFF PRESENT

City Manager Peter Grant
City Attorney Fred Galante
Director of Finance and Administrative Services Matt Burton
City Clerk Alisha Farnell
Human Resources Manager Regina Nguyen

ORAL COMMUNICATIONS ON CLOSED SESSION/ WORKSHOP ITEMS

None.

CLOSED SESSION

CONFERENCE WITH LABOR NEGOTIATOR

Pursuant to Government Code Section 54957.6

Agency Negotiators: City Manager and Director of Finance and Administrative Services

Employee Groups: Cypress Employees' Association

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION

Pursuant to Government Code Section 54956.9(d)(1)

Fortis LLP v. Frances Marquez, City of Cypress

Case No. 30-2022-01277792-CU-WM-CJC

Orange County Superior Court

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION

Initiation of litigation pursuant to Paragraph (4) of Subdivision (d) of Government Code Section 54956.9

Number of Cases: Once Case
Potential Defendant: City of Seal Beach

Mayor Minikus recessed the meeting at 4:32 p.m.

Mayor Minikus reconvened the meeting at 5:28 p.m.

REPORT OF WORKSHOP AGENDA / CLOSED SESSION

The City Attorney stated the City Council will recess back into Closed Session following the Regular Meeting of the City Council to continue the discussion of Closed Session items.

Mayor Minikus recessed the meeting at 5:29 p.m.

Mayor Minikus reconvened the meeting at 9:45 p.m.

The City Council continued its discussion of the Closed Session items listed on the agenda. As to the Conference with Legal Counsel – Existing Litigation, Fortis LLP v. Frances Marquez, City of Cypress, Council Marquez abstained and did not participate in the Closed Session discussion. No reportable action was taken.

ADJOURNMENT

Mayor Minikus adjourned the meeting at 10:37 p.m. to an adjourned Regular Meeting, to be held on Monday, August 26, 2024, beginning at 6:00 p.m. in the Council Chambers.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS

SPECIAL JOINT MEETING
CYPRESS CITY COUNCIL AND
SENIOR CITIZENS COMMISSION
JULY 8, 2024
5:30 P.M.

A special joint meeting of the Cypress City Council and Senior Citizens Commission was called to order at 5:37 p.m. by Mayor Minikus in the Council Chambers, 5275 Orange Avenue, Cypress, California.

ROLL CALL

Cypress City Council, also acting as the Ex-Officio Governing Board of Directors of the Cypress Recreation and Park District

Mayor Scott Minikus
Mayor Pro Tem Bonnie Peat
Council Member David Burke
Council Member Anne Mallari
Council Member Frances Marquez

SENIOR CITIZENS COMMISSION

Commissioner Linda Croce – absent
Commissioner Cynthia Fayne
Commissioner Gincy Heins
Commissioner Hank Machal
Commissioner Claudia Nessary
Commissioner Ginger Osman
Commissioner David Skorupinski

STAFF PRESENT

City Manager Peter Grant
City Attorney Fred Galante
Director of Recreation and Community Services Jeff Draper
City Clerk Alisha Farnell
Recreation Manager Ian Kokot
Recreation Supervisor Shayna Gutierrez
Recreation Coordinator Taylor Burtle
Recreation Coordinator Alexis Corral
Recreation Specialist Vanessa Banuelos
Recreation Specialist Katherine Diaz
Office Assistant II Carol Shore

INVOCATION Deacon Israel Rodriguez, St. Irenaeus Catholic Church, led the invocation.

PLEDGE OF ALLEGIANCE Council Member Mallari led the Pledge of Allegiance

PRESENTATIONS

The City Council presented a Certificate of Recognition to Cypress Resident Madden Ramirez for assisting to reunite Freddy the K9 with his family.

The City Council accepted a donation from the Senior Center Line Dancers group and recognized their efforts to support the Senior Center.

The Senior Citizens Commission presented Carlos Ramirez with the Grace Lachina Outstanding Senior Recognition Award.

The Recreation Supervisor introduced Senior Center staff members Taylor Burtle, Alexis Corral, Vanessa Banuelos, Katherine Diaz, and Carol Shore.

ORAL COMMUNICATIONS (Limited to three minutes per speaker, unless modified by the City Council)

None.

NEW BUSINESS

Item No. 1: Receive the Annual Update from the Senior Citizens Commission

The Director of Recreation and Community Services provided a report on this item.

No action was taken.

ADJOURNMENT

By motion of Council Member Mallari, and seconded by Mayor Pro Tem Peat, the Mayor adjourned the meeting at 6:18 p.m. The next regular meeting of the City Council will be held on Monday, August 26, 2024, beginning at 5:30 p.m. in the Executive Board Room.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS

REGULAR MEETING
CYPRESS CITY COUNCIL
JULY 8, 2024
6:00 P.M. – General Session

A regular meeting of the Cypress City Council was called to order at 6:25 p.m. by Mayor Minikus in the Executive Board Room, 5275 Orange Avenue, Cypress, California.

ROLL CALL

Cypress City Council, also acting as the Ex-Officio Governing Board of Directors of the Cypress Recreation and Park District

Mayor Scott Minikus
Mayor Pro Tem Bonnie Peat
Council Member David Burke
Council Member Anne Mallari
Council Member Frances Marquez

STAFF PRESENT

City Manager Peter Grant
City Attorney Fred Galante
Director of Finance and Administration Services Matt Burton
Director of Public Works Doug Dancs
Director of Recreation and Community Services Jeff Draper
Planning Director Alicia Velasco
Chief of Police Mark Lauderback
City Clerk Alisha Farnell
City Engineer Nick Mangkalakiri

PRESENTATIONS

The Chief of Police introduced Police Clerk Laura Blazquez.

ORAL COMMUNICATIONS ON AGENDA ITEMS

Erika Gary, Cypress, spoke regarding Agenda item No. 5.

David Skorupinski, Cypress, spoke regarding Agenda item No. 5.

Terrisa Ha, Cypress, spoke regarding Agenda Item No. 5.

CONSENT CALENDAR

All matters listed on the Consent Calendar are to be approved with one motion unless a Council Member requests separate action on a specific item.

Council Member Burke requested to pull Agenda item No. 5.

A motion was made by Council Member Mallari and seconded by Mayor Pro Tem Peat, to approve consent calendar items No. 1 through 4 and 6 through 10.

The motion was unanimously carried by the following roll call vote:

AYES: 5 COUNCIL MEMBERS: Burke, Mallari, Marquez, Peat and Minikus
NOES: 0 COUNCIL MEMBERS: None
ABSENT: 0 COUNCIL MEMBERS: None

Item No. 1: Approve Minutes - Meetings of May 13, May 23, and May 28, 2024

Recommendation: Approve as submitted.

Item No. 2: Introduce and/or Adopt All Ordinances and Resolutions Presented for Consideration by Title Only and to Waive Further Reading

Item No. 3: Accept the Community Center Roof Replacement, Project 329

Recommendation:

1. Accept the Community Center Roof Replacement, Project 329, in the amount of \$522,610.52 and approve the final payment of \$26,130.53 to Rite-Way Roof Corporation; and
2. Authorize the City Engineer to file a Notice of Completion with the County Recorder.

Item No. 4: Approve an Agreement and Task Order for On-Call Stormwater/Water Quality Program Services

Recommendation:

1. Approve an agreement for on-call stormwater/water quality program services with Charles Abbott Associates, Inc., and
2. Approve a task order to Charles Abbott Associates, Inc. not to exceed \$162,950 to perform stormwater/water quality program services from August 1, 2024 through June 30, 2025.

Item No. 6: Adopt an Ordinance Approving Electronic and Paper Methods of Filing Campaign Finance Disclosure Statements

Recommendation: Approve the second reading of an Ordinance relating to campaign finance reporting and approving electronic and paper methods of filing campaign finance disclosure statements.

ORDINANCE NO. 1209

AN ORDINANCE OF THE CITY OF CYPRESS, CALIFORNIA
AMENDING SECTION 2-128 OF THE CYPRESS MUNICIPAL CODE
RELATING TO CAMPAIGN FINANCE REPORTING AND APPROVING
ELECTRONIC AND PAPER METHODS OF FILING CAMPAIGN
FINANCE DISCLOSURE STATEMENTS

Item No. 7: Adopt a Resolution Approving a Three-Year Memorandum of Understanding with the Cypress Employees' Association

Recommendation:

1. Adopt a Resolution approving a Memorandum of Understanding with the Cypress Employees' Association from July 1, 2024 through June 30, 2027 and;
2. Approve a \$125,000 appropriation in the General Fund for FY 2024-25 salary and benefit costs which exceed the adopted budget.

RESOLUTION NO. 6981

A RESOLUTION OF THE CITY COUNCIL AND ACTING AS EX-OFFICIO
BOARD OF DIRECTORS OF THE CYPRESS RECREATION AND PARK
DISTRICT OF THE CITY OF CYPRESS, APPROVING THE
MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF
CYPRESS AND THE CYPRESS EMPLOYEES' ASSOCIATION
CONCERNING WAGES, SALARIES, FRINGE BENEFITS AND
CONDITIONS OF EMPLOYMENT

Item No. 8: Approve an Agreement Renewing Computer Security Monitoring Services

Recommendation: Approve a three-year agreement with SHI International Corp. for \$42,834.13 to renew the CrowdStrike Computer Security Monitoring Services subscription.

Item No. 9: Adopt a Resolution approving the California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds with Kroger Co. to Resolve Lawsuits Accusing Pharmacy Chains of Mishandling Opioids Pain Drugs

Recommendation: Adopt a Resolution authorizing the City to enter into the Settlement Agreement with Kroger Co. to resolve lawsuits accusing pharmacy chains of mishandling opioid pain drugs, agree to the terms of the related State-Subdivision

Agreement, and authorize entry into the relates State-Subdivision Agreement with the Attorney General.

RESOLUTION NO. 6982

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CYPRESS
AUTHORIZING THE CITY OF CYPRESS TO ENTER INTO THE
SETTLEMENT AGREEMENT WITH KROGER CO., AGREE TO THE
TERMS OF THE RELATED STATE-SUBDIVISION AGREEMENT, AND
AUTHORIZE ENTRY INTO THE RELATED STATE-SUBDIVISION
AGREEMENT WITH THE ATTORNEY GENERAL

Item No. 10: Receive and File the Police Department's Annual Military Equipment Report Per California Assembly Bill 481

Recommendation:

1. Receive and file the Police Department's Annual Military Equipment Report per California Assembly Bill 481; and
2. Approve a renewal of the military equipment policy previously adopted by City Council Ordinance No. 1194.

PUBLIC HEARING

Item No. 11: Adopt Resolutions to Implement the 2021-2029 Housing Element, Certify the Housing Element Implementation Program Environmental Impact Report, and Hold a General Municipal Election on November 5, 2024

The City Manager provided introductory comments.

The Planning Director provided a report on this item.

The City Council asked questions of staff.

Mayor Minikus opened the Public Hearing.

Mayor Minikus invited members of the public to speak on this item.

Armando Sepulveda, Cypress, spoke in opposition of the item.

Paul Kokkinos, Cypress, requested transparency throughout the process.

Steve Sollitt, Cypress, spoke regarding concerns with housing density.

Larry Civitelli, Cypress, spoke regarding housing impact on local hospitals.

Marilyn Reames, Cypress, spoke in opposition of the item.

Brittany Cook, Cypress, spoke regarding housing element implementation education and outreach.

Donna McDougal, Cypress, spoke regarding concerns with housing density.

Tim Keenan, Cypress, spoke in support of the item.

Brian Rutt, Cypress, spoke in opposition of the item.

Gayel Kaplan, Cypress, spoke regarding concerns with housing density.

Claire Siverman, Cypress, asked questions regarding housing element and expressed concerns with traffic.

Rita Gamil, Cypress, spoke in opposition of the item.

Kori Sanders, Cypress, spoke in support of the item.

Brooke Nafarrete, Cypress, spoke regarding traffic concerns with increased housing.

Mayor Minikus closed the Public Hearing.

The City Council discussion ensued.

The City Attorney read the title of the Ordinance.

A motion was made by Council Member Mallari, and seconded by Mayor Pro Tem Peat, to Adopt a Resolution certifying the Housing Element Implementation Program Environmental Impact Report, approving the Findings of Fact, Statement of Overriding Consideration, and the Mitigation Monitoring and Reporting Program; and Adopt a Resolution ordering the submission to the qualified voters of a measure with discussed revisions to consider approval of an Ordinance repealing the Cypress Town Center and Commons Specific Plan 2.0 and adopting the Cypress Town Center and Commons Specific Plan 3.0; authorizing the Mayor to submit an argument in favor of the measure, setting priorities for filing a written argument regarding the measure; and directing the City Attorney to prepare an impartial analysis, and providing for the filing of any rebuttal argument; and Adopt a Resolution requesting the Board of Supervisors of the County of Orange consolidate a General Municipal Election with the Statewide General Election on November 5, 2024, for the purpose of submitting a Measure to the voters pursuant to Elections Code Section 10403.

The motion was carried by the following roll call vote:

AYES: 4 COUNCIL MEMBERS: Burke, Mallari, Peat and Minikus
NOES: 1 COUNCIL MEMBERS: Marquez
ABSENT: 0 COUNCIL MEMBERS: None

RESOLUTION NO. 6983

A RESOLUTION OF CITY COUNCIL OF THE CITY OF CYPRESS (1) ADOPTING THE FINDINGS REQUIRED BY CEQA GUIDELINES, SECTION 15091; (2) CERTIFYING THE ENVIRONMENTAL IMPACT REPORT (SCH NO. 2023040560) FOR THE PROGRAMMATIC UPDATE TO THE CITY'S GENERAL PLAN, LINCOLN AVENUE SPECIFIC PLAN, THE CYPRESS TOWN CENTER AND COMMONS SPECIFIC PLAN 2.0, THE 2012 CYPRESS BUSINESS AND PROFESSIONAL CENTER SPECIFIC PLAN, AND IMPLEMENTING ZONING ORDINANCE; (3) ADOPTING THE PROPOSED MITIGATION MONITORING AND REPORTING PROGRAM, AND (4) ADOPTING A STATEMENT OF OVERRIDING CONSIDERATIONS, PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT

RESOLUTION NO. 6984

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CYPRESS, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF CYPRESS OF A MEASURE TO CONSIDER APPROVAL OF AN ORDINANCE TO REPEAL THE CYPRESS TOWN CENTER AND COMMONS SPECIFIC PLAN 2.0 AND ADOPT THE CYPRESS TOWN CENTER AND COMMONS SPECIFIC PLAN 3.0 TO MEET THE CITY OF CYPRESS'S REGIONAL HOUSING NEEDS ALLOCATION AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, AS CALLED BY RESOLUTION NO. 6974

RESOLUTION NO. 6985

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CYPRESS, CALIFORNIA, REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF ORANGE TO CONSOLIDATE A GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 5, 2024, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE FOR THE SUBMISSION OF A MEASURE TO CONSIDER APPROVAL OF AN ORDINANCE TO REPEAL THE CYPRESS TOWN CENTER AND COMMONS SPECIFIC PLAN 2.0 AND ADOPT THE CYPRESS TOWN CENTER AND COMMONS SPECIFIC PLAN 3.0 TO MEET THE CITY OF CYPRESS'S REGIONAL HOUSING NEEDS ALLOCATION TO THE VOTERS PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

Mayor Minikus recessed the meeting at 8:36 p.m.

Mayor Minikus reconvened the meeting at 8:48 p.m.

NEW BUSINESS

None.

ITEMS REMOVED FROM CONSENT CALENDAR

Item No. 5: Approve Agreements to Replace the Roof and HVAC of a City-Owned Building at 10161 Moody Street (Cedar Glen Park), Project 378

Council Member Burke commented on this item.

The City Attorney provided clarifying comments regarding the lease agreement between the City and Boys and Girls Club.

A motion was made by Mayor Pro Tem Peat, and seconded by Council Member Buke, to approve an Agreement for Construction Services with MDJ, LLC., for \$507,766.02, and authorize a contingency of \$76,000; and Approve a Task Order for Construction Inspection Services to FCG Consultants, Inc., for \$49,265.70, and authorize a contingency of \$7,400; and appropriate \$640,432 in the City Capital Projects Fund for the Roof and HVAC Replacement at 10161 Moody Street (Cedar Glen Park), Project 378; and transfer \$620,432 from the Infrastructure Reserve Fund to the City Capital Projects Fund for Project 378; and increase estimated revenues by \$20,000 in the City Capital Projects Fund.

The motion was unanimously carried by the following roll call vote:

AYES: 5 COUNCIL MEMBERS: Burke, Mallari, Marquez, Peat and Minikus
NOES: 0 COUNCIL MEMBERS: None
ABSENT: 0 COUNCIL MEMBERS: None

ITEMS FROM CITY COUNCIL MEMBERS

Item No. 12: Receive Reports from Council Members Appointed to Represent the City on Organizations and Committees

Council Member Buke provided a report regarding the Orange County Library Advisory Board, Briges at Kramer Place Community Advisory Board, and the Cypress School District Ad Hoc Subcommittee.

Council Member Mallari provided a report regarding the Orange County Fire Authority, Economic Development Ad Hoc Subcommittee, Cypress College Ad Hoc Subcommittee, and Anaheim Union High School District Ad Hoc Subcommittee.

Council Member Marquez provided a report regarding the Santa Ana River Flood Protection Agency.

Mayor Pro Tem Peat provided a report regarding the Orange County Mosquito and Vector Control District, Veteran Recognition Ad Hoc Subcommittee, and Cypress College Ad Hoc Subcommittee.

Mayor Minikus provided a report regarding the Orange County Sanitation District, Anaheim Union High School District Ad Hoc Subcommittee, Regional Military Affairs Committee, League of California Cities General Assembly, Southern California Association of Governments General Assembly, Veteran Recognition Ad Hoc Subcommittee, and West Cities Police Communications Center.

ORAL COMMUNICATIONS:

Armando Sepulveda, Cypress, spoke regarding City Council decorum.

The City Attorney provided clarification regarding procedural guidelines.

Denise Inouye, Cypress, spoke regarding holiday decorations.

Esther Poch, Cypress, spoke regarding district elections.

Brooke Nafarrete, Cypress, spoke regarding City Council behavior during meetings.

COUNCIL MEMBER REPORTS FROM CITY-AFFILIATED BOARDS AND COMMITTEES AND REMARKS

Council Member Marquez

Attended Concerts on the Green and thanked the Recreation department. Attended the Orange County Public Library Career Online High School graduation ceremony.

Council Member Mallari:

Thanked the Recreation department for the Concerts on the Green and Senior programming.

Council Member Burke:

Congratulated the Recreation department on a successful Concert on the Green and Salute to America event. Attended the Orange County Public Library Career Online High School graduation ceremony.

Mayor Pro Tem Peat:

Attended the Regional Military Affairs Committee and OC Sanitation District Board meeting on behalf of Mayor Minikus. Attended Salute to America and Concerts on the Green. Provided information regarding viral infections transmitted by mosquitos to people.

Mayor Minikus:

Thanked Mayor Pro Tem Peat for attending OC Sanitation District and RMAC meetings on his behalf and stated he was out of town on a business trip. Attended Salute to America and Concerts on the Green.

COUNCIL MEMBER ITEMS FOR FUTURE CONSIDERATION

None.

CITY MANAGER REMARKS

City Attorney provided a report on two Supreme Court case related to homelessness.

ADJOURNMENT

Mayor Minikus adjourned the Regular Meeting at 9:41 p.m. to an adjourned Regular Meeting, to be held on Monday, August 26, 2024, beginning at 5:30 p.m. in the Executive Board Room.

ATTEST:

MAYOR OF THE CITY OF CYPRESS

CITY CLERK OF THE CITY OF CYPRESS

SPECIAL MEETING
CYPRESS CITY COUNCIL
JULY 11, 2024
1:00 P.M.

A special meeting of the Cypress City Council was called to order at 1:00 p.m. by Mayor Minikus in the Executive Board Room, 5275 Orange Avenue, Cypress, California

ROLL CALL

Cypress City Council, also acting as the Ex-Officio Governing Board of Directors of the Cypress Recreation and Park District

Mayor Scott Minikus
Mayor Pro Tem Bonnie Peat
Council Member David Burke
Council Member Anne Mallari
Council Member Frances Marquez - absent

STAFF PRESENT

City Attorney Fred Galante
City Clerk Alisha Farnell

ORAL COMMUNICATIONS (Limited to three minutes per speaker, unless modified by the City Council)

None.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Fortis LLP v. Frances Marquez, City of Cypress
Case No. 30-2022-01277792-CU-WM-CJC
Orange County Superior Court

Mayor Minikus recessed the meeting at 1:01 p.m.

Mayor Minikus reconvened the meeting at 1:58 p.m.

REPORT OF CLOSED SESSION

The City Attorney reported that the City Council met in Closed Session regarding the item listed on the agenda, namely conference with Legal Counsel – existing litigation, the matter of Fortis LLP v. Frances Marquez. He stated that Council Member Marquez abstained and did not participate in the Closed Session discussion. He further stated the

City Council, absent Council Member Marquez, received a briefing, provided direction and no further reportable action was taken.

ADJOURNMENT

Mayor Minikus adjourned the meeting at 1:59 p.m. to an adjourned Regular Meeting, to be held on Monday, August 26, 2024, beginning at 5:30 p.m. in the Executive Board Room.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS

SPECIAL MEETING
CYPRESS CITY COUNCIL
AUGUST 9, 2024
11:00 A.M.

A special meeting of the Cypress City Council was called to order at 11:05 a.m. by Mayor Minikus in the Executive Board Room, 5275 Orange Avenue, Cypress, California

ROLL CALL

Cypress City Council, also acting as the Ex-Officio Governing Board of Directors of the Cypress Recreation and Park District

Mayor Scott Minikus
Mayor Pro Tem Bonnie Peat
Council Member David Burke
Council Member Anne Mallari
Council Member Frances Marquez - absent

STAFF PRESENT

Assistant City Attorney Yecenia Vargas
City Clerk Alisha Farnell

ORAL COMMUNICATIONS (Limited to three minutes per speaker, unless modified by the City Council)

None.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – ANTICIPATED LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Discussion of Potential Initiation of Litigation – One Potential Case

Mayor Minikus recessed the meeting at 11:06 a.m.

Mayor Minikus reconvened the meeting at 11:30 a.m.

REPORT OF CLOSED SESSION

Assistant City Attorney Vargas reported that the City Council met in Closed Session regarding the item listed on the agenda, namely conference with Legal Counsel – anticipated litigation pursuant to Government Code Section 54956.9(d)(1), discussion of potential initiation of litigation, one potential case. She stated the City Council held a discussion and by motion of Mayor Minikus, seconded by Council Member Mallari, and

carried 4-0-1, authorized the City to initiate litigation via writ of mandate to compel the correction of the rebuttal to the argument in favor of Measure S.

ADJOURNMENT

Mayor Minikus adjourned the meeting at 11:32 a.m. to an adjourned Regular Meeting, to be held on Monday, August 26, 2024, beginning at 5:30 p.m. in the Executive Board Room.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS

SPECIAL MEETING
CYPRESS CITY COUNCIL
AUGUST 21, 2024
2:00 P.M.

A special meeting of the Cypress City Council was called to order at 2:03 p.m. by Mayor Minikus in the Executive Board Room, 5275 Orange Avenue, Cypress, California

ROLL CALL

Cypress City Council, also acting as the Ex-Officio Governing Board of Directors of the Cypress Recreation and Park District

Mayor Scott Minikus
Mayor Pro Tem Bonnie Peat
Council Member David Burke
Council Member Anne Mallari
Council Member Frances Marquez - absent

STAFF PRESENT

City Manager Peter Grant
City Attorney Fred Galante
Special Council Todd Litfin
City Clerk Alisha Farnell

ORAL COMMUNICATIONS (Limited to three minutes per speaker, unless modified by the City Council)

None.

CLOSED SESSION

CONFERENCE WITH LEGAL COUNSEL – EXISTING LITIGATION
Pursuant to Government Code Section 54956.9(d)(1)
Fortis LLP v. Frances Marquez, City of Cypress
Case No. 30-2022-01277792-CU-WM-CJC
Orange County Superior Court

Mayor Minikus recessed the meeting at 2:04 p.m.

Mayor Minikus reconvened the meeting at 3:00 p.m.

REPORT OF CLOSED SESSION

The City Attorney reported that the City Council met in Closed Session regarding the item listed on the agenda, namely conference with Legal Counsel – existing litigation, the

matter of Fortis LLP v. Frances Marquez. He stated the City Council received a briefing and no further reportable action was taken.

ADJOURNMENT

Mayor Minikus adjourned the meeting at 3:01 p.m. to an adjourned Regular Meeting, to be held on Monday, August 26, 2024, beginning at 5:30 p.m. in the Executive Board Room.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS



CITY OF CYPRESS

CITY COUNCIL REPORT

City Council Regular

3.

FROM: Alisha Farnell, City Clerk

DATE: 09/09/2024

SUBJECT: Adopt a Resolution to Amend the Conflict of Interest Code

RECOMMENDATION

Adopt a Resolution amending the Conflict of Interest Code for the City and Recreation and Park District, which supersedes all prior Conflict of Interest Codes and amendments previously adopted.

DISCUSSION

The Political Reform Act (Act) requires every state and local agency to adopt a Conflict of Interest Code (Code) that obligates officials and employees who make governmental decisions to disclose their financial interests. To help identify potential conflicts of interest, the law requires public officials and employees in Conflict of Interest Code positions to report their financial interests on a Statement of Economic Interests Form (Form 700).

The Act requires an agency's Conflict of Interest Code to include three components:

1. **Incorporation Section (Terms of the Code)** - This section designates where Form 700s are filed and retained (i.e., the agency or the Fair Political Practices Commission). This section also must reference Fair Political Practices Commission Regulation 18730, which provides the rules for disqualification procedures, reporting financial interests, and references the current gift limit. Regulation 18730 is attached.
2. **List of Designated Positions** - The Code must list all positions that involve the making or participation in making of decisions that, "may foreseeably have a material effect on any financial interest."
3. **Detailed Disclosure Categories** - A disclosure category is a description of the types of financial interests disclosed on Form 700.

The Political Reform Act requires every local agency to review its Code at least every even-numbered year to ensure it remains current and accurate.

Minor revisions to the Conflict of Interest Code are needed at this time to update the list of designated filers to remove positions that have been eliminated and no longer exist in the organization, namely Building Official, City Planner, and Deputy City Attorney.

The attached Resolution adopts the Conflict of Interest Code for the City and Recreation and Park District. Additionally, the City is required to complete and execute the 2024 Local Agency Biennial Notice form and maintain a copy on file in the City Clerk's office.

BUDGET IMPACT

None.

LEGAL REVIEW

None required.

APPROVED BY:

Peter Grant, City Manager

Attachments

Resolution

Conflict of Interest Code

FPPC Regulation 18730

2024 Local Agency Biennial Notice

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CYPRESS,
AND ACTING AS THE EX-OFFICIO GOVERNING BOARD OF
DIRECTORS OF THE CYPRESS RECREATION AND PARK DISTRICT,
A SUBSIDIARY DISTRICT OF THE CITY OF CYPRESS, ADOPTING A
CONFLICT OF INTEREST CODE WHICH SUPERSEDES ALL PRIOR
CONFLICT OF INTEREST CODES AND AMENDMENTS PREVIOUSLY
ADOPTED

WHEREAS, the Political Reform Act of 1974, Government Code §§ 81000 *et seq.*, requires every state or local government agency to adopt and promulgate a Conflict of Interest Code and to amend the same on a regular basis; and

WHEREAS, the City of Cypress has previously adopted a Conflict of Interest Code, and that Code now requires amendment; and

WHEREAS, the Fair Political Practices Commission ("FPPC") has adopted Regulation 18730, of the California Code of Regulations (2 Cal. Code of Regulations, § 18730), which contains the terms of a standard or model conflict of interest code, which can be incorporated by reference, and which will be amended to conform to amendments in the Political Reform Act after public notice and hearings conducted by the Fair Political Practices Commission pursuant to the Administrative Procedure Act; and

WHEREAS, incorporation by reference of the terms of the aforementioned regulation and amendments to it will help clarify the Conflict of Interest Code requirements and make compliance with such Code easier.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CYPRESS, AND ACTING AS THE EX-OFFICIO GOVERNING BOARD OF DIRECTORS OF THE CYPRESS RECREATION AND PARK DISTRICT, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The attached Conflict of Interest Code incorporating by reference the terms of Regulation 18730 of the California Code of Regulations, and any amendments to it duly adopted by the Fair Political Practices Commission and the attached Appendices "A" and "B" in which officials and employees are designated and disclosure categories are set forth are hereby incorporated by reference and constitute the Conflict of Interest Code for the City of Cypress, California.

SECTION 2. Persons holding designated positions shall file Statements of Economic Interests pursuant to said Conflict of Interest Code.

SECTION 3. The provisions of all Conflict of Interest Codes and amendments thereto previously adopted for the City of Cypress are hereby superseded.

SECTION 4. The provisions of this Conflict of Interest Code will become effective upon approval of the City Council of the City of Cypress, and ex-officio governing Board of Directors of the Cypress, Recreation and Park District.

PASSED, APPROVED AND ADOPTED by the City Council of the City of Cypress, and ex-officio governing Board of Directors of the Cypress Recreation and Park District, at a regular meeting held on the 9th day of September, 2024.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS

I, ALISHA FARNELL, City Clerk of the City of Cypress, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of the said City Council held on the 9th day of September, 2024, by the following roll call vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

CITY CLERK OF THE CITY OF CYPRESS

CONFLICT OF INTEREST CODE
OF THE CITY OF CYPRESS AND THE
CYPRESS RECREATION AND PARK DISTRICT

The Political Reform Act (Government Code §§ 87100 *et seq.*) requires state and local government agencies to adopt and promulgate Conflict of Interest Codes. The Fair Political Practices Commission has adopted a regulation (2 California Code of Regulations Section 18730) that contains the terms of a standard Conflict of Interest Code, which can be incorporated by reference in an agency's code. After public notice and hearing, Regulation 18730 may be amended by the Fair Political Practices Commission to conform to amendments in the Political Reform Act. Therefore, the terms of 2 California Code of Regulations Section 18730 and any amendments to it duly adopted by the Fair Political Practices Commission, is hereby incorporated by reference. This regulation and the attached Appendices, designating positions and establishing disclosure categories, shall constitute the Conflict of Interest Code of the City of Cypress and the Cypress Recreation and Park District.

Individuals holding designated positions shall file statements of economic interests with the City of Cypress. Upon receipt of the statements of the City Council, City Manager, City Attorney, and City Treasurer, who are required to file statements of economic interests under Government Code § 87200, this agency shall make and retain copies and forward the originals of these statements to the Fair Political Practices Commission. Statements for all other designated positions will be retained by the City of Cypress.

Designated employees and individuals who shall file statements of economic interests with the City of Cypress are so designated in Appendix "A."

Legal Reference:

EDUCATION CODE

1006 Prohibitions applicable to specified officers

GOVERNMENT CODE

1090-1097 Prohibitions applicable to specified officers

1125-1128 Incompatible activities

82028 Definitions "Gifts"

82030 Definitions "Income"

82033 Definitions "Interest in real property"

87100-87103.5 Conflicts of Interest

87200-87210 Disclosure

87300-87313 Conflict of interest code

87500 Statements of economic interests

91000-91015 Enforcement

CODE OF REGULATIONS, TITLE 2

18100 *et seq.* Regulations of the Fair Political Practices Commission

69 OPS. CAL. ATTY. GEN 225 (1986)

APPENDIX “A”

<u>Designated Positions</u>	<u>Disclosure Category</u>
Assistant City Attorney.....	1,2,3,4,5,6
Chief of Police.....	1,2,3,4,5,6
City Attorney.....	1,2,3,4,5,6
City Clerk.....	1,2,3,4,5,6
City Council.....	1,2,3,4,5,6
City Engineer.....	1,2,3,4,5,6
City Manager.....	1,2,3,4,5,6
City Treasurer/Director of Finance and Administrative Services.....	1,2,3,4,5,6
Consultants*	1,2,3,4,5,6
Director of Community Development/Planning.....	1,2,3,4,5,6
Director of Public Works.....	1,2,3,4,5,6
Director of Recreation and Community Services.....	1,2,3,4,5,6
Finance Manager/Assistant Director of Finance and Administrative Services.....	1,2,3,4,5,6
Human Resources Manager.....	1,2,3,4,5,6
Information Technology Manager.....	1,2,3,4,5,6
Maintenance Superintendent.....	1,2,3,4,5,6
Members of all City Commissions, Boards, and Committees.....	1,2,3,4,5,6
Police Captain.....	1,2,3,4,5,6
Recreation and Community Services Manager.....	1,2,3,4,5,6
Police Lieutenant	1,2,3,4,5,6
Senior Management Analyst.....	1,2,3,4,5,6

*Consultants shall disclose pursuant to the broadest disclosure category in the Code subject to the following limitations: The City Manager may determine in writing that a particular consultant, although a “designated position,” is hired to perform a range of duties that is limited in scope and thus is not required to fully comply with the disclosure requirements in this Section. Such written determination shall include a description of the consultant’s duties and, based upon that description, a statement of the extent of disclosure requirements. The City Manager’s determination is a public record and shall be retained for public inspection in the same manner and location as this Conflict of Interest Code.

APPENDIX “B”

DISCLOSURE CATEGORIES

Designated Employees in Disclosure Category 1 Must Report:

All interest in real property, as defined in Government Code § 82033, within the jurisdiction. Real property shall be deemed to be within the jurisdiction of the property or any part of it is located within or not more than two miles outside the boundaries of the City of Cypress, or within two miles of any land owned or used by the City of Cypress. No disclosure need be made concerning the principal residence of the designated employee.

Designated Employees in Disclosure Category 2 Must Report:

All investments, as defined in Government Code § 87034. Financial interests are reportable only if located within or subject to the jurisdiction of the City of Cypress, or if the business entity is doing business or planning to do business in the City of Cypress, or has done business within the City of Cypress at any time during the two years prior to the filing of the statement.

Designated Employees in Disclosure Category 3 Must Report:

All income, as defined in Government Code § 82030, from any source located or doing business within the jurisdiction or expecting to do business within the jurisdiction. Income received from a public agency need not be disclosed.

Designated Employees in Disclosure Category 4 Must Report:

Employees whose duties involve contracting or purchasing:

Contracts or makes purchases for the entire City: Investments and business positions in business entities and sources of income, which provide services, supplies, materials, machinery or equipment of the type utilized by the City of Cypress.

Contracts or makes purchases for specific department: Investments and business positions in business entities and sources of income, which provide services, supplies materials, machinery or equipment of the type utilized by the designated employee's department or division.

Designated Employees in Disclosure Category 5 Must Report: Investments and business positions in business entities, and sources of income, which engage in land development, construction or the acquisition or sale of real property, and all interests in real property.

Designated Employees in Disclosure Category 6 Must Report: All investments and business positions in business entities, and sources of income, which are subject to the regulatory, permit or licensing authority of the City of Cypress.

(Regulations of the Fair Political Practices Commission, Title 2, Division 6, California Code of Regulations)

§ 18730. Provisions of Conflict of Interest Codes.

(a) Incorporation by reference of the terms of this regulation along with the designation of employees and the formulation of disclosure categories in the Appendix referred to below constitute the adoption and promulgation of a conflict of interest code within the meaning of Section 87300 or the amendment of a conflict of interest code within the meaning of Section 87306 if the terms of this regulation are substituted for terms of a conflict of interest code already in effect. A code so amended or adopted and promulgated requires the reporting of reportable items in a manner substantially equivalent to the requirements of article 2 of chapter 7 of the Political Reform Act, Sections 81000, et seq. The requirements of a conflict of interest code are in addition to other requirements of the Political Reform Act, such as the general prohibition against conflicts of interest contained in Section 87100, and to other state or local laws pertaining to conflicts of interest.

(b) The terms of a conflict of interest code amended or adopted and promulgated pursuant to this regulation are as follows:

(1) Section 1. Definitions.

The definitions contained in the Political Reform Act of 1974, regulations of the Fair Political Practices Commission (Regulations 18110, et seq.), and any amendments to the Act or regulations, are incorporated by reference into this conflict of interest code.

(2) Section 2. Designated Employees.

The persons holding positions listed in the Appendix are designated employees. It has been determined that these persons make or participate in the making of decisions which may foreseeably have a material effect on economic interests.

(3) Section 3. Disclosure Categories.

This code does not establish any disclosure obligation for those designated employees who are also specified in Section 87200 if they are designated in this code in that same capacity or if the geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction in which those persons must report their economic interests pursuant to article 2 of chapter 7 of the Political Reform Act, Sections 87200, et seq.

In addition, this code does not establish any disclosure obligation for any designated employees who are designated in a conflict of interest code for another agency, if all of the following apply:

(A) The geographical jurisdiction of this agency is the same as or is wholly included within the jurisdiction of the other agency;

(B) The disclosure assigned in the code of the other agency is the same as that required under article 2 of chapter 7 of the Political Reform Act, Section 87200; and

(C) The filing officer is the same for both agencies.¹

Such persons are covered by this code for disqualification purposes only. With respect to all other designated employees, the disclosure categories set forth in the Appendix specify which kinds of economic interests are reportable. Such a designated employee shall disclose in the employee's statement of economic interests those economic interests the employee has which are of the kind described in the disclosure categories to which the employee is assigned in the Appendix. It has been determined that the economic interests set forth in a designated employee's

disclosure categories are the kinds of economic interests which the employee foreseeably can affect materially through the conduct of the employee's office.

(4) Section 4. Statements of Economic Interests: Place of Filing.

The code reviewing body shall instruct all designated employees within its code to file statements of economic interests with the agency or with the code reviewing body, as provided by the code reviewing body in the agency's conflict of interest code.²

(5) Section 5. Statements of Economic Interests: Time of Filing.

(A) Initial Statements. All designated employees employed by the agency on the effective date of this code, as originally adopted, promulgated and approved by the code reviewing body, shall file statements within 30 days after the effective date of this code. Thereafter, each person already in a position when it is designated by an amendment to this code shall file an initial statement within 30 days after the effective date of the amendment.

(B) Assuming Office Statements. All persons assuming designated positions after the effective date of this code shall file statements within 30 days after assuming the designated positions, or if subject to State Senate confirmation, 30 days after being nominated or appointed.

(C) Annual Statements. All designated employees shall file statements no later than April 1. If a person reports for military service as defined in the Servicemember's Civil Relief Act, the deadline for the annual statement of economic interests is 30 days following the person's return to office, provided the person, or someone authorized to represent the person's interests, notifies the filing officer in writing prior to the applicable filing deadline that the person is subject to that federal statute and is unable to meet the applicable deadline, and provides the filing officer verification of the person's military status.

(D) Leaving Office Statements. All persons who leave designated positions shall file statements within 30 days after leaving office.

(5.5) Section 5.5. Statements for Persons Who Resign Prior to Assuming Office.

Any person who resigns within 12 months of initial appointment, or within 30 days of the date of notice provided by the filing officer to file an assuming office statement, is not deemed to have assumed office or left office, provided the person did not make or participate in the making of, or use the person's position to influence any decision and did not receive or become entitled to receive any form of payment as a result of the person's appointment. Such persons shall not file either an assuming or leaving office statement.

(A) Any person who resigns a position within 30 days of the date of a notice from the filing officer shall do both of the following:

(1) File a written resignation with the appointing power; and

(2) File a written statement with the filing officer declaring under penalty of perjury that during the period between appointment and resignation the person did not make, participate in the making, or use the position to influence any decision of the agency or receive, or become entitled to receive, any form of payment by virtue of being appointed to the position.

(6) Section 6. Contents of and Period Covered by Statements of Economic Interests.

(A) Contents of Initial Statements.

Initial statements shall disclose any reportable investments, interests in real property and business positions held on the effective date of the code and income received during the 12 months prior to the effective date of the code.

(B) Contents of Assuming Office Statements.

Assuming office statements shall disclose any reportable investments, interests in real property and business positions held on the date of assuming office or, if subject to State Senate confirmation or appointment, on the date of nomination, and income received during the 12 months prior to the date of assuming office or the date of being appointed or nominated, respectively.

(C) Contents of Annual Statements. Annual statements shall disclose any reportable investments, interests in real property, income and business positions held or received during the previous calendar year provided, however, that the period covered by an employee's first annual statement shall begin on the effective date of the code or the date of assuming office whichever is later, or for a board or commission member subject to Section 87302.6, the day after the closing date of the most recent statement filed by the member pursuant to Regulation 18754.

(D) Contents of Leaving Office Statements.

Leaving office statements shall disclose reportable investments, interests in real property, income and business positions held or received during the period between the closing date of the last statement filed and the date of leaving office.

(7) Section 7. Manner of Reporting.

Statements of economic interests shall be made on forms prescribed by the Fair Political Practices Commission and supplied by the agency, and shall contain the following information:

(A) Investment and Real Property Disclosure.

When an investment or an interest in real property³ is required to be reported,⁴ the statement shall contain the following:

1. A statement of the nature of the investment or interest;

2. The name of the business entity in which each investment is held, and a general description of the business activity in which the business entity is engaged;
3. The address or other precise location of the real property;
4. A statement whether the fair market value of the investment or interest in real property equals or exceeds \$2,000, exceeds \$10,000, exceeds \$100,000, or exceeds \$1,000,000.

(B) Personal Income Disclosure. When personal income is required to be reported,⁵ the statement shall contain:

1. The name and address of each source of income aggregating \$500 or more in value, or \$50 or more in value if the income was a gift, and a general description of the business activity, if any, of each source;
2. A statement whether the aggregate value of income from each source, or in the case of a loan, the highest amount owed to each source, was \$1,000 or less, greater than \$1,000, greater than \$10,000, or greater than \$100,000;
3. A description of the consideration, if any, for which the income was received;
4. In the case of a gift, the name, address and business activity of the donor and any intermediary through which the gift was made; a description of the gift; the amount or value of the gift; and the date on which the gift was received;
5. In the case of a loan, the annual interest rate and the security, if any, given for the loan and the term of the loan.

(C) Business Entity Income Disclosure. When income of a business entity, including income of a sole proprietorship, is required to be reported,⁶ the statement shall contain:

1. The name, address, and a general description of the business activity of the business entity;

2. The name of every person from whom the business entity received payments if the filer's pro rata share of gross receipts from such person was equal to or greater than \$10,000.

(D) Business Position Disclosure. When business positions are required to be reported, a designated employee shall list the name and address of each business entity in which the employee is a director, officer, partner, trustee, employee, or in which the employee holds any position of management, a description of the business activity in which the business entity is engaged, and the designated employee's position with the business entity.

(E) Acquisition or Disposal During Reporting Period. In the case of an annual or leaving office statement, if an investment or an interest in real property was partially or wholly acquired or disposed of during the period covered by the statement, the statement shall contain the date of acquisition or disposal.

(8) Section 8. Prohibition on Receipt of Honoraria.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept any honorarium from any source, if the member or employee would be required to report the receipt of income or gifts from that source on the member's or employee's statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (a), (b), and (c) of Section 89501 shall apply to the prohibitions in this section.

(D) This section shall not limit or prohibit payments, advances, or reimbursements for travel and related lodging and subsistence authorized by Section 89506.

(8.1) Section 8.1. Prohibition on Receipt of Gifts in Excess of \$520.

(A) No member of a state board or commission, and no designated employee of a state or local government agency, shall accept gifts with a total value of more than \$520 in a calendar year from any single source, if the member or employee would be required to report the receipt of income or gifts from that source on the member's or employee's statement of economic interests.

(B) This section shall not apply to any part-time member of the governing board of any public institution of higher education, unless the member is also an elected official.

(C) Subdivisions (e), (f), and (g) of Section 89503 shall apply to the prohibitions in this section.

(8.2) Section 8.2. Loans to Public Officials.

(A) No elected officer of a state or local government agency shall, from the date of the election to office through the date that the officer vacates office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the elected officer holds office or over which the elected officer's agency has direction and control.

(B) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while he or she holds office, receive a personal loan from any officer, employee, member, or consultant of the state or local government agency in which the public official holds office or over which the public official's agency has direction and control. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(C) No elected officer of a state or local government agency shall, from the date of the election to office through the date that the officer vacates office, receive a personal loan from

any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status.

(D) No public official who is exempt from the state civil service system pursuant to subdivisions (c), (d), (e), (f), and (g) of Section 4 of Article VII of the Constitution shall, while the official holds office, receive a personal loan from any person who has a contract with the state or local government agency to which that elected officer has been elected or over which that elected officer's agency has direction and control. This subdivision shall not apply to loans made by banks or other financial institutions or to any indebtedness created as part of a retail installment or credit card transaction, if the loan is made or the indebtedness created in the lender's regular course of business on terms available to members of the public without regard to the elected officer's official status. This subdivision shall not apply to loans made to a public official whose duties are solely secretarial, clerical, or manual.

(E) This section shall not apply to the following:

1. Loans made to the campaign committee of an elected officer or candidate for elective office.

2. Loans made by a public official's spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such persons, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans from a person which, in the aggregate, do not exceed \$500 at any given time.

4. Loans made, or offered in writing, before January 1, 1998.

(8.3) Section 8.3. Loan Terms.

(A) Except as set forth in subdivision (B), no elected officer of a state or local government agency shall, from the date of the officer's election to office through the date the officer vacates office, receive a personal loan of \$500 or more, except when the loan is in writing and clearly states the terms of the loan, including the parties to the loan agreement, date of the loan, amount of the loan, term of the loan, date or dates when payments shall be due on the loan and the amount of the payments, and the rate of interest paid on the loan.

(B) This section shall not apply to the following types of loans:

1. Loans made to the campaign committee of the elected officer.

2. Loans made to the elected officer by his or her spouse, child, parent, grandparent, grandchild, brother, sister, parent-in-law, brother-in-law, sister-in-law, nephew, niece, aunt, uncle, or first cousin, or the spouse of any such person, provided that the person making the loan is not acting as an agent or intermediary for any person not otherwise exempted under this section.

3. Loans made, or offered in writing, before January 1, 1998.

(C) Nothing in this section shall exempt any person from any other provision of Title 9 of the Government Code.

(8.4) Section 8.4. Personal Loans.

(A) Except as set forth in subdivision (B), a personal loan received by any designated employee shall become a gift to the designated employee for the purposes of this section in the following circumstances:

1. If the loan has a defined date or dates for repayment, when the statute of limitations for filing an action for default has expired.

2. If the loan has no defined date or dates for repayment, when one year has elapsed from the later of the following:

- a. The date the loan was made.
- b. The date the last payment of \$100 or more was made on the loan.
- c. The date upon which the debtor has made payments on the loan aggregating to less than \$250 during the previous 12 months.

(B) This section shall not apply to the following types of loans:

- 1. A loan made to the campaign committee of an elected officer or a candidate for elective office.
- 2. A loan that would otherwise not be a gift as defined in this title.
- 3. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor has taken reasonable action to collect the balance due.
- 4. A loan that would otherwise be a gift as set forth under subdivision (A), but on which the creditor, based on reasonable business considerations, has not undertaken collection action. Except in a criminal action, a creditor who claims that a loan is not a gift on the basis of this paragraph has the burden of proving that the decision for not taking collection action was based on reasonable business considerations.
- 5. A loan made to a debtor who has filed for bankruptcy and the loan is ultimately discharged in bankruptcy.

(C) Nothing in this section shall exempt any person from any other provisions of Title 9 of the Government Code.

(9) Section 9. Disqualification.

No designated employee shall make, participate in making, or in any way attempt to use the employee's official position to influence the making of any governmental decision which the employee knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the official or a member of the official's immediate family or on:

(A) Any business entity in which the designated employee has a direct or indirect investment worth \$2,000 or more;

(B) Any real property in which the designated employee has a direct or indirect interest worth \$2,000 or more;

(C) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating \$500 or more in value provided to, received by or promised to the designated employee within 12 months prior to the time when the decision is made;

(D) Any business entity in which the designated employee is a director, officer, partner, trustee, employee, or holds any position of management; or

(E) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating \$500 or more provided to, received by, or promised to the designated employee within 12 months prior to the time when the decision is made.

(9.3) Section 9.3. Legally Required Participation.

No designated employee shall be prevented from making or participating in the making of any decision to the extent the employee's participation is legally required for the decision to be made.

The fact that the vote of a designated employee who is on a voting body is needed to break a tie does not make the employees' participation legally required for purposes of this section.

(9.5) Section 9.5. Disqualification of State Officers and Employees.

In addition to the general disqualification provisions of section 9, no state administrative official shall make, participate in making, or use the official's position to influence any governmental decision directly relating to any contract where the state administrative official knows or has reason to know that any party to the contract is a person with whom the state administrative official, or any member of the official's immediate family has, within 12 months prior to the time when the official action is to be taken:

(A) Engaged in a business transaction or transactions on terms not available to members of the public, regarding any investment or interest in real property; or

(B) Engaged in a business transaction or transactions on terms not available to members of the public regarding the rendering of goods or services totaling in value \$1,000 or more.

(10) Section 10. Disclosure of Disqualifying Interest.

When a designated employee determines that the employee should not make a governmental decision because the employee has a disqualifying interest in it, the determination not to act may be accompanied by disclosure of the disqualifying interest.

(11) Section 11. Assistance of the Commission and Counsel.

Any designated employee who is unsure of the duties under this code may request assistance from the Fair Political Practices Commission pursuant to Section 83114 and Regulations 18329 and 18329.5 or from the attorney for the employee's agency, provided that nothing in this section requires the attorney for the agency to issue any formal or informal opinion.

(12) Section 12. Violations.

This code has the force and effect of law. Designated employees violating any provision of this code are subject to the administrative, criminal and civil sanctions provided in the Political Reform Act, Sections 81000-91014. In addition, a decision in relation to which a violation of the disqualification provisions of this code or of Section 87100 or 87450 has occurred may be set aside as void pursuant to Section 91003.

¹ Designated employees who are required to file statements of economic interests under any other agency's conflict of interest code, or under article 2 for a different jurisdiction, may expand their statement of economic interests to cover reportable interests in both jurisdictions, and file copies of this expanded statement with both entities in lieu of filing separate and distinct statements, provided that each copy of such expanded statement filed in place of an original is signed and verified by the designated employee as if it were an original. See Section 81004.

² See Section 81010 and Regulation 18115 for the duties of filing officers and persons in agencies who make and retain copies of statements and forward the originals to the filing officer.

³ For the purpose of disclosure only (not disqualification), an interest in real property does not include the principal residence of the filer.

⁴ Investments and interests in real property which have a fair market value of less than \$2,000 are not investments and interests in real property within the meaning of the Political Reform Act. However, investments or interests in real property of an individual include those held by the individual's spouse and dependent children as well as a pro rata share of any investment or interest in real property of any business entity or trust in which the individual, spouse and dependent children own, in the aggregate, a direct, indirect or beneficial interest of 10 percent or greater.

⁵ A designated employee's income includes the employee's community property interest in the income of the employee's spouse but does not include salary or reimbursement for expenses received from a state, local or federal government agency.

⁶ Income of a business entity is reportable if the direct, indirect or beneficial interest of the filer and the filer's spouse in the business entity aggregates a 10 percent or greater interest. In addition, the disclosure of persons who are clients or customers of a business entity is required only if the clients or customers are within one of the disclosure categories of the filer.

Note: Authority cited: Section 83112, Government Code. Reference: Sections 87103(e), 87300-87302, 89501, 89502 and 89503, Government Code.

HISTORY

1. New section filed 4-2-80 as an emergency; effective upon filing (Register 80, No. 14).
Certificate of Compliance included.
2. Editorial correction (Register 80, No. 29).
3. Amendment of subsection (b) filed 1-9-81; effective thirtieth day thereafter (Register 81, No. 2).
4. Amendment of subsection (b)(7)(B)1. filed 1-26-83; effective thirtieth day thereafter (Register 83, No. 5).
5. Amendment of subsection (b)(7)(A) filed 11-10-83; effective thirtieth day thereafter (Register 83, No. 46).
6. Amendment filed 4-13-87; operative 5-13-87 (Register 87, No. 16).
7. Amendment of subsection (b) filed 10-21-88; operative 11-20-88 (Register 88, No. 46).
8. Amendment of subsections (b)(8)(A) and (b)(8)(B) and numerous editorial changes filed 8-28-90; operative 9-27-90 (Reg. 90, No. 42).

9. Amendment of subsections (b)(3), (b)(8) and renumbering of following subsections and amendment of Note filed 8-7-92; operative 9-7-92 (Register 92, No. 32).
10. Amendment of subsection (b)(5.5) and new subsections (b)(5.5)(A)-(A)(2) filed 2-4-93; operative 2-4-93 (Register 93, No. 6).
11. Change without regulatory effect adopting Conflict of Interest Code for California Mental Health Planning Council filed 11-22-93 pursuant to title 1, section 100, California Code of Regulations (Register 93, No. 48). Approved by Fair Political Practices Commission 9-21-93.
12. Change without regulatory effect redesignating Conflict of Interest Code for California Mental Health Planning Council as chapter 62, section 55100 filed 1-4-94 pursuant to title 1, section 100, California Code of Regulations (Register 94, No. 1).
13. Editorial correction adding History 11 and 12 and deleting duplicate section number (Register 94, No. 17).
14. Amendment of subsection (b)(8), designation of subsection (b)(8)(A), new subsection (b)(8)(B), and amendment of subsections (b)(8.1)-(b)(8.1)(B), (b)(9)(E) and Note filed 3-14-95; operative 3-14-95 pursuant to Government Code section 11343.4(d) (Register 95, No. 11).
15. Editorial correction inserting inadvertently omitted language in footnote 4 (Register 96, No. 13).
16. Amendment of subsections (b)(8)(A)-(B) and (b)(8.1)(A), repealer of subsection (b)(8.1)(B), and amendment of subsection (b)(12) filed 10-23-96; operative 10-23-96 pursuant to Government Code section 11343.4(d) (Register 96, No. 43).
17. Amendment of subsections (b)(8.1) and (9)(E) filed 4-9-97; operative 4-9-97 pursuant to Government Code section 11343.4(d) (Register 97, No. 15).

18. Amendment of subsections (b)(7)(B)5., new subsections (b)(8.2)-(b)(8.4)(C) and amendment of Note filed 8-24-98; operative 8-24-98 pursuant to Government Code section 11343.4(d) (Register 98, No. 35).

19. Editorial correction of subsection (a) (Register 98, No. 47).

20. Amendment of subsections (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 5-11-99; operative 5-11-99 pursuant to Government Code section 11343.4(d) (Register 99, No. 20).

21. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-6-2000; operative 1-1-2001 pursuant to the 1974 version of Government Code section 11380.2 and Title 2, California Code of Regulations, section 18312(d) and (e) (Register 2000, No. 49).

22. Amendment of subsections (b)(3) and (b)(10) filed 1-10-2001; operative 2-1-2001.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 2).

23. Amendment of subsections (b)(7)(A)4., (b)(7)(B)1.-2., (b)(8.2)(E)3., (b)(9)(A)-(C) and footnote 4. filed 2-13-2001. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2001, No. 7).

24. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 1-16-2003; operative 1-1-2003.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District,

nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2003, No. 3).

25. Editorial correction of History 24 (Register 2003, No. 12).

26. Editorial correction removing extraneous phrase in subsection (b)(9.5)(B) (Register 2004, No. 33).

27. Amendment of subsections (b)(2)-(3), (b)(3)(C), (b)(6)(C), (b)(8.1)-(b)(8.1)(A), (b)(9)(E) and (b)(11)-(12) filed 1-4-2005; operative 1-1-2005 pursuant to Government Code section 11343.4 (Register 2005, No. 1).

28. Amendment of subsection (b)(7)(A)4. filed 10-11-2005; operative 11-10-2005 (Register 2005, No. 41).

29. Amendment of subsections (a), (b)(1), (b)(3), (b)(8.1), (b)(8.1)(A) and (b)(9)(E) filed 12-18-2006; operative 1-1-2007. Submitted to OAL pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2006, No. 51).

30. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 10-31-2008; operative 11-30-2008. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2008, No. 44).

31. Amendment of section heading and section filed 11-15-2010; operative 12-15-2010. Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of*

Administrative Law, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2010, No. 47).

32. Amendment of section heading and subsections (a)-(b)(1), (b)(3)-(4), (b)(5)(C), (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) and amendment of footnote 1 filed 1-8-2013; operative 2-7-2013.

Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2013, No. 2).

33. Amendment of subsections (b)(8.1)-(b)(8.1)(A), (b)(8.2)(E)3. and (b)(9)(E) filed 12-15-2014; operative 1-1-2015 pursuant to section 18312(e)(1)(A), title 2, California Code of Regulations.

Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements) (Register 2014, No. 51).

34. Redesignation of portions of subsection (b)(8)(A) as new subsections (b)(8)(B)-(D), amendment of subsections (b)(8.1)-(b)(8.1)(A), redesignation of portions of subsection (b)(8.1)(A) as new subsections (b)(8.1)(B)-(C) and amendment of subsection (b)(9)(E) filed 12-1-2016; operative 12-31-2016 pursuant to Cal. Code Regs. tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision,

April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2016, No. 49).

35. Amendment of subsections (b)(8.1)-(b)(8.1)(A) and (b)(9)(E) filed 12-12-2018; operative 1-11-2019 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing and printing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2018, No. 50).

36. Amendment of subsections (b)(8.1)-(b)(8.1)(A) filed 12-23-2020; operative 1-1-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974 Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2020, No. 52).

37. Amendment of subsections (b)(3)(C), (b)(5)(C), (b)(5.5), (b)(5.5)(A)(2), (b)(7)(D), (b)(8)(A), (b)(8.1)(A), (b)(8.2)(A), (b)(8.2)(C)-(D), (b)(8.3)(A), (b)(9), (b)(9.3), (b)(9.5), (b)(10) and (b)(11) and footnote 5 filed 5-12-2021; operative 6-11-2021 pursuant to Cal. Code Regs., tit. 2, section 18312(e). Submitted to OAL for filing pursuant to *Fair Political Practices Commission v. Office of Administrative Law*, 3 Civil C010924, California Court of Appeal, Third Appellate District, nonpublished decision, April 27, 1992 (FPPC regulations only subject to 1974

Administrative Procedure Act rulemaking requirements and not subject to procedural or substantive review by OAL) (Register 2021, No. 20).

2024 Local Agency Biennial Notice

Name of Agency: _____

Mailing Address: _____

Contact Person: _____ Phone No. _____

Email: _____ Alternate Email: _____

Accurate disclosure is essential to monitor whether officials have conflicts of interest and to help ensure public trust in government. The biennial review examines current programs to ensure that the agency's code includes disclosure by those agency officials who make or participate in making governmental decisions.

This agency has reviewed its conflict of interest code and has determined that (*check one BOX*):

☐ **An amendment is required. The following amendments are necessary:**

(*Check all that apply.*)

- ☐ Include new positions
- ☐ Revise disclosure categories
- ☐ Revise the titles of existing positions
- ☐ Delete titles of positions that have been abolished and/or positions that no longer make or participate in making governmental decisions
- ☐ Other (*describe*) _____

☐ **The code is currently under review by the code reviewing body.**

☐ **No amendment is required.** (If your code is over five years old, amendments may be necessary.)

Verification (to be completed if no amendment is required)

This agency's code accurately designates all positions that make or participate in the making of governmental decisions. The disclosure assigned to those positions accurately requires that all investments, business positions, interests in real property, and sources of income that may foreseeably be affected materially by the decisions made by those holding designated positions are reported. The code includes all other provisions required by Government Code Section 87302.

Signature of Chief Executive Officer

Date

All agencies must complete and return this notice regardless of how recently your code was approved or amended. Please return this notice no later than **October 1, 2024**, or by the date specified by your agency, if earlier, to:

(*PLACE RETURN ADDRESS OF CODE REVIEWING BODY HERE*)

PLEASE DO NOT RETURN THIS FORM TO THE FPPC.



CITY OF CYPRESS

CITY COUNCIL REPORT

City Council Regular

4.

FROM: Douglas Dancs, Director of Public Works

DATE: 09/09/2024

SUBJECT: Approve a Funding Reallocation for FY 2023-24 Capital Project Expenditures

RECOMMENDATION

1. Approve a \$650,000 funding transfer from the Road Maintenance and Rehabilitation Account (RMRA) Gas Tax Fund to the City Capital Projects Fund in FY 2023-24 for use on the Concrete Rehabilitation project rather than the Residential Street Resurfacing project; and
2. Approve the funding transfer of \$650,000 from the Infrastructure Reserve Bank (\$450,000) and the General Fund (\$200,000) to the City Capital Project fund in FY 2023-24 for use on the Residential Street Resurfacing project rather than the Concrete Rehabilitation project.

DISCUSSION

The City receives approximately \$1.2 million of Measure M2 revenues from the Orange County Transportation Authority (OCTA) annually for street and right-of-way purposes. To be eligible for M2 funding, cities are required to maintain an annual minimum maintenance of effort (MOE), which mandates local discretionary funds (typically General funds) are expended for streets and right-of-way purposes. The intent of the MOE requirement is to ensure M2 funds supplement, rather than replace, an agency's recurring investment in streets and roads.

Based on a preliminary analysis of FY 2023-24 expenditures, Public Works will fall short of meeting the OCTA MOE requirement by approximately \$600,000 and it is recommended that additional discretionary funding is reallocated to eligible project(s) to meet the MOE. The projected shortfall is due to delays with the annual concrete rehabilitation project funded with discretionary General Fund moneys. Unfortunately, due to high demand in the construction market, the contractor was unable to start the concrete rehabilitation project until July 10. Fortunately, the City invested more than \$2.3 million on residential street resurfacing in FY 2023-24, with the majority of the project funding budgeted with restricted Gas Tax moneys.

Swapping \$650,000 of restricted Gas Tax funding budgeted for residential street resurfacing for the discretionary funding budgeted for the annual concrete rehabilitation project will ensure sufficient FY 2023-24 General Fund spending to meet MOE requirements. This funding reallocation is permitted by Measure M2 and similar changes have been approved in prior years.

FY 2023-24 BUDGETED FUNDING	Discretionary General Fund	Restricted Gas Tax Fund	TOTAL
Residential Street Rehabilitation	\$ 800,000	\$ 1,900,000	\$ 2,700,000
Annual Concrete Rehabilitation	\$ 700,000	\$ -	\$ 700,000
TOTAL	\$ 1,500,000	\$ 1,900,000	\$ 3,400,000

RECOMMENDED FY 2023-24 REALLOCATION	Discretionary General Fund	Restricted Gas Tax	TOTAL
Residential Street Rehabilitation	\$ 1,450,000	\$ 1,250,000	\$ 2,700,000
Annual Concrete Rehabilitation	\$ 50,000	\$ 650,000	\$ 700,000
TOTAL	\$ 1,500,000	\$ 1,900,000	\$ 3,400,000

The recommended funding will allow the annual concrete rehabilitation project to be carried over to FY 2024-25 and use restricted Gas Tax amounts, which will ensure the City meets its FY 2023-24 MOE requirements and remains eligible for ongoing participation in both the Measure M2 and State Gas Tax programs.

To ensure capital project expenditures meet MOE requirements in the future, Public Works will advance project schedules, utilize cooperative agreements, and explore other streamlining efforts. Current street and right-of-way projects, including those funded with discretionary funds, are expected to be completed prior to June 30, 2025. Public Works will monitor project timelines, coordinate more closely with Finance and Administrative Services and brief the City Manager throughout the year to allow sufficient time to respond to any unexpected issues that may impact the City's ability to meet annual MOE requirements.

BUDGET IMPACT

The \$650,000 funding reallocation is a timing issue between fiscal years that will not impact fund balance amounts projected to be available at June 30, 2025. Shifting unrestricted discretionary General Fund resources to residential street resurfacing in FY 2023-24 will ensure MOE requirements are met. The corresponding reallocation of \$650,000 in restricted Gas Tax funding for the completion of the concrete rehabilitation project is not expected to impact the City's ability to meet its FY 2024-25 MOE requirements if the other budgeted capital projects using discretionary General Fund resources are completed prior to June 30, 2025.

LEGAL REVIEW

None required.

APPROVED BY:

Peter Grant, City Manager



CITY OF CYPRESS

CITY COUNCIL REPORT

City Council Regular

5.

FROM: Douglas Dancs, Director of Public Works

DATE: 09/09/2024

SUBJECT: Approve a Contract for Park Facility Lock Up Services

RECOMMENDATION

Approve a two-year contract for park facility lock up services to California Safety Agency for \$45,990.

DISCUSSION

Public Works contracts for security patrol services and evening lock-up of park restrooms and tennis courts at nine locations. The two-year agreement with our existing contractor will expire on September 25, 2024. Public Works solicited bids in June and four contractors submitted bids. The lowest responsible bidder was the firm that has provided these services to Cypress for the last two years, California Safety Agency. They are based in Anaheim and have done this type of work throughout Southern California for cities, gated communities, shopping centers, and special events since 2012.

This contract will provide the following services for park restrooms and tennis courts from September 26, 2024 through September 25, 2026:

- Nightly locking of all buildings and gates to prevent use by the public
- Documenting graffiti, vandalism, and facility deficiencies
- Monitoring suspicious activities, and submitting nightly reports at the end of each work shift

BUDGET IMPACT

Sufficient amounts are included in the City and District budgets to provide for the recommended park facility lock-up services.

LEGAL REVIEW

The City Attorney has approved the agreement as to form.

APPROVED BY: Peter Grant, City Manager

Attachments

Award Information Checklist

Agreement for Contract Services

Bid Proposals

Project Award Information Checklist

Description of Project:

The project scope performs security patrol services to lockup park restrooms and tennis courts.

Project Location:

Civic Center Tennis Courts, Civic Center Green Restrooms, Oak Knoll Park, Mackay Park, Arnold Cypress Park, Evergreen Park, Willow Park, Veterans Park, and Lexington Sports Park.

Contract Working Days:

Two-years, with zero options to extend.

**Notice of Inviting
Bids Sent to:**

sales@weisersecurity.com';info@weisersecurity.com';
'hector@superiorprotect.com';jay@huntersecurity.org;
'info@onguardall.com';info@goodguardsecurity.com';
'alertservices25@gmail.com';info@eesnation.com';
'contact@alliednationwide.com';info@agspatrol.com'; 'info@ncs-
security.com';cs@americanpowersecurity.com';info@ugssecurity.
com';'orangecounty@signal88.com';'cnouizi@oceansidepatrol.co
m';info@prosecurityguard.com'; 'service@westhillsecurity.com';
'Info@southwestpatrol.com';info@csapatrol.com';'Privacy@Patrol
Masters.com';info@safeguardondemand.com';info@securityguard
pros.com';info@lyonssecurityinc.com';info@pacificcoastpatrol.co
m';contact@unitedsentryinc.com';'Nsaavedra@starprosecurity.co
m';patrol@phoenixpatrol.com';rsepulveda@csapatrol.com

Bid Opening Date:

August 8, 2024

**No. of Bid Packets
Requested:**

1

Bid Comparison:

Bidders	Per Location	Per Day	Grand Total (730 days)
1. CA Safety Agency; Anaheim, CA	\$7	\$63	\$45,990
2. Safeguard on Demand; Irvine, CA	\$16	\$144	\$105,120
3. Patrol Master; Santa Ana, CA	\$18	\$162	\$118,260
4. Professional Security; Chatsworth, CA	\$25	\$225	\$164,250

Apparent Low Bidder: California Safety Agency; Anaheim, CA

Qualified to Perform Work: Yes.

Contractor's License: **Valid at time of Award:** Yes
Valid at time of Bid: Yes

Experience: The apparent low bidder is the incumbent for the City's security patrol services to lockup park restrooms and tennis courts since 2022.

AGREEMENT FOR CONTRACT SERVICES

By and Between

CITY OF CYPRESS

and

CALIFORNIA SAFETY AGENCY

**AGREEMENT FOR CONTRACT SERVICES
BY AND BETWEEN THE CITY OF CYPRESS AND
CALIFORNIA SAFETY AGENCY**

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 1st day of September, 2024 by and between the City of Cypress, a California municipal corporation ("City") and , California Safety Agency ("Contractor"). City and Contractor are sometimes hereinafter individually referred to as "Party" and hereinafter collectively referred to as the "Parties."

RECITALS

A. City has sought, by issuance of a Request for bids or Invitation for bids, the performance of the services defined and described particularly in Article 1 of this Agreement.

B. Contractor, following submission of a bid or bid for the performance of the services defined and described particularly in Article 1 of this Agreement, was selected by the City to perform those services.

C. Pursuant to the City of Cypress's Charter and Municipal Code, City has authority to enter into and execute this Agreement.

D. The Parties desire to formalize the selection of Contractor for performance of those services defined and described particularly in Article 1 of this Agreement and desire that the terms of that performance be as particularly defined and described herein.

OPERATIVE PROVISIONS

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained herein and other consideration, the value and adequacy of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1. SERVICES OF CONTRACTOR

1.1 Scope of Services.

In compliance with all terms and conditions of this Agreement, the Contractor shall provide those services specified in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference, which may be referred to herein as the "services" or "work" hereunder. As a material inducement to the City entering into this Agreement, Contractor represents and warrants that it has the qualifications, experience, and facilities necessary to properly perform the services required under this Agreement in a thorough, competent, and professional manner, and is experienced in performing the work and services contemplated herein. Contractor shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all services described herein. Contractor covenants that it shall follow the highest professional standards in performing the work and services required hereunder and that all materials will be both of good quality as well as fit for the purpose intended. For purposes of this Agreement, the phrase "highest

professional standards” shall mean those standards of practice recognized by one or more first-class firms performing similar work under similar circumstances.

1.2 Contractor’s Proposal.

The Scope of Service shall include the Contractor’s Scope of Work or bid which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of such bid and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law.

Contractor shall keep itself informed concerning, and shall render all services hereunder in accordance with, all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental entity having jurisdiction in effect at the time service is rendered.

1.4 Licenses, Permits, Fees and Assessments.

Contractor shall obtain at its sole cost and expense such licenses, permits and approvals as may be required by law for the performance of the services required by this Agreement. Contractor shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for the Contractor’s performance of the services required by this Agreement, and shall indemnify, defend and hold harmless City, its officers, employees or agents of City, against any such fees, assessments, taxes, penalties or interest levied, assessed or imposed against City hereunder.

1.5 Familiarity with Work.

By executing this Agreement, Contractor warrants that Contractor (i) has thoroughly investigated and considered the scope of services to be performed, (ii) has carefully considered how the services should be performed, and (iii) fully understands the facilities, difficulties and restrictions attending performance of the services under this Agreement. If the services involve work upon any site, Contractor warrants that Contractor has or will investigate all sites and is or will be fully acquainted with the conditions there existing, prior to commencement of services hereunder. Should the Contractor discover any latent or unknown conditions, which will materially affect the performance of the services hereunder, Contractor shall immediately inform the City of such fact and shall not proceed except at Contractor’s risk until written instructions are received from the Contract Officer.

1.6 Care of Work.

The Contractor shall adopt reasonable methods during the life of the Agreement to furnish continuous protection to the work, and the equipment, materials, papers, documents, plans, studies and/or other components thereof to prevent losses or damages, and shall be responsible for all such damages, to persons or property, until acceptance of the work by City, except such losses or damages as may be caused by City’s own negligence.

1.7 Further Responsibilities of Parties.

Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to act in good faith to execute all instruments, prepare all documents and take all actions as may be reasonably necessary to carry out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the service of the other.

1.8 Additional Services.

City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual costs of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum or \$25,000, whichever is less; or, in the time to perform of up to one hundred eighty (180) days, may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. It is expressly understood by Contractor that the provisions of this Section shall not apply to services specifically set forth in the Scope of Services. Contractor hereby acknowledges that it accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Contractor anticipates and that Contractor shall not be entitled to additional compensation therefor. City may in its sole and absolute discretion have similar work done by other contractors. No claims for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

1.9 Special Requirements.

Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

ARTICLE 2. COMPENSATION AND METHOD OF PAYMENT.

2.1 Contract Sum.

Subject to any limitations set forth in this Agreement, City agrees to pay Contractor the amounts specified in the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference. The total compensation, including reimbursement for actual expenses, shall not exceed Forty-Five Thousand Nine Hundred Ninety Dollars (\$45,990) (the "Contract Sum"), unless additional compensation is approved pursuant to Section 1.8.

2.2 Method of Compensation.

The method of compensation may include: (i) a lump sum payment upon completion; (ii) payment in accordance with specified tasks or the percentage of completion of the services, less contract retention; (iii) payment for time and materials based upon the Contractor's rates as specified in the Schedule of Compensation, provided that (a) time estimates are provided for the performance of sub tasks, (b) contract retention is maintained, and (c) the Contract Sum is not exceeded; or (iv) such other methods as may be specified in the Schedule of Compensation.

2.3 Reimbursable Expenses.

Compensation may include reimbursement for actual and necessary expenditures for reproduction costs, telephone expenses, and travel expenses approved by the Contract Officer in advance, or actual subcontractor expenses of an approved subcontractor pursuant to Section 4.5, and only if specified in the Schedule of Compensation. The Contract Sum shall include the attendance of Contractor at all project meetings reasonably deemed necessary by the City. Coordination of the performance of the work with City is a critical component of the services. If Contractor is required to attend additional meetings to facilitate such coordination, Contractor shall not be entitled to any additional compensation for attending said meetings.

2.4 Invoices.

Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, or as provided in Section 7.3, City will use its best efforts to cause Contractor to be paid within forty-five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by City for any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.5 Waiver.

Payment to Contractor for work performed pursuant to this Agreement shall not be deemed to waive any defects in work performed by Contractor.

ARTICLE 3. PERFORMANCE SCHEDULE

3.1 Time of Essence.

Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance.

Contractor shall commence the services pursuant to this Agreement upon receipt of a written Notice to Proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding one hundred eighty (180) days cumulatively.

3.3 Force Majeure.

The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term.

Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding two (2) calendar years, (730 days), from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

ARTICLE 4. COORDINATION OF WORK

4.1 Representatives and Personnel of Contractor.

The following Principals of Contractor ("Principals") are hereby designated as being the principals and representatives of Contractor authorized to act in its behalf with respect to the work specified herein and make all decisions in connection therewith:

<u>DANIEL COWAN</u>	<u>CEO</u>
(Name)	(Title)
<u>RYAN SEPULVEDA</u>	<u>ACCOUNT MGR</u>
(Name)	(Title)
<u>N/A</u>	
(Name)	(Title)

It is expressly understood that the experience, knowledge, capability and reputation of the foregoing Principals were a substantial inducement for City to enter into this Agreement. Therefore, the foregoing Principals shall be responsible during the term of this Agreement for directing all activities of Contractor and devoting sufficient time to personally supervise the services hereunder. All personnel of Contractor, and any authorized agents, shall at all times be under the exclusive direction and control of the Principals. For purposes of this Agreement, the foregoing Principals may not be replaced nor may their responsibilities be substantially reduced by Contractor without the express written approval of City. Additionally, Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement. Contractor shall notify City of any changes in Contractor's staff and subcontractors, if any, assigned to perform the services required under this Agreement, prior to and during any such performance.

4.2 Status of Contractor.

Contractor shall have no authority to bind City in any manner or to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City. Contractor shall not at any time or in any manner represent that Contractor or any of Contractor's officers, employees, or agents are in any manner officials, officers, employees or agents of City. Neither Contractor, nor any of Contractor's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Contractor expressly waives any claim Contractor may have to any such rights.

4.3 Contract Officer.

The Contract Officer shall be the Director of Public Works or such person as may be designated by the City Manager. It shall be the Contractor's responsibility to assure that the Contract Officer is kept informed of the progress of the performance of the services and the Contractor shall refer any decisions which must be made by City to the Contract Officer. Unless otherwise specified herein, any approval of City required hereunder shall mean the approval of the Contract Officer. The Contract Officer shall have authority, if specified in writing by the City Manager, to sign all documents on behalf of the City required hereunder to carry out the terms of this Agreement.

4.4 Independent Contractor.

Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth herein. City shall have no voice in the selection, discharge, supervision or control of Contractor's employees, servants, representatives or agents, or in fixing their number, compensation or hours of service. Contractor shall perform all services required herein as an independent contractor of City and shall remain at all times as to City a wholly independent contractor with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Contractor in its business or otherwise or a joint venturer or a member of any joint enterprise with Contractor.

4.5 Prohibition Against Subcontracting or Assignment.

The experience, knowledge, capability and reputation of Contractor, its Principals and employees were a substantial inducement for the City to enter into this Agreement. Therefore, Contractor shall not contract with any other entity to perform in whole or in part, the services required hereunder without the express written approval of the City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty five percent (25%) of the present ownership and/or control of Contractor, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall be void. No approved transfer shall release the Contractor or any surety of Contractor of any liability hereunder without the express consent of City.

ARTICLE 5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages.

The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance, which shall cover all elected and appointed officers, employees and agents of City:

(a) General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, then the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or

damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars and any automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall include all of the requirements stated herein.

(f) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, its elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or its officers, employees or agents may apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, its officers, employees and agents and their respective insurers. Moreover, the insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention.

All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with Section 5.1 to the Contract Officer.

No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsements to all required insurance policies at any time. Any failure to comply

with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

All certificates shall name the City as additional insured (providing the appropriate endorsement) and shall conform to the following "cancellation" notice:

CANCELLATION:

SHOULD ANY OF THE ABOVE-DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATED THEREOF, THE ISSUING COMPANY SHALL MAIL THIRTY (30)-DAY ADVANCE WRITTEN NOTICE TO CERTIFICATE HOLDER NAMED HEREIN.

[to be initialed]


Contractor Initials

City, its respective elected and appointed officers, directors, officials, employees, agents and volunteers are to be covered as additional insureds as respects: liability arising out of activities Contractor performs; products and completed operations of Contractor; premises owned, occupied or used by Contractor; or any automobiles owned, leased, hired or borrowed by Contractor. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, employees or volunteers. Contractor's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.

Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers or the Contractor shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims. The Contractor agrees that the requirement to provide insurance shall not be construed as limiting in any way the extent to which the Contractor may be held responsible for the payment of damages to any persons or property resulting from the Contractor's activities or the activities of any person or persons for which the Contractor is otherwise responsible nor shall it limit the Contractor's indemnification liabilities as provided in Section 5.3.

In the event the Contractor subcontracts any portion of the work in compliance with Section 4.5 of this Agreement, the contract between the Contractor and such subcontractor shall require the subcontractor to maintain the same policies of insurance that the Contractor is required to maintain pursuant to Section 5.1, and such certificates and endorsements shall be provided to City.

5.3 Indemnification.

To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative,

arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

(a) Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorney's fees incurred in connection therewith;

(b) Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

(c) In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorney's fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

5.4 Sufficiency of Insurer.

Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category

Class VII or better, unless such requirements are waived by the Risk Manager of the City ("Risk Manager") due to unique circumstances. If this Agreement continues for more than 3 years duration, or in the event the risk manager determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies may be changed accordingly upon receipt of written notice from the Risk Manager.

ARTICLE 6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records.

Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services. Any and all such documents shall be maintained in accordance with generally accepted accounting principles and shall be complete and detailed. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required. In the event of dissolution of Contractor's business, custody of the books and records may be given to City, and access shall be provided by Contractor's successor in interest. Notwithstanding the above, the Contractor shall fully cooperate with the City in providing access to the books and records if a public records request is made and disclosure is required by law including but not limited to the California Public Records Act.

6.2 Reports.

Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement, as the Contract Officer shall require. Contractor hereby acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Contractor agrees that if Contractor becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services contemplated herein or, if Contractor is providing design services, the cost of the project being designed, Contractor shall promptly notify the Contract Officer of said fact, circumstance, technique or event and the estimated increased or decreased cost related thereto and, if Contractor is providing design services, the estimated increased or decreased cost estimate for the project being designed.

6.3 Ownership of Documents.

All drawings, specifications, maps, designs, photographs, studies, surveys, data, notes, computer files, reports, records, documents and other materials (the "documents and materials"), including any electronic documents and materials, prepared by Contractor, its employees, subcontractors and agents in the performance of this Agreement shall be the property of City and

shall be delivered to City in a format of the City's choice upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Any use, reuse or assignment of such completed documents for other projects and/or use of uncompleted documents without specific written authorization by the Contractor will be at the City's sole risk and without liability to Contractor, and Contractor's guarantee and warranties shall not extend to such use, reuse or assignment. Contractor may retain copies of such documents for its own use. Contractor shall have the right to use the concepts embodied therein. All subcontractors shall provide for assignment to City of any documents or materials prepared by them, and in the event that Contractor fails to secure such assignment, Contractor shall indemnify City for all damages resulting therefrom. Moreover, Contractor with respect to any documents and materials that may qualify as "works made for hire" as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed "works made for hire" for the City.

6.4 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the Contract Officer.

(b) Contractor, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives City notice of such court order or subpoena.

(c) If Contractor, or any officer, employee, agent or subcontractor of Contractor, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify City should Contractor, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed there under. City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Contractor. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

ARTICLE 7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law.

This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California, or any other appropriate court in such county, and Contractor covenants and agrees to submit to the personal jurisdiction of such court in the event of such action. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Orange, State of California.

7.2 Disputes; Default.

In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article. Any failure on the part of the City to give notice of the Contractor's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

7.3 Retention of Funds.

Contractor hereby authorizes City to deduct from any amount payable to Contractor (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City, and (ii) all amounts for which City may be liable to third parties, by reason of Contractor's acts or omissions in performing or failing to perform Contractor's obligation under this Agreement. In the event that any claim is made by a third party, the amount or validity of which is disputed by Contractor, or any indebtedness shall exist which shall appear to be the basis for a claim of lien, City may withhold from any payment due, without liability for interest because of such withholding, an amount sufficient to cover such claim. The failure of City to exercise such right to deduct or to withhold shall not, however, affect the obligations of the Contractor to insure, indemnify, and protect City as elsewhere provided herein.

7.4 Waiver.

Waiver by any party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any party of any breach of the provisions of this Agreement shall not constitute a waiver of any other

provision or a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Contractor shall not constitute a waiver of any of the provisions of this Agreement. No delay or omission in the exercise of any right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

7.5 Rights and Remedies are Cumulative.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.6 Legal Action.

In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue a legal action under this Agreement.

7.7 Termination Prior to Expiration of Term.

This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon written notice to Contractor. In addition, the Contractor may terminate this Contract for cause, upon sixty (60) days' advance written notice to City. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer, except as provided in Section 7.3. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder. In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.8 Termination for Default of Contractor.

If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the

compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

7.9 Attorney's Fees.

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

ARTICLE 8. CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-liability of City Officers and Employees.

No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest.

Contractor covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Contractor's performance of services under this Agreement. Contractor further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the Contract Officer. Contractor agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.

8.3 Covenant Against Discrimination.

Contractor covenants that, by and for itself, its heirs, executors, assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class in the performance of this Agreement. Contractor shall take affirmative action to insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry or other protected class.

8.4 Unauthorized Aliens.

Contractor hereby promises and agrees to comply with all of the provisions of the Federal Immigration and Nationality Act, 8 U.S.C.A. §§ 1101, *et seq.*, as amended, and in connection therewith, shall not employ unauthorized aliens as defined therein. Should Contractor so employ such unauthorized aliens for the performance of work and/or services covered by this Agreement, and should any liability or sanctions be imposed against City for such use of unauthorized aliens, Contractor hereby agrees to and shall reimburse City for the cost of all such liabilities or sanctions imposed, together with any and all costs, including attorney's fees, incurred by City.

ARTICLE 9. MISCELLANEOUS PROVISIONS

9.1 Notices.

Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Cypress, 5275 Orange Avenue, Cypress, California 90630 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

9.4 Integration; Amendment.

This Agreement including the attachments hereto is the entire, complete and exclusive expression of the understanding of the parties. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Contractor and by the City Council. The parties agree that this requirement for written modifications cannot be waived and that any attempted waiver shall be void.

9.5 Severability.

In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs, or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.6 Warranty & Representation of Non-Collusion.

No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests" pursuant to Government Code Sections 1091 or 1091.5.

Nor shall any such officer or employee participate in any decision relating to the Agreement which affects her/his financial interest or the financial interest of any corporation, partnership or association in which (s)he is, directly or indirectly, interested, in violation of any State statute or regulation, including but not limited to the Political Reform Act (Government Code Sections 81000, *et seq.*)

Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor's Authorized Initials 

9.7 Corporate Authority.

The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not

violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

City of Cypress, a municipal corporation

Scott Minikus, Mayor

ATTEST:

Alisha Farnell, City Clerk

APPROVED AS TO FORM:
ALESIRE & WYNDER, LLP

Fred Galante, City Attorney

CONTRACTOR:

California Safety Agency

By: _____

[Signature]
Name: DARRELL COWAN
Title: CEO

By: _____

N/A
Name:
Title:

Address: 8932 KATELLA #108
ANAHEIM CA 92804

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

Please see next page →

ACKNOWLEDGMENT

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

State of California

County of Orange

On August 14th 2024 before me, Basma Abdalla Mokhtar, Notary Public
(insert name and title of the officer)

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

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

WITNESS my hand and official seal.

Signature  (Seal)

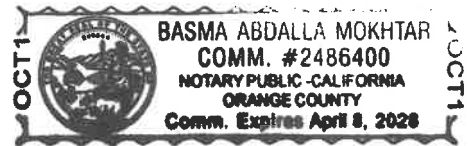


EXHIBIT "A"
SCOPE OF SERVICES

General

Provide fully, licensed, insured bonded, and trained mobile security patrol services. All personnel and vehicles used will be properly identified and equipped to perform specified duties. Duties shall include patrolling and securing park restrooms and tennis courts; documenting graffiti, vandalism, all facility deficiencies, monitoring suspicious activities, and submitting nightly reports at the end of each work shift. Hours of service shall include providing nightly service including locking all building to prevent use by the public starting at 10:00 p.m. and completing lock up services by 10:30 p.m. daily, 365 days per year.

Service Area

Services will be provided at the following locations:

1. Arnold Cypress Park, North Restroom, 8611 Watson St.
2. Arnold Cypress Park, Middle Restroom, 8611 Watson St.
3. Civic Center, Green Restroom, 5275 Orange Ave.
4. Civic Center, Tennis Courts, 5275 Orange Ave.
5. Evergreen Park, 9300 Moody St.
6. Lexington Sports Park, 4600 Cerritos Ave.
7. Mackay Park, 8372 Walker St.
8. Oak Knoll Park, 9600 Grahman St.
9. Veterans Park, 4554 Avenida Granada
10. Willow Park, 4501 Orange Ave.

EXHIBIT "B"
SPECIAL REQUIREMENTS
(Superseding Contract Boilerplate)

I. The title of Article 5 shall read as follows:

"INSURANCE, INDEMNIFICATION, AND BONDS"

II. DELETE subsection 3.4 and REPLACE with the following:

"Term & Extended Term. Unless earlier terminated in accordance with Section 7.7 or 7.8 of this Agreement, this Agreement shall continue in full force and effect until completion of such services as may be requested by City from time-to-time, but not exceeding two (2) calendar years from the date hereof, except as otherwise provided in the Schedule of Performance. The City shall have the right but not the obligation, in its sole and unfettered discretion, to extend the initial term of this Agreement a maximum of three (3) extended terms of one (1) year. In order to do so, City shall, not later than ninety (90) calendar days prior to the expiration of the initial term, give Contractor written notice, in the form and manner allowed by this Agreement, of its intention to extend the initial term of this Agreement for three (3) extended terms of one (1) additional calendar year, which extension shall be according to the terms and conditions of this Agreement, unless the same is modified by the parties hereto in writing signed by the party to be charged."

III. Section 5.4 shall be amended to read as follows:

"Performance Bond. Concurrently with execution of this Agreement, Contractor shall deliver to City a performance bond in the sum of the amount of this Agreement, in the form provided by the City Clerk, which secures the faithful performance of this Agreement, unless such requirement is waived by the Contract Officer. The bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his or her power of attorney. The bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor promptly and faithfully performs all terms and conditions of this Agreement."

IV. Section 5.5 shall be added as follows:

"Sufficiency of Insurer or Surety. Insurance or bonds required by this Agreement shall be satisfactory only if issued by companies

qualified to do business in California, rated "A" or better in the most recent edition of Best's Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the Risk Manager of the City due to unique circumstances. In the event the Risk Manager of City ("Risk Manager") determines that the work or services to be performed under this Agreement creates an increased or decreased risk of loss to the City, the Contractor agrees that the minimum limits of the insurance policies and the performance bond required by this Section 5 may be changed accordingly upon receipt of written notice from the Risk Manager; provided that the Contractor shall have the right to appeal a determination of increased coverage by the Risk Manager to the City Council of City within 10 days of receipt of notice from the Risk Manager."

V. Section 5.6 shall be added as follows:

"Payment Bond for contracts over \$25,000. Concurrently with the execution of their Agreement, if the contract sum specified in Section 2.1 of this Agreement is in excess of twenty-five thousand dollars (\$25,000), Contractor shall deliver to City a payment bond in the sum specified below, in the form provided by the City Clerk, which secures payments to subcontractors and suppliers in the event of default by Contractor. The payment bond shall contain the original notarized signature of an authorized officer of the surety and affixed thereto shall be a certified and current copy of his power of attorney. The payment bond shall be unconditional and remain in force during the entire term of the Agreement and shall be null and void only if the Contractor completely and faithfully pays all subcontractors and suppliers that have been approved in writing pursuant to Section 4.3 of this Agreement to perform in whole or part the services required herein.

The payment bond shall be in a sum not less than that prescribed by law under California Civil Code § 3248, such that the bond shall be in the sum of:

- (a) One hundred percent (100%) of the total amount payable by the terms of this Agreement if the total amount payable does not equal or exceed five million dollars (\$5,000,000); or
- (b) Fifty percent (50%) of the total amount payable by the terms of this Agreement if the total amount payable is not less than five million dollars

(\$5,000,000) and does not exceed ten million dollars (\$10,000,000); or

- (c) Twenty five percent (25%) of the total amount payable by the terms of this Agreement if the Agreement exceeds ten million dollars (\$10,000,000).

If Contractor is the provider of architectural, engineering, and land surveying services pursuant to an existing contract with City for a public work, Contractor shall not be required to post or deliver a payment bond. Further, if the sum of the payment bond as required under California Civil Code § 3248 is different than the sum required under this Agreement, the sum specified in California Civil Code § 3248 is controlling.

VI. Section 5.7 shall be added as follows:

“Sufficiency of Insurer or Surety for Payment Bond. If Contractor must deliver a payment bond pursuant to Section 5.5 of this Agreement, Contractor shall deliver, concurrently with the execution of this Agreement and delivery of said payment bond, to City the following documents:

- (a) A certified copy of the Certificate of Authority of the Insurer or Surety issued by the Insurance Commissioner, which authorizes the Insurer or Surety to transact insurance in the State of California;
- (b) A certificate from the Clerk of the County of Orange that the Certificate of Authority of the Insurer or Surety has not been surrendered, revoked, canceled, annulled, or suspended; or, in the event the Certificate of Authority of the Insurer or Surety has been suspended, that renewed authority has been granted; and
- (c) True and correct copies of the Insurer’s or Surety’s most recent annual statement and quarterly statement filed with the Department of Insurance.

Failure of Contractor to deliver these documents by the time of execution of this Agreement shall require City to refrain from entering the Agreement,

as Contractor will be deemed to have failed to ensure the sufficiency of the Insurer or Surety to the satisfaction of City, as required by the provisions of the Bond and Undertaking Law, Code of Civil Procedure § 995.660.”

EXHIBIT "C"
SCHEDULE OF COMPENSATION

No.	Unit	Items of Work (Please Print Unit Prices Written in Words)	Total
1.	EA	Per Location:	\$ 7
2.	EA	Locations per day (9 each)	\$ 63
3.	EA	Annual Total (365 days per year, includes holidays)	\$ 22,995
4.	EA	Two Calendar Year Total (730 days, includes holidays)	\$ 45,990

ITEMS 1 – 4, TOTAL ANNUAL AMOUNT OF BID: \$ 45,990

EXHIBIT “D”
SCHEDULE OF PERFORMANCE

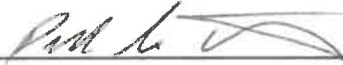
See Exhibit “A” Scope of Services for performance specifications, locations of work and schedule.

Bid Proposal Sheet

Bid Proposal Sheet Due Date: **Thursday August 8th, 2024**, at 10:00 a.m.

Vendor/Contractor Name: CALIFORNIA SAFETY AGENCY Date: 7-16-2024

Contractor Representative (print), DARRELL COWAN

Contractor Representative (signature): 

Security Patrol Services to Lock Up Park Restrooms and Tennis Courts

Two Calendar Year (730 days) Contract: September 26, 2024 thru September 25, 2026

The City of Cypress is seeking bids for a two-calendar-year contract (730 days) for Security Patrol Services to lock up park restrooms and tennis courts from September 26, 2024, through September 25, 2026. The service provider must offer fully licensed, insured, bonded, and trained mobile security patrol services. All personnel and vehicles must be properly identified and equipped for the specified duties, which include patrolling and securing park restrooms and tennis courts, documenting graffiti, vandalism, and all facility deficiencies, monitoring suspicious activities, and submitting nightly reports at the end of each work shift. **The hours of service will be nightly, from 10:00 p.m. to 10:30 p.m., 365 days per year, to ensure all buildings are locked and secured to prevent public access.** The parks should be patrolled and secured in the order listed below.

- | | | |
|----|---|--------------|
| 1. | Civic Center Tennis Courts, 5275 Orange Ave. | (1) Location |
| 2. | Civic Center Green Restrooms, 5275 Orange Ave. | (1) Location |
| 3. | Oak Knoll Park, 9600 Graham St. (Restrooms) | (1) Location |
| 4. | Mackay Park, 8372 Walker St. (Restrooms) | (1) Location |
| 5. | Arnold Cypress Park, 8611 Watson St. (Restrooms) | (1) Location |
| 6. | Evergreen Park, 9300 Moody St. (Restrooms) | (1) Location |
| 7. | Willow Park, 4501 Orange Ave. (Restrooms) | (1) Location |
| 8. | Veterans Park, 4554 Avenida Granada (Restrooms) | (1) Location |
| 9. | Lexington Sports Park, 4600 Cerritos Ave. (Restrooms) | (1) Location |

Total Per Location \$ 7

Total Per Day \$ 63 (9) Locations.

Grand Total 730 Days \$ 45,990 (9) Locations.

NOTES:

- 1) The contractor shall provide labor, equipment, vehicle, taxes and all other incidentals shall be included in the bid totals. All prices shall be valid for the term of the contract.
- 2) Contractor shall review the service locations prior to submitting a bid.
- 3) The awarded contractor shall execute an Agreement for Contract Services and meet the requirements of and obtain a City of Cypress Business License prior to issuance of a purchase order and DIR number.
- 4) This Proposal Bid Sheet shall be submitted to Casey Harpham, Maintenance Supervisor, via e-mail at charpham@cypressca.org by the due date of Thursday August 8th, 2024 at 10:00 a.m.

Bid Proposal Sheet

Bid Proposal Sheet Due Date: Thursday August 8th, 2024, at 10:00 a.m.

Vendor/Contractor Name: Safeguard On Demand, Inc

Date: July 16, 2024

Contractor Representative (print), Ahmad B. Nawabi

Contractor Representative (signature): _____

Security Patrol Services to Lock Up Park Restrooms and Tennis Courts

Two Calendar Year (730 days) Contract: September 26, 2024 thru September 25, 2026

The City of Cypress is seeking bids for a two-calendar-year contract (730 days) for Security Patrol Services to lock up park restrooms and tennis courts from September 26, 2024, through September 25, 2026. The service provider must offer fully licensed, insured, bonded, and trained mobile security patrol services. All personnel and vehicles must be properly identified and equipped for the specified duties, which include patrolling and securing park restrooms and tennis courts, documenting graffiti, vandalism, and all facility deficiencies, monitoring suspicious activities, and submitting nightly reports at the end of each work shift. **The hours of service will be nightly, from 10:00 p.m. to 10:30 p.m., 365 days per year, to ensure all buildings are locked and secured to prevent public access.** The parks should be patrolled and secured in the order listed below.

- | | | |
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| 2. | Civic Center Green Restrooms, 5275 Orange Ave. | (1) Location |
| 3. | Oak Knoll Park, 9600 Graham St. (Restrooms) | (1) Location |
| 4. | Mackay Park, 8372 Walker St. (Restrooms) | (1) Location |
| 5. | Arnold Cypress Park, 8611 Watson St. (Restrooms) | (1) Location |
| 6. | Evergreen Park, 9300 Moody St. (Restrooms) | (1) Location |
| 7. | Willow Park, 4501 Orange Ave. (Restrooms) | (1) Location |
| 8. | Veterans Park, 4554 Avenida Granada (Restrooms) | (1) Location |
| 9. | Lexington Sports Park, 4600 Cerritos Ave. (Restrooms) | (1) Location |

Total Per Location \$ 16.00 (Includes labor, equipment, vehicle, taxes etc.)

Total Per Day \$ 144.00 (9) Locations.

Grand Total 730 Days \$ 105,120.00 (9) Locations.

NOTES:

- 1) The contractor shall provide labor, equipment, vehicle, taxes and all other incidentals shall be included in the bid totals. All prices shall be valid for the term of the contract.
- 2) Contractor shall review the service locations prior to submitting a bid.
- 3) The awarded contractor shall execute an Agreement for Contract Services and meet the requirements of and obtain a City of Cypress Business License prior to issuance of a purchase order and DIR number.
- 4) This Proposal Bid Sheet shall be submitted to Casey Harpham, Maintenance Supervisor, via e-mail at charpham@cypressca.org by the due date of Thursday August 8th, 2024 at 10:00 a.m.

PATROL:VEHICULAR PATROL

Patrol Officer, fully uniformed in a marked vehicle equipped with GPS and PDA. Our Officers carry the Intuition by LG. on the Verizon Wireless 4G network combining the portability of a Smartphone with the power and size of a tablet. Officers are connected to our dispatch, can snap photos, and send back to our office, manage documents, and send detailed notes on the fly! Most properties require that we perform any, if not all of the following duties. Officer's on-site duties to be as mutually agreed, however, expected to include but not be limited to the following tasks and duties:

- Provide a high-profile crime deterrent presence with vehicular & foot patrol of the property
- Ensure those who appear to have no legitimate business or are loitering are approached in a diplomatic manner and identified and when appropriate escorted from the property.
- All personnel and vehicles must be properly identified and equipped for the specified duties, which include patrolling and securing park restrooms and tennis courts, documenting graffiti, vandalism, and all facility deficiencies, monitoring suspicious activities, and submitting nightly reports at the end of each work shift.

COST OPTIONS FOR PATROL SERVICES

12 annual invoices – all-inclusive no hidden charges

Based on a schedule of (1) inspections at (9) locations for lock ups between 10pm – 10:30pm,
7 nights a week, the cost for a patrol service would be:

- | | | |
|----|---|--------------|
| 1. | Civic Center Tennis Courts, 5275 Orange Ave. | (1) Location |
| 2. | Civic Center Green Restrooms, 5275 Orange Ave. | (1) Location |
| 3. | Oak Knoll Park, 9600 Graham St. (Restrooms) | (1) Location |
| 4. | Mackay Park, 8372 Walker St. (Restrooms) | (1) Location |
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| 7. | Willow Park, 4501 Orange Ave. (Restrooms) | (1) Location |
| 8. | Veterans Park, 4554 Avenida Granada (Restrooms) | (1) Location |
| 9. | Lexington Sports Park, 4600 Cerritos Ave. (Restrooms) | (1) Location |

Total Per Location: **\$18.00 per location**

Total Per Day: \$18.00 X (9) locations per day = **\$162.00 per day**

Grand Total (730 Days): \$162 per day X (730 days) = **\$118,260.00 total**

CLIENT'S CONCURRENCE WITH THE ABOVE

Name of authorizing person (print)

Signature

Date



ONE STOP SHOP FOR ALL YOUR SECURITY NEEDS

WWW.PATROLMASTERS.COM | 877-209-6370 | 714-648-0602 |

PPO: 120475

SECURITY PROPOSAL pg. 3

Bid Proposal Sheet
Bid Proposal Sheet Due Date: Thursday August 8th, 2024, at 10:00 a.m.

Vendor/Contractor Name: Professional Security Guard, Inc.,

Date: 07/30/2024

Contractor Representative (print), Freddy Amiry

Contractor Representative (signature): Freddy Amiry

Security Patrol Services to Lock Up Park Restrooms and Tennis Courts

Two Calendar Year (730 days) Contract: September 26, 2024 thru September 25, 2026

The City of Cypress is seeking bids for a two-calendar-year contract (730 days) for Security Patrol Services to lock up park restrooms and tennis courts from September 26, 2024, through September 25, 2026. The service provider must offer fully licensed, insured, bonded, and trained mobile security patrol services. All personnel and vehicles must be properly identified and equipped for the specified duties, which include patrolling and securing park restrooms and tennis courts, documenting graffiti, vandalism, and all facility deficiencies, monitoring suspicious activities, and submitting nightly reports at the end of each work shift. **The hours of service will be nightly, from 10:00 p.m. to 10:30 p.m., 365 days per year, to ensure all buildings are locked and secured to prevent public access.** The parks should be patrolled and secured in the order listed below.

- | | | |
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| 5. | Arnold Cypress Park, 8611 Watson St. (Restrooms) | (1) Location |
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| 7. | Willow Park, 4501 Orange Ave. (Restrooms) | (1) Location |
| 8. | Veterans Park, 4554 Avenida Granada (Restrooms) | (1) Location |
| 9. | Lexington Sports Park, 4600 Cerritos Ave. (Restrooms) | (1) Location |

Total Per Location \$25.00/Location

Total Per Day \$225.00(9) Locations.

Grand Total 730 Days \$164,250.00(9) Locations.

NOTES:

- 1) The contractor shall provide labor, equipment, vehicle, taxes and all other incidentals shall be included in the bid totals. All prices shall be valid for the term of the contract.
- 2) Contractor shall review the service locations prior to submitting a bid.
- 3) The awarded contractor shall execute an Agreement for Contract Services and meet the requirements of and obtain a City of Cypress Business License prior to issuance of a purchase order and DIR number.
- 4) This Proposal Bid Sheet shall be submitted to Casey Harpham, Maintenance Supervisor, via e-mail at charpham@cypressca.org by the due date of Thursday August 8th, 2024 at 10:00 a.m.



CITY OF CYPRESS
CITY COUNCIL REPORT

City Council Regular

6.

FROM: Jeff Draper, Director of Recreation and Community Services

DATE: 09/09/2024

SUBJECT: Approve Revisions to the Agreement for Recreation Management Software with CivicPlus, LLC

RECOMMENDATION

Approve the renewal Statement of Work and Master Services Agreement with CivicPlus, LLC.

DISCUSSION

In 2016, the City Council approved an agreement with Rec1 to provide its recreation management solution. Rec1 was then acquired by CivicPlus, LLC (CivicPlus) and renamed CivicRec. In 2019, City Council approved an amendment to the agreement with CivicPlus that automatically renewed each year in September, converted the pricing structure from a percentage of monthly net transactions to an annual fee, and provided a 5% annual cost increase beginning in the 3rd year of service.

In June 2024, CivicPlus issued a renewal Statement of Work with a notice of a 15% price increase beginning September 1, 2025, exceeding the agreement's allowable 5% annual increase. The primary driver of this price increase is inflation-related, with CivicPlus citing a cumulative inflation rate of over 25 percent since 2017. The Statement of Work also subjects Recreation and Community Services to the terms and conditions of CivicPlus' Master Services Agreement, superseding and replacing all prior agreements and amendments.

Recreation and Community Services utilizes CivicRec as its recreation management solution, which includes transaction tracking for facility reservations, activity registration, and point of sale items.

	Completed Transactions	Revenue	Cost of CivicRec
FY2023-2024 Actuals	7,435	\$1,152,506	\$14,254
FY 2024-2025 Estimates	7,600	\$1,230,000	\$15,000

FY 2025-2026 Estimates	7,700	\$1,250,000	\$17,200
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If the new Statement of Work and Master Services Agreement is not approved, CivicPlus, LLC may terminate the agreement with six months notice. After reviewing the price increase and comparing it to other vendors who offer similar services, CivicRec remains the best option for Recreation and Community Services. The increased annual service fee is considerably less than other solutions, which range from \$24,000 to \$46,000 per year plus implementation and training costs. Unless terminated 60 days prior to the end of the initial term or subsequent renewal terms, the new Master Services Agreement automatically renews each year and allows for a five percent annual increase.

BUDGET IMPACT

Sufficient amounts are included in the Park District’s FY 2024-25 General Fund budget. Future budgets will incorporate the 15 percent price increase effective in September 2025 and incorporate the terms of the Master Services Agreement.

LEGAL REVIEW

The City Attorney has reviewed the Master Services Agreement.

APPROVED BY: Peter Grant, City Manager

Attachments

Statement of Work
Master Services Agreement

**CivicPlus**

302 South 4th St. Suite 500
Manhattan, KS 66502
US

Quote #:

Q-75474-1

Date:

5/10/2024 10:19 AM

Customer:

CYPRESS, CALIFORNIA

QTY	Product Name	DESCRIPTION
1.00	CivicRec Annual Renewal	CivicRec Annual Renewal
1.00	CivicRec Year 1 Annual Fee Discount	Year 1 Annual Fee Discount
Annual Recurring Services - Initial Term: 9/1/24-8/31/25		USD 14,966.02
Annual Recurring Services - Year 2: 9/1/25-8/31/26		USD 17,210.93

1. This renewal Statement of Work ("SOW") is between Cypress Recreation & Community Services ("Customer") and CivicPlus, LLC and shall be subject to the terms and conditions of the Master Services Agreement ("MSA") and the applicable Solutions and Products terms found at: www.civicplus.help/hc/p/legal-stuff (collectively, the "Terms and Conditions"). By signing this SOW, Customer expressly agrees to the Terms and Conditions throughout the Term of this SOW. The Terms and Conditions form the entire agreement between Customer and CivicPlus (collectively, referred to as the "Agreement"). The Parties agree the Agreement shall supersede and replace all prior agreements between the Parties with respect to the services provided by CivicPlus herein (the "Services").

2. This SOW shall remain in effect for an initial term starting at the Customer's next renewal date of 9/1/2024 and running for twelve months ("Initial Term"). In the event that neither party gives 60 days' notice to terminate prior to the end of the Initial Term, or any subsequent Renewal Term, this SOW will automatically renew for additional 1-year renewal terms ("Renewal Term"). The Initial Term and all Renewal Terms are collectively referred to as the "Term".

3. Unless terminated, Customer shall be invoiced for the Annual Recurring Services on each Renewal Date of each calendar year subject to an annual increase of 5% each Renewal Term.

Acceptance

By signing below, the parties are agreeing to be bound by the covenants and obligations specified in this SOW. For CivicPlus Billing Information, please visit <https://www.civicplus.com/verify/>.

IN WITNESS WHEREOF, the parties have caused this SOW to be executed by their duly authorized representatives as of the dates below.

Client

CivicPlus

By:

By:



Printed Name:

Printed Name:

Amy Vikander

Title:

Title:

Senior Vice President of Customer Success

Date:

Date:

6/21/2024



CivicPlus Master Services Agreement

This Master Services Agreement (this “Agreement”) governs all Statements of Work (“SOW”) entered into by and between CivicPlus, LLC (“CivicPlus”) and the customer entity identified on the SOW (“Customer”). This Agreement governs the use and provision of any Services purchased by Customer, as described in any signed SOW, and the effective date of this Agreement shall commence on the date of signature of the SOW (“Effective Date”). If a SOW has not been executed, then the Effective Date shall be determined as the start date of implementation of any software solution by CivicPlus for Customer. CivicPlus and Customer referred to herein individually as “Party” and jointly as “Parties”.

Recitals

I. WHEREAS, CivicPlus is engaged in the business of developing and providing access to proprietary community engagement and government content, workflow, and general management software solutions, platforms and associated services (the “Services”); and

II. WHEREAS, Customer wishes to engage CivicPlus for the procurement of the Services and/or receive a license subscription for the ongoing use of the Services, as set forth in the SOW;

NOW, THEREFORE, Customer and CivicPlus agree as follows:

Agreement

Term & Termination

1. This Agreement shall commence on the Effective Date and shall remain in full force and effect for as long as any SOW is in effect between CivicPlus and Customer, or Services are being provided by CivicPlus to Customer, unless terminated in accordance with this §1 or as otherwise provided in this Agreement (the “Term”). Either Party may terminate this Agreement or any SOW as set forth in such SOW, or at its discretion, effective immediately upon written notice to the other Party, if the other Party materially breaches any provision of this Agreement and does not substantially cure the breach within thirty (30) days after receiving notice of such breach. A delinquent Customer account remaining past due for longer than 90 days is a material breach by Customer and is grounds for CivicPlus termination. CivicPlus reserves the right to withhold, remove and/or discard Customer Data without notice for any breach, including, without limitation, Customer’s non-payment. Upon termination for Customer’s breach, Customer’s right to access or use Customer Data immediately ceases, and CivicPlus shall have no obligation to maintain or forward any Customer Data.

2. Upon termination of this Agreement or any SOW for any reason, (a) the licenses granted for such relevant SOW by §11 below will terminate and Customer shall cease all use of the CivicPlus Property and Services associated with the terminated SOW and (b) any amounts owed to CivicPlus for work performed prior to termination shall immediately become due in full and payable. If Customer has paid in advance for the Services, and this Agreement terminates due to material breach of this Agreement by CivicPlus, CivicPlus shall refund Customer a prorated amount of any amount already paid. Upon termination by Customer for convenience or due to material breach by Customer, in addition to any remedy

provided in this Agreement or provided in law or equity, CivicPlus shall be entitled to retain any amounts already paid. Sections 7, 8, 10, 14, 15, 18, 32 -34, 40, and 42 will survive any expiration or termination of this Agreement.

3. At any time during the Term, CivicPlus may, immediately upon notice to Customer, suspend Customer and any of its Users access to any Service due to a threat to the technical security or technical integrity of the Services.

Invoicing & Payment Terms

4. Customer will pay the amounts owed to CivicPlus for the development and implementation of the Customer's Services, as defined in the SOW ("Project Development"), subscription and licensing, and annual hosting, support and maintenance services ("Annual Recurring Services") in accordance with the payment schedule set forth on the applicable SOW. Invoices shall be sent electronically to the individual/entity designated in the SOW's contact sheet that is required to be filled out and submitted by Customer (the "Contact Sheet"). Customer shall provide accurate, current and complete information of Customer's legal business name, address, email address, and phone number in the Contact Sheet upon submission of a signed SOW. Customer will maintain and promptly update the Contact Sheet information if it should change. Upon Customer's request, CivicPlus will mail hard-copy invoices for a \$5.00 convenience fee to be added to the mailed invoice.

5. Each SOW will state the amount of days from date of invoice payment is due. Unless otherwise limited by law, a finance charge of 1.5 percent (%) per month or the maximum rate permitted by applicable law, whichever is less, will be added to past due accounts from due date until paid. Payments received will be applied first to finance charges, then to the oldest outstanding invoice(s). If the Customer's account exceeds 60 days past due, support will be discontinued until the Customer's account is made current. If the Customer's account exceeds 90 days past due, CivicPlus may suspend in progress Project Development and Annual Recurring Services will be discontinued, and the Customer will no longer have access to the Services until the Customer's account is made current. Customer will be given 15 days' notice prior to discontinuation of Services for non-payment.

6. During the performance of Project Development, if Customer requests a change that requires repeated efforts to previously approved work product and such change causes CivicPlus to incur additional expenses (i.e. airline change fees, resource hours, consultant fees, Customer does not show up for scheduled meetings or trainings), Customer agrees to reimburse CivicPlus for such additional expenses. CivicPlus shall notify Customer prior to incurring such expenses and shall only incur those expenses which are approved by Customer.

Ownership & Content Responsibility

7. Upon full and complete payment of amounts owed for Project Development under the applicable SOW, Customer will own any website graphic designs, Services content, module content, importable/exportable data, and archived information ("Customer Content") created by CivicPlus on behalf of Customer pursuant to this Agreement. "Customer Content" also includes, without limitation, any elements of text, graphics, images, photos, audio, video, designs, artworks, logos, trademarks, services marks, and other materials or content which Customer provides to CivicPlus for processing, transmission, storage, or inputs into any website, software or module in connection with any Services. Customer Content excludes any content in the public domain and any content owned or licensed by CivicPlus, whether in connection with providing Services or otherwise.

8. Upon completion of the Project Development, Customer will take over the management and control of the Services and Customer will assume full responsibility for Customer Content maintenance and administration. Customer, not CivicPlus, shall have sole responsibility for the accuracy, quality, integrity, legality, reliability, appropriateness, and

intellectual property ownership or right to use of all Customer Content. Customer hereby grants CivicPlus a worldwide, non-exclusive right and license to reproduce, distribute and display the Customer Content as necessary to provide the Services. Customer represents and warrants that Customer owns all Customer Content or that Customer has permission from the rightful owner to use each of the elements of Customer Content and that Customer has all rights necessary for CivicPlus to use the Customer Content in connection with providing the Services. Customer agrees that CivicPlus shall not be responsible or liable for the content of messages created by Customer or by Customer's Users or end-users who access Service. Notwithstanding the foregoing, CivicPlus retains the right, but not the obligation, to remove any Customer Content that is libelous, harassing, abusive, fraudulent, defamatory, excessively profane, obscene, abusive, hate related, violent, harmful to minors, that advocates racial or ethnic intolerance, intended to advocate or advance computer hacking or cracking, or other material, products or services that violate or encourage conduct that would violate any laws or third-party rights.

9. At any time during the term of the applicable SOW, Customer will have the ability to download the Customer Content and export the data that is processed through the Services ("Customer Data"). Customer may request CivicPlus to perform the export of Customer Data and provide the Customer Data to Customer in a commonly used format, at any time, for a fee to be quoted at time of request and approved by Customer. Upon termination of the applicable SOW for any reason, whether or not Customer has retrieved or requested the Customer Data, CivicPlus reserves the right to permanently and definitively delete the Customer Content and Customer Data held in the Services thirty (30) days following termination of the applicable SOW. During the thirty (30) day period following termination of the SOW, regardless of the reason for its termination, Customer will not have access to the Services.

10. Intellectual Property in the software or other original works created by or licensed to CivicPlus, including all software source code, documents, and materials used in performing the Services ("CivicPlus Property") will remain the property of CivicPlus. CivicPlus Property specifically excludes Customer Content. Customer shall not (i) license, sublicense, sell, resell, reproduce, transfer, assign, distribute or otherwise commercially exploit or make available to any third party any CivicPlus Property in any way, except as specifically provided in the applicable SOW; (ii) adapt, alter, modify or make derivative works based upon any CivicPlus Property; (iii) create internet "links" to the CivicPlus Property software or "frame" or "mirror" any CivicPlus Property administrative access on any other server or wireless or internet-based device that may allow third party entities, other than Customer, to use the Services; (iv) reverse engineer, decompile, disassemble or otherwise attempt to obtain the software source code to all or any portion of the Services; (v) make any attempt to gain unauthorized access to the Services and/or any of CivicPlus' systems or networks; or (vi) access any CivicPlus Property in order to: (a) build a competitive product or service, (b) build a product using similar ideas, features, functions or graphics of any CivicPlus Property, or (c) copy any ideas, features, functions or graphics of any CivicPlus Property. The CivicPlus name, the CivicPlus logo, and the product and module names associated with any CivicPlus Property are trademarks of CivicPlus, and no right or license is granted to use them outside of the licenses set forth in this Agreement.

11. Provided Customer complies with the terms and conditions herein, the relevant SOW, and license restrictions set forth in §10, CivicPlus hereby grants Customer a limited, nontransferable, nonexclusive, non-assignable license to access and use the CivicPlus Property associated with any valid and effective SOW, for the term of the respective SOW. The license set forth herein, shall only apply to the extent that Customer is using the Services for legitimate business use as intended by the purpose of the Services and not for the purpose of comparing the Services to a competitor or similar product of CivicPlus. Customer hereby warrants and affirms its purpose in accessing or otherwise using the Services is for their intended purpose only and understands and agrees that any other use shall be considered fraud.

12. All CivicPlus helpful information and user's guides for the Services ("Documentation") are maintained and updated electronically by CivicPlus and can be accessed through the CivicPlus "Help Center". CivicPlus does not provide paper copies of its Documentation. Customer and its Users are granted a limited license to access Documentation as needed. Customer shall not copy, download, distribute, or make derivatives of the Documentation.

13. Customer acknowledges that CivicPlus may continually develop, alter, deliver, and provide to the Customer ongoing

innovation to the Services, in the form of new features and functionalities. CivicPlus reserves the right to modify the Services from time to time. Any modifications or improvements to the Services listed on the SOW will be provided to the Customer at no additional charge. In the event that CivicPlus creates new products or significant enhancements to the Services (“New Services”), and Customer desires these New Services, then Customer will have to pay CivicPlus the appropriate fee for the access to and use of the New Services. CivicPlus shall use its reasonable best efforts to provide workarounds in the event any modification to the Services causes Customer to lose substantial functionality of the Services.

14. CivicPlus in its sole discretion, may utilize all comments and suggestions, whether written or oral, furnished by Customer to CivicPlus in connection with its access to and use of the Services (all reports, comments and suggestions provided by Customer hereunder constitute, collectively, the “Feedback”). Customer hereby grants to CivicPlus a worldwide, non-exclusive, irrevocable, perpetual, royalty-free right and license to incorporate the Feedback in the CivicPlus products and services.

Indemnification

15. CivicPlus will defend at its expense or settle any third-party claim against Customer alleging that the Services provided under this Agreement infringe intellectual property rights. CivicPlus will pay infringement claim defense costs, CivicPlus–negotiated settlement amounts, and damages finally awarded by a court. CivicPlus has no obligation for any claim of infringement arising from Customer's use of the Services for purposes not contemplated by this Agreement. CivicPlus’s indemnification obligations under this Section 15 are conditioned upon the Customer (i) promptly notifying the CivicPlus of any claim in writing; (ii) cooperating with CivicPlus in the defense of the claim; and (iii) granting CivicPlus sole control of the defense or settlement of the claim. The indemnification obligations of CivicPlus herein shall not apply to any claims of intellectual property infringement related to Customer Content.

Responsibilities of the Parties

16. CivicPlus will not be liable for any act, omission of act, negligence or defect in the quality of service of any underlying carrier, licensor or other third-party service provider whose facilities or services are used in furnishing any portion of the Service received by the Customer.

17. CivicPlus will not be liable for any failure of performance that is caused by or the result of any act or omission by Customer or any entity employed/contracted on the Customer’s behalf. During Project Development, Customer will be responsive and cooperative with CivicPlus to ensure the Project Development is completed in a timely manner.

18. Customer agrees that it is solely responsible for the end-user’s personal data that Customer decides to solicit, collect, store, or otherwise use in connection with any Service provided by CivicPlus. Customer understands and agrees that CivicPlus provides certain solutions with increased security measures for the solicitation and storage of any sensitive data, and it is Customer’s responsibility to determine whether the data it solicits and collects should be stored in such solutions. Customer understands and agrees that CivicPlus does not have knowledge or control over what type of data Customer solicits therefore CivicPlus has no responsibility for the use or storage of end-users’ personal data in connection with the Services or the consequences of the solicitation, collection, storage, or other use by Customer or by any third party of any personal data. Customer has the sole control and responsibility over the determination of which data and information shall be included in the content that is to be transmitted and stored by CivicPlus. Customer shall not provide to CivicPlus or allow to be provided to CivicPlus any content that (a) infringes or violates any 3rd party’s intellectual property rights, rights of publicity or rights of privacy, (b) contains any defamatory material, or (c) violates any federal, state, local, or foreign laws, regulations, or statutes.

19. Customer is responsible for all activity that occurs under Customer's accounts by or on behalf of Customer. Customer agrees to (a) be solely responsible for all designated and authorized individuals chosen by Customer ("User") activity, which must be in accordance with this Agreement and the CivicPlus Terms of Use; (b) be solely responsible for Customer Data; (c) obtain and maintain during the term all necessary consents, agreements and approvals from end-users, individuals or any other third parties for all actual or intended uses of information, data or other content Customer will use in connection with the Services; (d) use commercially reasonable efforts to prevent unauthorized access to, or use of, any User's log-in information and the Services, and notify CivicPlus promptly of any known unauthorized access or use of the foregoing; (e) use commercially reasonable efforts to prevent unauthorized access to or use of the Services and CivicPlus Property and shall promptly notify CivicPlus of any unauthorized access or use of the Services and/or CivicPlus Property and any loss or theft or unauthorized use of any n User's password or username and/or personal information; and (f) use the Services only in accordance with applicable laws and regulations.

20. The Parties shall comply with all applicable local, state, and federal laws, treaties, regulations, and conventions in connection with its use and provision of any of the Services or CivicPlus Property.

21. CivicPlus shall not be responsible for any act or omission of any third-party vendor or service provider that Customer has selected to integrate any of its Services with.

22. Customer understands that CivicPlus must fastidiously allocate resources across all of its customers and specifically reserves necessary resources for Customer's Project Development. If any professional services, such as consulting or training, purchased by Customer are not used during the Project Development phase solely due to the inaction or unresponsiveness of Customer, then these services shall expire 30 days after completion of Project Development. The Customer may re-schedule any unused professional services during this 30-day period as mutually agreed upon by the Parties. Any professional services that have not been used or rescheduled shall be marked as complete and closed upon the expiration of the 30-day period.

Data Security

23. CivicPlus shall, at all times, comply with the terms and conditions of its [Privacy Policy](#). CivicPlus will maintain commercially reasonable administrative, physical, and technical safeguards designed to protect the security and confidentiality of Customer Data. CivicPlus will not modify Customer Data or disclose Customer Data, except (a) in order to provide the Services; (b) to prevent or address service or technical problems in connection with support matters; (c) as specifically directed or expressly permitted in writing by Customer, (d) in compliance with our [Privacy Policy](#); or (f) if compelled by law. Notwithstanding the foregoing, CivicPlus reserves the right to delete, suspend, or block known malicious accounts without Customer authorization. Customer understands that CivicPlus has no obligation to provide the Services or maintain the Customer Data, information or other material if Customer's accounts are past due and unpaid as set forth in this Agreement.

24. Customer acknowledges and agrees that CivicPlus utilizes third-party service providers to host and provide the Services and store Customer Data and the protection of such data will be in accordance with such third party's safeguards for the protection and the security and confidentiality of Customer's Data. Notwithstanding anything to the contrary, CivicPlus shall have the right to collect and analyze data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Customer Data and data derived therefrom), and CivicPlus will be free (during and after the term hereof) to use such information and data to improve and enhance the Services and for other development, diagnostic and corrective purposes in connection with the Services and other CivicPlus offerings.

25. CivicPlus may offer Customer the ability to use third-party applications in combination with the Services. Any such third-party application will be subject to acceptance by Customer. In connection with any such third-party application

agreed to by Customer, Customer acknowledges and agrees that CivicPlus may allow the third-party providers access to Customer Data as required for the interoperation of such third-party application with the Services. The use of a third-party application with the Services may also require Customer to agree to a separate agreement or terms and conditions with the provider of the third-party application, which will govern Customer's use of such third-party application.

26. In the event of a security breach due to the sole negligence, malicious actions, omissions, or misconduct of CivicPlus, CivicPlus, as the data custodian, will comply with all remediation efforts as required by applicable federal and state law.

CivicPlus Support

27. CivicPlus will use commercially reasonable efforts to perform the Services in a manner consistent with applicable industry standards, including maintaining Services availability 24 hours a day, 7 days a week with 99.9% uptime. Customer will have 24/7 access to the online CivicPlus Help Center ([civicplus.help](https://www.civicplus.help/hc/en-us/requests/new)) to review use articles, software best practices, receive maintenance release notes, as well as submit and monitor omni-channel support tickets and access solution specific support contact methods (<https://www.civicplus.help/hc/en-us/requests/new>).

28. CivicPlus provides live support engineers based in the domestic United States to respond to basic questions concerning use and configuration, to diagnose software code-related errors, and proactively identify potential systems issues. CivicPlus support engineers serve a preliminary function in the agile development process and escalate defects to software developers or architects for remediation. For security purposes, CivicPlus support engineers are not permitted to modify user accounts, and permissions nor distribute access outside of accounts established by means of a support interaction for testing. Customer delegated Users may receive tutorials and guidance on account modifications but will perform the action themselves.

29. CivicPlus support hours span between the hours of 7 am to 7 pm CST, but may vary by product. Customer may access the CivicPlus Help Center ([civicplus.help](https://www.civicplus.help)) to obtain each product's support hours. After hours support is available by toll-free phone call only. Non-emergency support requested outside of support hours will be subject to additional fees, such fees will be quoted to Customer at the time of the request and will be subject to Customer acceptance and invoiced the next business day following the non-emergency support. CivicPlus shall have the sole discretion to determine in good faith whether support requests qualify as an emergency, exceed reasonable use or are outside the scope of services outlined in any SOW.

30. If a reported problem cannot be solved during the first support interaction, Customer will be provided a ticket number that will be used as communication method throughout ticket escalation until a solution is provided. Support service does not include support for errors caused by third party products or applications for which CivicPlus is not responsible.

Marketing

31. Customer hereby authorizes CivicPlus to include CivicPlus's name and logo inconspicuously within the Customer's instance of the Services. Customer may publicly refer to itself as a customer of the CivicPlus Services, including on Customer's website and in sales presentations. Notwithstanding the foregoing, each Party hereby grants the other a limited, worldwide, license to use the other's logo in conformance with such Party's trademark usage guidelines and solely for the purposes of providing the Services. In no event will either Party issue a press release publicly announcing this relationship without the approval of the other Party, such approval not to be unreasonably withheld.

Limitation of Liability

32. CivicPlus' liability arising out of or related to this Agreement, or any associated SOW, will not exceed the amounts paid by Customer for the Annual Recurring Services in the year prior to such claim of liability.

33. In no event will CivicPlus be liable to Customer for any consequential, indirect, special, incidental, or punitive damages arising out of or related to this Agreement.

34. The liabilities limited by Section 32 and 33 apply: (a) to liability for negligence; (b) regardless of the form of action, whether in contract, tort, strict product liability, or otherwise; (c) even if Customer is advised in advance of the possibility of the damages in question and even if such damages were foreseeable; and (d) even if Customer's remedies fail of their essential purposes. If applicable law limits the application of the provisions of this Limitation of Liability section, CivicPlus' liability will be limited to the maximum extent permissible.

Warranties and Disclaimer

35. Each person signing the SOW, or otherwise agreeing to the terms of this Agreement, represents and warrants that he or she is duly authorized and has legal capacity to execute and bind the respective Party to the terms and conditions of the SOW and this Agreement. Each Party represents and warrants to the other that the execution and delivery of the SOW and the performance of such Party's obligations thereunder have been duly authorized and that this Agreement is a valid and legal agreement binding on such Party and enforceable in accordance with its terms. Customer represents and warrants that Customer has not provided any false information to gain access to the Service and that Customer's billing information provided on the Contact Sheet is correct; and it has all necessary rights in the Customer Content to permit Customer's use of the Service and to grant the licenses contained in this Agreement without infringing the intellectual property or other rights of any third parties, violating any applicable laws, or violating the terms of any license or agreement to which it is bound.

36. CivicPlus warrants that the Services will perform substantially in accordance with documentation and marketing proposals, and free of any material defect. CivicPlus warrants to the Customer that, upon notice given to CivicPlus of any defect in design or fault or improper workmanship, CivicPlus will remedy any such defect. CivicPlus makes no warranty regarding, and will have no responsibility for, any claim arising out of: (i) a modification of the Services made by anyone other than CivicPlus, even in a situation where CivicPlus approves of such modification in writing; or (ii) use of the Services in combination with a third-party service, web hosting service, or server not authorized by CivicPlus.

37. The Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by CivicPlus or by third-party providers, or because of other causes beyond CivicPlus's reasonable control, but CivicPlus shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption. HOWEVER, SERVICE PROVIDER DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT FOR THE EXPRESS WARRANTIES IN THIS AGREEMENT, THE SERVICES ARE PROVIDED "AS IS AND CIVICPLUS HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHERWISE, INCLUDING ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR ARISING FROM A PRIOR COURSE OF DEALING.

38. EACH PROVISION OF THIS AGREEMENT THAT PROVIDES FOR A LIMITATION OF LIABILITY, DISCLAIMER OF WARRANTIES, OR EXCLUSION OF DAMAGES IS TO ALLOCATE THE RISKS OF THIS AGREEMENT BETWEEN THE PARTIES. THIS ALLOCATION IS REFLECTED IN THE PRICING OFFERED BY CIVICPLUS TO CUSTOMER AND IS AN ESSENTIAL ELEMENT OF THE BASIS OF THE BARGAIN BETWEEN

THE PARTIES. EACH OF THESE PROVISIONS IS SEVERABLE AND INDEPENDENT OF ALL OTHER PROVISIONS OF THIS AGREEMENT.

Force Majeure

39. No party shall have any liability to the other hereunder by reason of any delay or failure to perform any obligation or covenant if the delay or failure to perform is occasioned by force majeure, meaning any act of God, storm, pandemic, fire, casualty, unanticipated work stoppage, strike, lockout, labor dispute, civil disturbance, riot, war, national emergency, act of public enemy, internet service provider failure or delay, third party application failure, denial of service attack, or other cause of similar or dissimilar nature beyond its control.

Taxes

40. The amounts owed for the Services exclude, and Customer will be responsible for, all sales, use, excise, withholding and any other similar taxes, duties and charges of any kind imposed by any federal, state or local governmental entity in connection with the Services (excluding taxes based solely on CivicPlus's income). If the Customer is tax-exempt, the Customer must provide CivicPlus proof of their tax-exempt status, within fifteen (15) days of contract signing, and the fees owed by Customer under this Agreement will not be taxed. If such exemption certificate is challenged or held invalid by a taxing authority then Customer agrees to pay for all resulting fines, penalties and expenses.

Other Documents

41. This Agreement, including all exhibits, amendments, and addenda hereto and all SOWs, constitutes the entire agreement between the Parties and supersedes all prior and contemporaneous agreements, proposals or representations, written or oral, concerning its subject matter. No modification, amendment, or waiver of any provision of this Agreement or any SOW will be effective unless in writing and signed by each Party. However, to the extent of any conflict or inconsistency between the provision in the body of this Agreement and any exhibit, amendment, or addenda hereto or any SOW, the terms of such exhibit, amendment, addenda or SOW will prevail. Notwithstanding any language to the contrary therein, no terms or conditions stated in a Customer purchase order or other order documentation (excluding SOWs) will be incorporated into or form any part of this Agreement, all such terms or conditions will be null and void, unless such term is to refer and agree to this Agreement.

Interlocal Purchasing Consent/ Cooperative Purchasing

42. With the prior approval of CivicPlus, which may be withheld for any or no reason within CivicPlus's sole discretion, this Agreement and any SOW may be extended to any public entity in Customer's home-state to purchase at the SOW prices and specifications in accordance with the terms stated herein.

43. To the extent permitted by law, the terms of this Agreement and set forth in one or more SOW(s) may be extended for use by other local government entities upon execution of a separate agreement, SOW, or other duly signed writing by and between CivicPlus and such entity, setting forth all of the terms and conditions for such use, including applicable fees and billing terms.

Miscellaneous Provisions

44. The invalidity or unenforceability, in whole or in part, of any provision of this Agreement shall not void, affect the validity or enforceability of any other provision of this Agreement.
45. The Parties negotiated this Agreement with the opportunity to receive the aid of counsel and, accordingly, intend this Agreement to be construed fairly, according to its terms, in plain English, without constructive presumptions against the drafting Party. The headings of Sections of this Agreement are for convenience and are not to be used in interpreting this Agreement. As used in this Agreement, the word “including” means “including but not limited to.”
46. The Parties will use reasonable, good faith efforts to resolve any dispute between them in good faith prior to initiating legal action.
47. This Agreement and any SOW, to the extent signed and delivered by means of a facsimile machine or electronic mail, shall be treated in all manner and respects as an original agreement or instrument and shall be considered to have the same binding legal effect as if it were the original signed version thereof delivered in person. The Parties agree that an electronic signature is the legal equivalent of its manual signature on this Agreement and any SOW. The Parties agree that no certification authority or other third party verification is necessary to validate its electronic signature and that the lack of such certification or third party verification will not in any way affect the enforceability of the Parties’ electronic signature or any resulting agreement between CivicPlus and Customer.
48. Due to the rapidly changing nature of software as a service and digital communications, CivicPlus may unilaterally update this Agreement from time to time. In the event CivicPlus believes such change is a material alteration of the terms herein, CivicPlus will provide Customer with written notice describing such change via email or through its website. Customer’s continued use of the Services following such updates constitutes Customer’s acceptance of the same. In the event Customer rejects the update to the terms herein, Customer must notify CivicPlus of its objection within ten (10) days receipt of notice of such update.



CITY OF CYPRESS

CITY COUNCIL REPORT

City Council Regular

7.

FROM: Jeff Draper, Director of Recreation and Community Services

DATE: 09/09/2024

SUBJECT: Approve an Agreement for Youth Sports Officials

RECOMMENDATION

Approve a one-year agreement for youth sports officiating with West Coast Officials for an amount not to exceed \$16,632.

DISCUSSION

Recreation and Community Services offers youth basketball leagues twice each year. The basketball leagues provide recreational opportunities to approximately 400 participants aged seven to thirteen. The leagues regularly fill to capacity within a few hours of opening registration and are coached by volunteers.

Each youth basketball game is officiated by two officials who are certified from the National Association of Sports Officials. The most recent officiating contract expired on June 30, 2024 and a new contract is needed in advance of the Winter Basketball League which starts in November. A Request for Proposals (RFP) was issued to qualified sports official companies in April with four companies responding. West Cost Officials was the lowest responsible bidder and has provided officiating services to Recreation and Community Service for the last several years.

The recommended one-year agreement provides the City with the option for two, one-year extensions through June 30, 2027. Officiating costs are estimated at \$16,632 over the initial one-year term of the agreement. If the two optional extensions are exercised, the per game fees will remain fixed for the three-year term and total costs will not exceed \$49,896.

BUDGET IMPACT

Sufficient amounts are budgeted in the Park District's General Fund for the first year of officiating costs included in the contract. If the two optional one-year extensions are exercised, the contract costs will be incorporated into future budgets.

LEGAL REVIEW

The City Attorney has reviewed the contract as to form.

APPROVED BY: Peter Grant, City Manager

Attachments

Agreement

CITY OF CYPRESS
AGREEMENT FOR CONTRACT SERVICES FOR
YOUTH BASKETBALL OFFICIATING

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this _____ day of _____ 2024, by and between the CITY OF CYPRESS, a California municipal corporation ("City") and West Coast Officials (herein "Contractor").

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Contractor shall perform the work or services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by reference. Contractor warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner.

1.2 Compliance With Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement.

1.4 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

2. COMPENSATION

2.1 Contract Sum. For the services rendered pursuant to this Agreement, Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference, but not exceeding the maximum contract amount of Forty Nine Thousand, Eight Hundred Ninety Six Dollars (\$49,896) ("Contract Sum").

2.2 Invoices. Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, City will use its best efforts to cause Contractor to be paid within forty five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by the City of any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.3 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum but not exceeding a total contract amount of Five Thousand Dollars (\$5,000) or in the time to perform of up to ninety (90) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. No claim for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding thirty (30) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for

any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

4. COORDINATION OF WORK

4.1 Representative of Contractor. Frank Vaccaro, Owner of West Coast Officials is hereby designated as being the representative of Contractor authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Contractor and any authorized agents shall be under the exclusive direction of the representative of Contractor. Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, and shall keep City informed of any changes.

4.2 Contract Officer. Ery Rodriguez, Recreation Supervisor [or such person as may be designated by the City Manager] is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and to make all decisions in connection therewith ("Contract Officer").

4.3 Prohibition Against Subcontracting or Assignment. Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

4.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent contractor of City with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages. The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Commercial General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used,

either the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than either (i) bodily injury liability limits of \$100,000 per person and \$300,000 per occurrence and property damage liability limits of \$150,000 per occurrence or (ii) combined single limit liability of \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars, and any other automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(f) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or officers, employees or agents may apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this

Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsement to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City's Risk Manager or other designee of the City due to unique circumstances.

5.3 Indemnification. To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

a. Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorney's fees incurred in connection therewith;

b. Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

c. In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorney's fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful

act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records. Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services and shall keep such records for a period of three years following completion of the services hereunder. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records.

6.2 Reports. Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement or as the Contract Officer shall require.

6.3 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than the City without prior written authorization from the Contract Officer.

(b) Contractor shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives the City notice of such court order or subpoena.

(c) If Contractor provides any information or work product in violation of this Agreement, then the City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify the City should Contractor be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. The City retains the right, but has

no obligation, to represent Contractor or be present at any deposition, hearing or similar proceeding. Contractor agrees to cooperate fully with the City and to provide the City with the opportunity to review any response to discovery requests provided by Contractor.

6.4 Ownership of Documents. All studies, surveys, data, notes, computer files, reports, records, drawings, specifications, maps, designs, photographs, documents and other materials (the “documents and materials”) prepared by Contractor in the performance of this Agreement shall be the property of the City and shall be delivered to the City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by the City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Moreover, Contractor with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law. This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Orange, State of California.

7.2 Disputes; Default. In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue any legal action under this Agreement.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior to Expiration of Term. This Section shall govern any termination of this Contract except as specifically provided in the following Section for termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon written notice to Contractor. In addition, the Contractor may terminate this Contract at any time for cause, upon sixty (60) days' advance written notice to City. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, but not exceeding the compensation provided therefore in the Schedule of Compensation Exhibit "C". In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.5 Termination for Default of Contractor. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

8. MISCELLANEOUS

8.1 Covenant Against Discrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class

8.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.3 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Cypress, 5275 Orange Avenue, Cypress, California 90630 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this

Agreement. Either party may change its address by notifying the other party of the change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

8.4 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

8.5 Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Waiver. No delay or omission in the exercise of any right or remedy by non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.7 Attorney's Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which any be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

8.8 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.9 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.10 Warranty & Representation of Non-Collusion. No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be

consistent with State law and shall not include interests found to be “remote” or “noninterests” pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor's Authorized Initials



8.11 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[Signatures on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

City of Cypress, a municipal corporation

Scott Minikus, Mayor

ATTEST:

Alisha Farnell, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Fred Galante, City Attorney

CONTRACTOR:

West Coast Officials

P.O. Box 20131

Fountain Valley, CA 92728

By: Frank Vaccaro
Name: Frank Vaccaro
Title: Owner, West Coast Officials 7/31/2Y

By: Frank Vaccaro
Name:
Title: Owner

West Coast Officials
PO Box 20131
Fountain Valley, CA 92728

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

EXHIBIT "A"

SCOPE OF SERVICES

- I. To provide two youth basketball officials per game for the Winter and Summer youth basketball leagues. The City of Cypress will provide: scorekeepers, league administrator, game schedules, league rules, and promotional materials.
- II. Contractor will provide City of Cypress a list from the National Association of Sports Officials (NASO) certifying that all officials working Cypress Youth Basketball games are NASO Members. Thus, all having liability insurance that meets the minimum requirements listed in Section 5.
- III. Contractor will only assign officials that are listed as NASO Members as shown on the required list from NASO certifying each officials membership.
- IV. City requests that the Representative of the Contractor not officiate league games.
- V. City will notify Contractor of the league's projected starting date three weeks in advance.
- VI. City will e-mail the current league schedules to the Contractor one month prior to start of league.

EXHIBIT "B"

SPECIAL REQUIREMENTS (Superseding Contract Boilerplate)

I. Section 2.2 shall be amended to read as follows:

2.2 Invoices. Contractor shall furnish an invoice for the first month of the season three weeks prior to the start date. Contractor will provide monthly invoices for the remainder of the regular season. The final invoice will be provided after the season is completed and will reflect playoffs, any make-ups, forfeits, or no shows of officials. By submitting an invoice for payment under this agreement, Contractor is certifying compliance with all provisions of the agreement. City will process a check once the invoice is received according to the city's warrant run schedule. City will provide Contractor with City of Cypress' accounts payable warrant run schedule.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, City will use its best efforts to cause Contractor to be paid within forty five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by the City of any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

II. Section 3.4 shall be amended to read as follows:

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D"). City reserves the right in its sole and unfettered discretion, to extend the Term of this Agreement, upon the same terms and conditions set forth herein, for up to a maximum of two (2), one (1) year extended terms (an "Extended Term"). City shall exercise its right to extend the Term of the Agreement by providing Contractor with written notice of its intent to extend the Term or any Extended Term of this Agreement not less than forty-five (45) calendar days prior to the expiration of the Term or any Extended Term of this Agreement.

III. Section 5.1(b) shall be amended to read as follows:

5.1(b) Worker's Compensation Insurance. Contractor is not required to have Worker's Compensation Insurance as Contractor has no employees. Contractor will only assign certified officials from the National Association of Sports Officials, whom provides liability insurance to its members.

IV. Section 5.1(c) shall be amended to read as follows:

5.1(c) Automotive Insurance. Contractor is not required to have automotive insurance as services set forth in Exhibit "A" do not require a vehicle to be operated on City property.

V. Section 5.2 shall be amended to read as follows:

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City of Cypress and Cypress Recreation and Park District, elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or officers, employees or agents may apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City and Cypress Recreation and Park District, officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsement to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City's Risk Manager or other designee of the City due to unique circumstances.

EXHIBIT "C"

SCHEDULE OF COMPENSATION

- I. Youth Basketball Games: \$66.00 (\$30.00 per official plus \$6 assigning fee) per game paid to Frank Vaccaro monthly once season begins. The final payment will be after the season is completed and will reflect playoffs, any make-ups, forfeits, or no shows of officials.
- II. Contractor will be fined a fee of \$60.00 per game when both official(s) do not show to scheduled games, \$30 per game when one official does not show to scheduled games, and will be fined a \$20.00 flat fee if Officials (one or both) are more than 10 minutes late.
- III. Contractor will supply an invoice for the youth basketball officials monthly during the season.
- IV. City will process a check once invoice is received according to the City's warrant run schedule.
- V. City will provide Contractor with City of Cypress' accounts payable warrant run schedule.
- VI. In the event that games get cancelled without notice, the city will pay contractor the official's fees (\$30 per official) for the first scheduled game.

EXHIBIT “D”

SCHEDULE OF PERFORMANCE

Game schedules will be provided three weeks prior to the start of the season.

<i>Season</i>	<i>Dates</i>
2024 Winter League	November 2024 through January 2025
2025 Summer League	April through June 2025

1st Year Renewal Dates – Winter 2025 – Summer 2026

If City exercises its first option to renew, as provided in Section 3.4 of the Agreement, then Contractor's performance schedule shall be as follows:

<i>Season</i>	<i>Dates</i>
2025 Winter League	November 2025 through January 2026
2026 Summer League	April through June 2026

2nd Year Renewal Dates – Winter 2026 – Summer 2027

If City exercises its second option to renew, as provided in Section 3.4 of the Agreement, then Contractor's performance schedule shall be as follows:

<i>Season</i>	<i>Dates</i>
2026 Winter League	November 2026 through January 2027
2027 Summer League	April through June 2027



CITY OF CYPRESS

CITY COUNCIL REPORT

City Council Regular

8.

FROM: Matt Burton, Director of Finance and Administrative Services

DATE: 09/09/2024

SUBJECT: Approve Supplemental Appropriations and Increases to Estimated Revenues and Transfers for FY 2023-24

RECOMMENDATION

1. Approve FY 2023-24 supplemental appropriations of \$1,780,950 and increase estimated revenues by \$20,800 for the City; and
2. Approve FY 2023-24 supplemental appropriations of \$224,923 for the Cypress Recreation and Park District; and
3. Approve a \$427,196 transfer from the District's Park Development Fund to the General Fund; and
4. Approve a \$427,196 payment to the City's Infrastructure fund to apply against the outstanding Repayment Agreement and Promissory Note between the City and Park District for the construction of Lexington Park.

SUMMARY

Each year when the Budget is prepared, certain programs are budgeted based on best available estimates but are subject to occurrences not known at the time of preparation. In many cases, these factors are out of the City's control and the final budget impact is not known until the end of the fiscal year. Once the exact impact is known, the City Council may approve additional appropriations and establish the final Amended Budget to ensure budgetary compliance at fiscal year-end.

The FY 2023-24 Budget adjustments for the City (Attachment A) and the Cypress Recreation and Park District (Attachment B) are expected to be the final amendments and will be used for year-end financial reporting.

DISCUSSION

General Fund

Based on the preliminary analysis of FY 2023-24 operating expenditures, the General Fund will be under total adopted appropriations by approximately \$2.8 million. These savings will either be carried over for expenditure in FY 2024-25 or set-aside and invested in accordance with the City's fiscal strategies. Despite these savings, and as is often the case, a few General Fund programs exceeded budget.

City Attorney Services

City Attorney costs exceeded appropriations by \$1,142,000. City Attorney services are provided on a contract basis by multiple firms and tend to fluctuate based on the legal matters that arise during the year, the volume of active litigation to which the City is a party, and the amount of work performed by specialty firms. While general attorney services for FY 2023-24 were lower than the prior year, litigation activity was significantly higher than in a typical year. These costs were related to several lawsuits, including the California Voting Rights Act, a Public Records Act lawsuit, a wrongful death claim involving a traffic collision, a lawsuit against the Cypress School District which named the City as a co-defendant, and ongoing litigation involving a police matter. In addition to the recurring matters handled by firms engaged by the City, a \$835,000 settlement agreement reimbursed CVRA attorney fees and litigation expenses.

Animal Control Contract Services

The City contracts with the County of Orange for animal control services and charges vary year to year based on actual activity levels in Cypress and the overall costs to provide services throughout the County. Cypress' share of FY 2023-24 County animal control costs were \$675,000, which is an increase of more than \$280,000 (70%) when compared to the prior year. According to the County, the increase is due to an isolated animal hoarding incident in Cypress which resulted in one-time charges of \$147,000 and substantial increases in field services and animal in-takes (confiscations, strays, owner surrenders and wild animals) in Cypress.

North Orange County Service Planning Area Contributions

Cypress is a member of the North Orange County Service Planning Area (SPA) which operates two navigation centers providing supportive services to individuals experiencing homelessness. Cypress contributes a portion of annual operating costs associated with navigation centering in Placentia and Buena Park, and these charges vary each year depending on cash flow needs and State funding. The Budget included \$100,000 for SPA costs in FY 2023-24. However, due to billing delays associated with determining the prior year State funding, SPA members were required to pay two years of operating costs (FY 2022-23 and FY 2023-24) during the last fiscal year. The costs allocated to Cypress totaled \$425,000 for the two years. In addition to paying for two years of operations, the FY 2023-24 allocation does not include an offset for any possible State funding. While State funding will likely be received, the timing will result in cash flow shortages that must (at least temporarily) be passed on to the member agencies. As a result, the annual payment for FY 2023-24 increased to \$284,000. Any State funding will be credited against FY 2024-25, which should decrease amounts billed later this fiscal year.

Other Funds

The General Fund Grants Fund includes a variety of operating activities funded by grant proceeds, including the cost to lease several smart waste and recycling trash cans located at

City parks. An additional unit was added to serve the needs of Willow Park, which previously did not have a smart waste system, resulting in a budget overage of \$700. Sufficient State Beverage Recycling monies are available to pay the additional costs both in FY 2023-24 and future periods.

The Supplemental Law Enforcement Special Revenue Fund exceeded budget due to receiving \$20,800 more in State grants than anticipated. The City uses these grant amounts, approximately \$170,000 annually, to pay for a Police Services Officer and a portion of a Police Officer. The additional appropriation is fully offset by a \$20,800 increase in revenues.

The Lighting District Fund pays to maintain the City's traffic signals and streetlights. Electricity costs for street lighting exceeded budget by \$35,400 due to rate increases and consumption exceeding the estimates prepared by Public Works personnel.

The Low and Moderate Housing Asset Fund, which is restricted to use on eligible housing activities benefiting low and moderate income residents, exceeded its budget for professional services by \$10,300 due to the facilitation of the sale of City-owned property located at 5732 Lincoln Avenue. The sale of the property is required by the State under the Surplus Land Act and these costs were not anticipated at the time the FY 2023-24 Budget was prepared.

The City Central Services Internal Service Fund, which accounts for the repair and maintenance of facilities and vehicles, exceeded the budget for maintaining Police vehicles by \$38,350. The overage is attributable to multiple vehicle collisions requiring repairs, coupled with rising prices for parts and materials. Additionally, fuel costs increased more than expected.

Recreation and Park District

CRPD General Fund

During FY 2023-24, there were loans outstanding associated with the design and construction of Lexington Park and Arnold Cypress Park. The accrued interest associated with the loans totaled \$224,923 and was paid to the City on June 30, 2024. Due to the timing of construction at Arnold Cypress Park, interest rate variations throughout the year, and the repayments during the year on the Lexington loan, the exact amount of interest due on the loans is unknown when preparing the Budget and an adjustment is necessary at the end of the year.

Park Development Fund

The City Council authorized a \$12.8 million loan to the District to construct Lexington Park. Repayments against the outstanding loan balance are made twice a year if Park Development Fees become available. An additional \$427,196 of Park Development Fees were received in the second half of FY 2023-24, and it is recommended these amounts be transferred to the District's General Fund and used to repay the City as of June 30, 2024. After the recommended repayment, the outstanding Lexington Park loan balance will be just over \$3.8 million and biannual repayments will continue as Park Development Fees are received.

BUDGET IMPACT

This action provides budgetary compliance for costs already incurred relating to situations not anticipated when the Budget was approved; therefore, there is no fiscal impact as a result of this action.

The appropriation requests of \$1,780,950 for the City and \$224,923 for the District will cover program expenditures which exceeded budget estimates. The recommended adjustments to appropriations and estimated revenues are itemized in Attachment A (City) and Attachment B (District).

The authorization for the District to repay \$427,196 results in additional cash balances being available for future infrastructure needs of the City.

LEGAL REVIEW

None required.

APPROVED BY: Peter Grant, City Manager

Attachments

Attachment A - FY 2023-24 Supplemental Appropriations (City)

Attachment B - FY 2023-24 Supplemental Appropriations (CRPD)

**CITY OF CYPRESS
SUPPLEMENTAL APPROPRIATIONS, ESTIMATED REVENUE AND TRANSFER ADJUSTMENTS
FOR FISCAL YEAR 2023-24**

<u>PURPOSE/DESCRIPTION</u>	<u>ACCOUNT NUMBER</u>	<u>AMOUNT</u>
SUPPLEMENTAL APPROPRIATIONS - CITY		
<u>GENERAL FUND</u>		
Litigation Services	111-10105.4179_200	\$ 1,142,000
Contributions - North OC SPA	111-20111.4163	324,900
Contract Services - Animal Control	111-20270-4188_007	208,500
TOTAL GENERAL FUND		<u>\$ 1,675,400</u>
<u>GENERAL FUND GRANTS FUND</u>		
Supplies - Special Activity	114-70721.4103_004	\$ 700
TOTAL GENERAL FUND GRANTS FUND		<u>\$ 700</u>
<u>SUPPLEMENTAL LAW ENFORCEMENT FUND</u>		
Salaries - Regular	301-50181.4001	\$ 20,800
TOTAL SUPPLEMENTAL LAW ENFORCEMENT FUND		<u>\$ 20,800</u>
<u>LIGHTING DISTRICT FUND</u>		
Electricity - Street Lighting	251-70223.4200	\$ 35,400
TOTAL LIGHTING DISTRICT FUND		<u>\$ 35,400</u>
<u>LOW AND MODERATE HOUSING ASSET FUND</u>		
Professional Services - Legal	471-62198.4189_004	\$ 10,300
TOTAL LOW AND MODERATE HOUSING ASSET FUND		<u>\$ 10,300</u>
<u>CITY CENTRAL SERVICES INTERNAL SERVICE FUND</u>		
Fuel - Police Vehicles	711-70621-7634.4106	\$ 22,500
Materials - Police Vehicles	711-70621-7634.4111_100	5,400
Maintenance Services - Police Vehicles	711-70621-7634.4156_100	7,650
Maintenance Services - Police Vehicles Body Repairs	711-70621-7634.4156_150	2,800
TOTAL CITY CENTRAL SERVICES INTERNAL SERVICE FUND		<u>\$ 38,350</u>
TOTAL SUPPLEMENTAL APPROPRIATIONS - CITY		<u><u>\$ 1,780,950</u></u>
ESTIMATED REVENUES - CITY		
<u>SUPPLEMENTAL LAW ENFORCEMENT FUND</u>		
Grants - Miscellaneous	301-99999.3525	\$ 20,800
TOTAL SUPPLEMENTAL LAW ENFORCEMENT FUND		<u>\$ 20,800</u>
TOTAL ESTIMATED REVENUES - CITY		<u><u>\$ 20,800</u></u>

**CYPRESS RECREATION AND PARK DISTRICT
SUPPLEMENTAL APPROPRIATIONS, ESTIMATED REVENUE AND TRANSFER ADJUSTMENTS
FOR FISCAL YEAR 2023-24**

<u>PURPOSE/DESCRIPTION</u>	<u>ACCOUNT NUMBER</u>	<u>AMOUNT</u>
SUPPLEMENTAL APPROPRIATIONS - CRPD		
<u>CRPD GENERAL FUND</u>		
Debt Service Interest - Loan due to City	212-99999.4280	\$ 224,923
TOTAL SUPPLEMENTAL APPROPRIATIONS - CRPD		\$ 224,923
TRANSFERS - CRPD		
Transfer to General Fund from Park Development	213-99999.4501_212 212-99999.3901_213	\$ 427,196



CITY OF CYPRESS

CITY COUNCIL REPORT

City Council Regular

9.

FROM: Matt Burton, Director of Finance and Administrative Services

DATE: 09/09/2024

SUBJECT: Adopt a Resolution Establishing Benefits for Management Employees

RECOMMENDATION

Adopt a Resolution establishing the Schedule of Benefits for Management employees.

DISCUSSION

Benefits for Executive Management and Mid-Management employees are established and outlined in a Schedule of Benefits. The Schedule of Benefits is updated annually to incorporate changes to health benefits, with the most recent update approved by the City Council on August 28, 2023. The Schedule of Benefits contains a formula for determining monthly health benefits (medical, dental and vision) that is adjusted each year in advance of open enrollment based on insurance rates for the upcoming calendar year. Effective January 1, 2025, the monthly health benefit will adjust from \$2,359.27 to \$2,557.07. The City Manager's contract provides for the same health benefits as Executive Management employees and will also adjust. The revised Schedule of Benefits also includes miscellaneous, non-substantive clerical corrections and language updates.

BUDGET IMPACT

The 2025 health benefit adjustment for the 24 management positions is approximately \$28,500 for the remainder of the fiscal year and sufficient amounts are included in the Budget.

LEGAL REVIEW

None required.

APPROVED BY: Peter Grant, City Manager

Attachments

Resolution & Management Schedule of Benefits
Schedule of Benefits - Redline



RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CYPRESS,
AND ACTING AS EX OFFICIO GOVERNING BOARD OF DIRECTORS
OF THE CYPRESS RECREATION AND PARK DISTRICT AMENDING
RESOLUTION NO. 6944 ESTABLISHING BENEFITS FOR
MANAGEMENT EMPLOYEES.

WHEREAS, the City Council establishes benefits for management employees through adoption of a Resolution specifying benefits to be received; and

WHEREAS, management positions shall be provided health and life insurance coverage and leave benefits provided to other employee bargaining units in the City; and

WHEREAS, benefits for Executive Management and Mid-Management employees are established and outlined in a Schedule of Benefits; and

WHEREAS, the health insurance cafeteria allowance for management employees is adjusted annually utilizing a formula contained in the Schedule of Benefits.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Cypress, and acting as ex-officio governing Board of Directors of the Cypress Recreation and Park District, HEREBY DOES RESOLVE, DETERMINE and ORDER, that Resolution No. 6944 be amended as indicated below:

SECTION 1. That the schedule of Benefits shown in Exhibit A shall apply for all City of Cypress employees classified as Executive Management and Mid-Management employees.

SECTION 2. That Exhibit A shall reflect other language clarification changes.

SECTION 3. This Resolution shall be effective on September 9, 2024, and all resolutions and parts of resolutions in conflict herewith are hereby rescinded.

PASSED AND ADOPTED by the City Council of the City of Cypress, and acting as ex-officio governing Board of Directors of the Cypress Recreation and Park District, at a regular meeting held on the 9th day of September, 2024.

MAYOR OF THE CITY OF CYPRESS

ATTEST:

CITY CLERK OF THE CITY OF CYPRESS

STATE OF CALIFORNIA }
COUNTY OF ORANGE } SS

I, ALISHA FARNELL, City Clerk of the City of Cypress, DO HEREBY CERTIFY that the foregoing Resolution was duly adopted at a regular meeting of the said City Council held on the 9th day of September, 2024, by the following roll call vote:

AYES: COUNCIL MEMBERS:
NOES: COUNCIL MEMBERS:
ABSENT: COUNCIL MEMBERS:

CITY CLERK OF THE CITY OF CYPRESS

EXHIBIT 'A'

CITY OF CYPRESS SCHEDULE OF BENEFITS EXECUTIVE AND MID-MANAGEMENT EMPLOYEES

PART I - HOLIDAYS

Section 1. Recognized Holidays.

A. For pay purposes, the following holidays are recognized as municipal holidays for regular employees. Said employees shall receive these holidays off with pay: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday following Thanksgiving Day, Christmas Eve Day and Christmas Day.

B. Beginning the first pay period of the payroll year, current employees shall be credited with one floating holiday (9 hours). Employees hired after the beginning of the payroll year, but before September 1, will be credited with the floating holiday. Floating holiday may be taken subject to approval of the employee's supervisor after consideration of the department workload and other staffing considerations such as, but not limited to, leave schedules of other employees already approved, sick leave and position vacancies. Floating holiday must be taken as paid time off in the credited payroll year. There shall be no cash payment for unused floating holiday.

C. When any holiday, recognized by the City, falls on a Sunday, the following Monday shall be considered the holiday; when any day, recognized by the City as a holiday, falls on a Saturday, the preceding Friday shall be considered the holiday.

D. Religious holidays requested off shall be done so in writing to the employee's supervisor. If approved, such time shall be charged against accumulated vacation or floating holiday leave.

Section 2. Holidays Falling During Approved Leaves of Absence Without Pay. Any employee on an approved leave of absence without pay, having the holiday fall during the period of such leave of absence without pay, shall be eligible for such holiday pay only in those instances where said employee has worked either the day before or the day immediately following said holiday.

PART II - VACATION

Section 1. Eligibility. All regular, full-time employees, having completed a minimum of six months continuous service with the City, and annually, thereafter, shall be eligible for a paid vacation at the employee's then current rate of pay. Recognizing that it is preferred that the full vacation be taken at one time, the employee may, nevertheless, request a modification of this preference. Upon approval of the City Manager, appropriate modifications may be allowed.

Section 2. Vacation Accrual.

Executive Management employees shall accrue vacation leave by the following formula:

<u>Hours/Month</u>	<u>Year of Employment</u>	<u>Annual Amount (Hours)</u>
10.0000	1st – 6th year	(120 hours)
10.6667	7th year	(128 hours)
11.3334	8th year	(136 hours)
12.0000	9th year	(144 hours)

12.6667	10th year	(152 hours)
13.3334	11th year	(160 hours), and each month thereafter.

Mid-Management employees shall accrue vacation leave by the following formula:

<u>Hours/Month</u>	<u>Year of Employment</u>	<u>Annual Amount (Hours)</u>
6.6670	1st year	(80 hours)
7.3334	2nd year	(88 hours)
8.0000	3rd year	(96 hours)
8.6667	4th year	(104 hours)
9.3334	5th year	(112 hours)
10.0000	6th year	(120 hours)
10.6667	7th year	(128 hours)
11.3334	8th year	(136 hours)
12.0000	9th year	(144 hours)
12.6667	10th year	(152 hours)
13.3334	11th year	(160 hours), and each month thereafter.

Section 3. Maximum Accrual.

A. Executive Management employees may accumulate unused vacation to a maximum of 360 hours. Mid-Management employees may accumulate unused vacation to a maximum of the amount accrued in the 24 months immediately preceding the employee's anniversary date of employment with a maximum of 320 hours. The accrual of vacation hours shall cease when an employee's accumulated vacation is at the maximum provided in this Section. However, the value of vacation hours earned in excess of the maximum accrual will be contributed towards the employee's Retiree Health Savings Plan. Additional vacation hours shall begin accruing when the employee's vacation balance falls below the maximum.

B. For purposes of this Article, the term "anniversary date of employment" is the date an employee began accruing vacation with the City.

Section 4. Use of Vacation.

A. The time at which an employee's vacation is to occur shall be determined by the employee's supervisor with due regard for the wishes of the employee and particular regard for the needs of the service.

B. An employee who has completed five years or more of continuous service and who has taken 40 cumulative hours of vacation in the current payroll year may elect to be paid for up to a maximum of 80 hours of accrued vacation in the following calendar year. To request payment of up to 80 hours, the employee must submit an irrevocable election form to Human Resources by December 15 of the prior calendar year for the requested payment in the subsequent December's special payroll. For example, if an employee submits a payout request of 80 hours prior to December 15, 2024 and is deemed eligible to receive a payout, the employee will be paid for 80 hours in December 2025.

Section 5. Vacation Payment at Termination.

A. Employees terminating employment shall be paid in a lump sum for all accrued vacation leave.

B. When termination is caused by the death of the employee, said payment for unused vacation shall be paid to the beneficiary designated by the employee. Such designation shall be in writing, signed by the employee and filed with the Human Resources Office. In the event an employee has not designated a beneficiary, the payment shall be made to the estate of the employee.

Section 6. Holidays Falling During Vacation Leave. In the event one or more municipal holidays fall within an annual vacation leave, such holiday shall not be charged as vacation leave and the vacation leave shall be extended accordingly.

Section 7. Vacation Earned During Leave of Absence. No vacation leave shall be earned during any leave of absence without pay for each 30-day period of such leave. Vacation leave shall be earned on a prorated basis during a leave of absence on partial pay status.

Section 8. Vacation - Miscellaneous. Employees shall not work for the City during their vacation and, thereby, receive double compensation from the City.

PART III - SICK LEAVE

Section 1. General Sick Leave Provisions.

A. Sick leave shall be requested only in cases of actual personal sickness or disability, medical or dental treatment, or as authorized by the City Manager or the Personnel Officer under the provisions of the Federal Family Medical Leave Act and/or the California Family Rights Act, California Labor Code Section 233 (use of sick leave) or the Healthy Workplace Healthy Family Act of 2014. The employee requesting sick leave shall notify his/her immediate supervisor prior to the time set for reporting to work. Sick leave with pay shall not be allowed unless the employee has met and complied with these provisions and the department head or the City Manager has approved such payment.

Section 2. Eligibility. All employees covered by this Agreement shall be eligible to accrue sick leave.

Section 3. Accrual. Sick leave shall be accrued at the rate of eight hours per calendar month for each calendar month that an employee has worked regularly scheduled hours and/or has been on authorized leave which provides for full pay, for at least 15 working days in that month. Sick leave shall be earned on a prorated basis during a leave of absence on partial pay status.

Section 4. Accumulation and Payment Plan.

A. Accrued sick leave may be accumulated without limit.

B. Payment of accumulated sick leave shall be granted by the Personnel Officer on an annual basis to all regular employees who have a minimum of 120 hours of accumulated sick leave on record on December 1st, and opt to receive payment of up to 48 hours of sick leave, during the subsequent December's special payroll at a rate of 50% of current salary. Employees must have a minimum balance of 120 hours after the payment of sick leave to be eligible for the payout.

C. Payment of accumulated sick leave shall be granted by the Personnel Officer on an annual basis to all employees who have a minimum of 240 hours of accumulated sick leave on record on December 1st, and opt to receive payment of up to 48 hours of sick leave, during the subsequent December's special payroll, at a rate of 100% of current salary. Employees must have a minimum balance of 120 hours after payment of sick leave to be eligible for the payout.

D. Employees wishing to cash out sick leave as described in Section 4. (B) and (C) above, must submit an irrevocable election form to Human Resources by December 15 for payment on the subsequent December's special payroll. For example, if an employee submits a payout request for the maximum 48 hours prior to December 15, 2024, payment will be issued in December 2025 (if eligible).

E. In accordance with the annual conversion policy set forth in Section 4. (B), (C) and (D) above, employees shall have the option of depositing their sick leave payment in a City deferred compensation program instead of receiving payment in cash. All deposits made into the deferred compensation program shall be made in accordance with any and all regulations governing the deferred compensation program.

F. Upon death, retirement, separation or termination of an employee covered by this Agreement, with a minimum of 60 days or 480 hours of sick leave accumulation, said employee is entitled to receive 50% compensation for that accumulated sick leave.

G. Upon death, retirement, separation or termination of an employee covered by this Agreement, with a minimum of five years of service and with between 240 hours and 480 hours of sick leave accumulation, said employee is entitled to receive payment for the difference between that amount of sick leave and 240 hours at 50% compensation.

H. If the Chief of Police was promoted and was previously a member of the Cypress Police Management Association (PMA), upon service retirement or termination, he/she will be entitled to receive payment of accumulated sick leave hours earned prior to promotion to Chief of Police, consistent with the terms of the PMA Memorandum of Understanding in effect at the time of promotion. Accumulated sick leave hours will be documented at the time of promotion and shall be paid to the Chief of Police at the highest hourly rate within the PMA upon separation from employment. Sick leave hours accumulated as Chief of Police will be paid in accordance with the sections above. If the Chief of Police is terminated for misconduct, he/she is ineligible for this payment.

I. In accordance with the payment plan set forth in Section 4 (F) and (G) above, upon separation, termination or retirement of an employee covered by this Agreement, said employee shall have the option of depositing their sick leave payment in a City deferred compensation program, instead of receiving payment in cash. All deposits made into the deferred compensation program shall be made in accordance with any and all regulations governing the deferred compensation program.

Section 5. Use.

A. Sick leave may be requested and used as approved by the department head or the City Manager. Payment for approved sick leave shall be authorized until the employee's accumulated total of sick leave hours has been exhausted and at such time the employee shall receive no further payment for sick leave. An employee shall have his/her accumulated sick leave balance reduced by an amount equal to the number of hours of sick leave for which he/she receives payment.

B. Sick leave shall not be granted for disability arising from any sickness or injury purposely self-inflicted or caused by an employee's own willful misconduct.

Section 6. Sick Leave During Vacation. An employee who becomes ill while on vacation may have such period of illness charged to his/her accumulated sick leave provided that: immediately upon return to duty, the employee submits to his/her department head a written request for sick leave and a written statement signed by his/her physician that includes the dates of illness; and the

department head recommends and the City Manager approves granting of such sick leave. The employee may request an extension of vacation due to illness, subject to the approval of the department head and City Manager.

Section 7. Extended Sick Leave. In the event of an employee's continuing illness which results in depletion of sick leave accumulation, the employee may request, in writing, to his/her department head and City Manager, a leave of absence without pay for the purpose of recovering from an illness, provided:

1. The employee has used all of his accumulated sick leave.
2. The employee presents to his/her department head for referral to and consideration by the City Manager, a written estimate of the time needed for recovery signed by the employee's physician.
3. Prior to resuming his/her duties, the employee may be required to take a medical examination at the City's expense and provide a medical release to return to work from the employee's physician as prescribed by the City Manager. The employment record and the results of such examination shall be considered by the City Manager in determining the employee's fitness to return to work.

Section 8. Federal Medical Leave Act and the California Family Rights Act

The City shall comply with the Federal Medical Leave Act of 1993 (FMLA) and the California Family Rights Act (CFRA) of 1991. Where there are differences between similar provisions of the Acts, the City shall comply with the provision which gives the employee the greater rights.

Section 9. On-the-job Injury. Employees who are disabled by injury or illness arising out of and in the course of their duties for the City, shall be entitled, regardless of his/her period of service with the City, to a leave of absence for the period of such disability, but not exceeding one (1) year, or until such earlier date as he/she is retired on permanent disability pension. Employees are eligible for up to four months of salary continuation in lieu of temporary disability payments. During the first five working days of such disability, the City shall pay 100% of the salary in lieu of temporary disability payments. Thereafter, the employee shall receive 80% of salary in lieu of temporary disability payments. Any payments made pursuant to this Section shall not be charged to sick leave; provided, however, no sick leave or vacation benefits shall accrue during the period of such disability.

Section 10. Off-the-job Injury. An employee injured outside of his/her service with the City may apply for benefits under the disability insurance plan provided by the City.

Section 11. California Labor Code Section 233

Pursuant to California Labor Code Section 233, employees may use a total of 48 hours of their accrued and available sick leave for the following reasons:

1. To attend to the illness of their child, parent, spouse, registered domestic partner, parent-in-law, grandparent, grandchild, sibling or designated person.
2. To obtain any relief of services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:
 - a. A temporary restraining order or restraining order.
 - b. Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.

- c. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
- d. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
- e. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
- f. To participate in safety planning and take other action to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

ARTICLE IV - HEALTH, DENTAL, VISION, LIFE AND DISABILITY INSURANCE

Section 1. Health Insurance Plan.

A. For the employees covered by the terms of this Agreement, the City and the employees shall contribute the sums listed below per month per employee toward health insurance:

MEDICAL RATE PROVISIONS AND SCHEDULE

Health Insurance Benefit: The City shall provide health insurance coverage for the employee and any dependents which may include medical, dental and vision insurance plans. Effective January 1, 2024, the maximum contribution amount will increase from \$2,359.27 to \$2,557.07 per month for Executive Management and Mid-Management employees. Annual increases to the City's monthly contributions shall be based upon the average cost of all area HMO plans offered through the PERS Health Plan (2024 \$2,191.06/ 2025 \$2,393.86) plus the DPO Dental Family rate (2024 \$142.40/ 2025 \$137.40) and the Family Vision rate (2024/2025 \$25.81). Employees shall maintain the PERS Health Plan minimally at the employee-only coverage level, unless the employee demonstrates proof of other group coverage. Coverage under dental and vision plans shall be optional.

If the City's contribution exceeds the total premium cost of health plans chosen by the employee, the difference may be contributed toward additional/dependent coverage, including additional life insurance, or paid as additional compensation.

If the total premium cost of health plans chosen by the employee exceeds the City's contribution, the employee shall pay, through payroll deduction, the difference between the total cost and the City's contribution. The employee's exercise of the option to use the difference toward additional/dependent health coverage or receive the additional cash as compensation is subject to the conditions controlling enrollment periods and eligibility established by the respective plans or carriers.

B. Retiree Health Savings Plan. The City will contribute \$185 per month for each employee participating in the Retiree Health Savings Plan.

C. Retiree Health Savings Program. Full-time employees who promote to a management classification, and have previously opted to grandfather into the Supplemental Health Care Benefit Program, may elect to remain in the program in lieu of mandatory enrollment in the Retiree Health Savings Plan.

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Executive Management. The City shall pay 100% of the premium for a term life insurance policy for each eligible employee which shall be based upon a formula of one times the employee's annual salary rounded up to the nearest thousand dollars up to \$300,000.

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Section 1. The City shall make contributions for employees to the California Public Employees Retirement System (CalPERS) plan known as 2% at 55 for “Classic” Miscellaneous members and 3% at 50 for “Classic” Safety members. “Classic” Miscellaneous employees hired prior to June 30, 2010 shall contribute 3% of salary towards their CalPERS retirement plan.

Section 2. Employees hired after June 30, 2010, if determined to be “Classic” Miscellaneous members, shall contribute 6% of salary towards their CalPERS retirement plan.

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Section 4. Employees hired after January 1, 2013 and are new to CalPERS, or have had a six month or more break in service, are considered “PEPRA” members and are subject to all laws, statutes, rules and regulations of the Public Employees’ Pension Reform Act (PEPRA).

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Section 6. The City’s CalPERS contract shall provide for the 1959 Survivor’s Benefit (Level 3). The City shall make the employees’ contribution in the amount of \$2.00 per month.

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The classification of Police Chief shall receive a Uniform Allowance of \$850 per year.

The classification of Police Support Services Supervisor shall receive a Uniform Allowance of \$600 per year.

The classification of Maintenance Supervisor shall receive a Boot/Safety Shoe Allowance of \$250 per year. To be eligible for reimbursement, the employee must submit a receipt from the purchase of boots/safety shoes to Human Resources.

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Section 5. Severance. Executive Management employees are entitled to four months' base salary if terminated without cause. The City Clerk is entitled to six months' base salary if terminated without cause.

"Cause" for termination shall include, but not limited to the following: persistent, habitual or willful neglect of duty; insubordination; corrupt or willful misconduct; willful malfeasance or conviction of an illegal act amounting to an act of moral turpitude; willful destruction or misuse of City

property; habitual intoxication while on duty, whether by alcohol, prescription or non-prescription drugs; inexcusable absence without an authorized leave of absence; theft or attempted theft; financial mismanagement; material dishonesty; willful violation of Federal or State discrimination and harassment laws while acting in the course and scope of employment; willful and unlawful retaliation against any City officer or employee; engaging in conduct tending to bring embarrassment or disrepute to the City.

The severance pay for Executive Management employees and the City Clerk is contingent upon the following conditions:

- a) The employee must execute a comprehensive waiver and release of all claims against the City, its officials, employees, and agents, in a form approved by the City Attorney.
- b) The waiver and release must become effective and irrevocable. This includes the expiration of any applicable revocation period required by law, such as the 7-day revocation period for employees age 40 and over under the Age Discrimination in Employment Act.
- c) The employee must comply with all post-employment obligations outlined in the severance agreement, including but not limited to return of City property.
- d) Severance pay will be provided only for involuntary terminations without cause. It does not apply to voluntary resignations or terminations for cause.
- e) Severance pay shall be subject to all applicable taxes and withholdings required by law.
- f) Employees will be advised in writing to consult with an attorney before signing the severance agreement.

EXHIBIT 'A'

CITY OF CYPRESS SCHEDULE OF BENEFITS EXECUTIVE AND MID-MANAGEMENT EMPLOYEES

PART I - HOLIDAYS

Section 1. Recognized Holidays.

A. For pay purposes, the following holidays are recognized as municipal holidays for regular employees. Said employees shall receive these holidays off with pay: New Year's Day, Martin Luther King Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Veteran's Day, Thanksgiving Day, the Friday following Thanksgiving Day, Christmas Eve Day and Christmas Day.

B. Beginning the first pay period of the payroll year, current employees shall be credited with one floating holiday (9 hours). Employees hired after the beginning of the payroll year, but before September 1, will be credited with the floating holiday. Floating holiday may be taken subject to approval of the employee's supervisor after consideration of the department workload and other staffing considerations such as, but not limited to, leave schedules of other employees already approved, sick leave and position vacancies. Floating holiday must be taken as paid time off in the credited payroll year. There shall be no cash payment for unused floating holiday.

C. When any holiday, recognized by the City, falls on a Sunday, the following Monday shall be considered the holiday; when any day, recognized by the City as a holiday, falls on a Saturday, the preceding Friday shall be considered the holiday.

D. Religious holidays requested off shall be done so in writing to the employee's supervisor. If approved, such time shall be charged against accumulated vacation or floating holiday leave.

Section 2. Holidays Falling During Approved Leaves of Absence Without Pay. Any employee on an approved leave of absence without pay, having the holiday fall during the period of such leave of absence without pay, shall be eligible for such holiday pay only in those instances where said employee has worked either the day before or the day immediately following said holiday.

PART II - VACATION

Section 1. Eligibility. All regular, full-time employees, having completed a minimum of six months continuous service with the City, and annually, thereafter, shall be eligible for a paid vacation at the employee's then current rate of pay. Recognizing that it is preferred that the full vacation be taken at one time, the employee may, nevertheless, request a modification of this preference. Upon approval of the City Manager, appropriate modifications may be allowed.

Section 2. Vacation Accrual.

Executive Management employees shall accrue vacation leave by the following formula:

<u>Hours/Month</u>	<u>Year of Employment</u>	<u>Annual Amount (Hours)</u>
10.0000	1st – 6th year	(120 hours)
10.6667	7th year	(128 hours)
11.3334	8th year	(136 hours)
12.0000	9th year	(144 hours)

12.6667	10th year	(152 hours)
13.3334	11th year	(160 hours), and each month thereafter.

Mid-Management employees shall accrue vacation leave by the following formula:

<u>Hours/Month</u>	<u>Year of Employment</u>	<u>Annual Amount (Hours)</u>
6.6670	1st year	(80 hours)
7.3334	2nd year	(88 hours)
8.0000	3rd year	(96 hours)
8.6667	4th year	(104 hours)
9.3334	5th year	(112 hours)
10.0000	6th year	(120 hours)
10.6667	7th year	(128 hours)
11.3334	8th year	(136 hours)
12.0000	9th year	(144 hours)
12.6667	10th year	(152 hours)
13.3334	11th year	(160 hours), and each month thereafter.

Section 3. Maximum Accrual.

A. Executive Management employees may accumulate unused vacation to a maximum of 360 hours. Mid-Management employees may accumulate unused vacation to a maximum of the amount accrued in the 24 months immediately preceding the employee's anniversary date of employment with a maximum of 320 hours. The accrual of vacation hours shall cease when an employee's accumulated vacation is at the maximum provided in this Section. However, the value of vacation hours earned in excess of the maximum accrual will be contributed towards the employee's Retiree Health Savings Plan. Additional vacation hours shall begin accruing when the employee's vacation balance falls below the maximum.

B. For purposes of this Article, the term "anniversary date of employment" is the date an employee began accruing vacation with the City.

Section 4. Use of Vacation.

A. The time at which an employee's vacation is to occur shall be determined by the employee's supervisor with due regard for the wishes of the employee and particular regard for the needs of the service.

B. An employee who has completed five years or more of continuous service and who has taken 40 cumulative hours of vacation in ~~his/her current anniversary the current payroll~~ year may elect to be paid for up to a maximum of 80 hours of accrued vacation in the following calendar year. To request payment of up to 80 hours, the employee must submit an irrevocable election form to Human Resources by December 15 ~~of the prior calendar year for the requested payment in the subsequent December's special payroll~~. For example, if an employee submits a payout request of 80 hours prior to December 15, 2024~~3~~ and is deemed eligible to receive a payout, the employee will be paid for 80 hours in ~~December 2025~~⁴. ~~Vacation balances rolled over from prior calendar years are not eligible for cash out. Regardless of the number of hours irrevocably elected for cash out, the cash out will only be made from hours accrued during the calendar year and not used for time off or otherwise by the employee at the time of the cash out. Cash outs shall be made in the pay period following: 1) the employee's anniversary date or 2) the accrual of hours requested to be paid out; whichever comes later.~~

Section 5. Vacation Payment at Termination.

A. Employees terminating employment shall be paid in a lump sum for all accrued vacation leave.

B. When termination is caused by the death of the employee, said payment for unused vacation shall be paid to the beneficiary designated by the employee. Such designation shall be in writing, signed by the employee and filed with the Human Resources Office. In the event an employee has not designated a beneficiary, the payment shall be made to the estate of the employee.

Section 6. Holidays Falling During Vacation Leave. In the event one or more municipal holidays fall within an annual vacation leave, such holiday shall not be charged as vacation leave and the vacation leave shall be extended accordingly.

Section 7. Vacation Earned During Leave of Absence. No vacation leave shall be earned during any leave of absence without pay for each 30-day period of such leave. Vacation leave shall be earned on a prorated basis during a leave of absence on partial pay status.

Section 8. Vacation - Miscellaneous. Employees shall not work for the City during their vacation and, thereby, receive double compensation from the City.

PART III - SICK LEAVE

Section 1. General Sick Leave Provisions.

A. Sick leave shall be requested only in cases of actual personal sickness or disability, medical or dental treatment, or as authorized by the City Manager or the Personnel Officer under the provisions of the Federal Family Medical Leave Act and/or the California Family Rights Act, California Labor Code Section 233 (use of sick leave) or the Healthy Workplace Healthy Family Act of 2014. The employee requesting sick leave shall notify his/her immediate supervisor prior to the time set for reporting to work. Sick leave with pay shall not be allowed unless the employee has met and complied with these provisions and the department head or the City Manager has approved such payment.

Section 2. Eligibility. All employees covered by this Agreement shall be eligible to accrue sick leave.

Section 3. Accrual. Sick leave shall be accrued at the rate of eight hours per calendar month for each calendar month that an employee has worked regularly scheduled hours and/or has been on authorized leave which provides for full pay, for at least 15 working days in that month. Sick leave shall be earned on a prorated basis during a leave of absence on partial pay status.

Section 4. Accumulation and Payment Plan.

A. Accrued sick leave may be accumulated without limit.

B. Payment of accumulated sick leave shall be granted by the Personnel Officer on an annual basis to all regular employees who have a minimum of 120 hours of accumulated sick leave on record on December 1st, and opt to receive payment of up to 48 hours of sick leave, during the subsequent December's special payroll at a rate of 50% of current salary. Employees must have a minimum balance of 120 hours after the payment of sick leave to be eligible for the payout.

C. Payment of accumulated sick leave shall be granted by the Personnel Officer on an annual basis to all employees who have a minimum of 240 hours of accumulated sick leave on record on December 1st, and opt to receive payment of up to 48 hours of sick leave, during the subsequent December's special payroll, at a rate of 100% of current salary. Employees must have a minimum balance of 120 hours after payment of sick leave to be eligible for the payout.

D. Employees wishing to cash out sick leave as described in Section 4. (B) and (C) above, must submit an irrevocable election form to Human Resources by December 15 for payment on the subsequent December's special payroll. For example, if an employee submits a payout request for the maximum 48 hours prior to December 15, 202~~4~~³, payment will be issued in December 202~~5~~⁴ (if eligible).

E. In accordance with the annual conversion policy set forth in Section 4. (B), (C) and (D) above, employees shall have the option of depositing their sick leave payment in a City deferred compensation program instead of receiving payment in cash. All deposits made into the deferred compensation program shall be made in accordance with any and all regulations governing the deferred compensation program.

F. Upon death, retirement, separation or termination of an employee covered by this Agreement, with a minimum of 60 days or 480 hours of sick leave accumulation, said employee is entitled to receive 50% compensation for that accumulated sick leave.

G. Upon death, retirement, separation or termination of an employee covered by this Agreement, with a minimum of five years of service and with between 240 hours and 480 hours of sick leave accumulation, said employee is entitled to receive payment for the difference between that amount of sick leave and 240 hours at 50% compensation.

H. If the Chief of Police was promoted and was previously a member of the Cypress Police Management Association (PMA), upon service retirement or termination, he/she will be entitled to receive payment of accumulated sick leave hours earned prior to promotion to Chief of Police, consistent with the terms of the PMA Memorandum of Understanding in effect at the time of promotion. Accumulated sick leave hours will be documented at the time of promotion and shall be paid to the Chief of Police at the highest hourly rate within the PMA upon separation from employment. Sick leave hours accumulated as Chief of Police will be paid in accordance with the sections above. If the Chief of Police is terminated for misconduct, he/she is ineligible for this payment.

I. In accordance with the payment plan set forth in Section 4 (F) and (G) above, upon separation, termination or retirement of an employee covered by this Agreement, said employee shall have the option of depositing their sick leave payment in a City deferred compensation program, instead of receiving payment in cash. All deposits made into the deferred compensation program shall be made in accordance with any and all regulations governing the deferred compensation program.

Section 5. Use.

A. Sick leave may be requested and used as approved by the department head or the City Manager. Payment for approved sick leave shall be authorized until the employee's accumulated total of sick leave hours has been exhausted and at such time the employee shall receive no further payment for sick leave. An employee shall have his/~~her~~ accumulated sick leave balance reduced by an amount equal to the number of hours of sick leave for which he/she receives payment.

B. Sick leave shall not be granted for disability arising from any sickness or injury purposely self-inflicted or caused by an employee's own willful misconduct.

Section 6. Sick Leave During Vacation. An employee who becomes ill while on vacation may have such period of illness charged to his/her accumulated sick leave provided that: immediately upon return to duty, the employee submits to his/her department head a written request for sick leave and a written statement signed by his/her physician that includes the dates of illness; and the department head recommends and the City Manager approves granting of such sick leave. The employee may request an extension of vacation due to illness, subject to the approval of the department head and City Manager.

Section 7. Extended Sick Leave. In the event of an employee's continuing illness which results in depletion of sick leave accumulation, the employee may request, in writing, to his/her department head and City Manager, a leave of absence without pay for the purpose of recovering from an illness, provided:

1. The employee has used all of his accumulated sick leave.
2. The employee presents to his/her department head for referral to and consideration by the City Manager, a written estimate of the time needed for recovery signed by the employee's physician.
3. Prior to resuming his/her duties, the employee may be required to take a medical examination at the City's expense and provide a medical release to return to work from the employee's physician as prescribed by the City Manager. The employment record and the results of such examination shall be considered by the City Manager in determining the employee's fitness to return to work.

Section 8. Federal Medical Leave Act and the California Family Rights Act

The City shall comply with the Federal Medical Leave Act of 1993 (FMLA) and the California Family Rights Act (CFRA) of 1991. Where there are differences between similar provisions of the Acts, the City shall comply with the provision which gives the employee the greater rights.

Section 9. On-the-job Injury. Employees who are disabled by injury or illness arising out of and in the course of their duties for the City, shall be entitled, regardless of his/her period of service with the City, to a leave of absence for the period of such disability, but not exceeding one (1) year, or until such earlier date as he/she is retired on permanent disability pension. Employees are eligible for up to four months of salary continuation in lieu of temporary disability payments. During the first five working days of such disability, the City shall pay 100% of the salary in lieu of temporary disability payments. Thereafter, the employee shall receive 80% of salary in lieu of temporary disability payments. Any payments made pursuant to this Section shall not be charged to sick leave; provided, however, no sick leave or vacation benefits shall accrue during the period of such disability.

Section 10. Off-the-job Injury. An employee injured outside of his/her service with the City may apply for benefits under the disability insurance plan provided by the City.

Section 11. California Labor Code Section 233

Pursuant to California Labor Code Section 233, employees may use a total of 48 hours of their accrued and available sick leave for the following reasons:

1. To attend to the illness of their child, parent, spouse, registered domestic partner, parent-in-law, grandparent, grandchild, ~~or sibling~~ or designated person.

2. To obtain any relief of services related to being a victim of domestic violence, sexual assault, or stalking including the following with appropriate certification of the need for such services:
 - a. A temporary restraining order or restraining order.
 - b. Other injunctive relief to help ensure the health, safety or welfare of themselves or their children.
 - c. To seek medical attention for injuries caused by domestic violence, sexual assault, or stalking.
 - d. To obtain services from a domestic violence shelter, program, or rape crisis center as a result of domestic violence, sexual assault, or stalking.
 - e. To obtain psychological counseling related to an experience of domestic violence, sexual assault, or stalking.
 - f. To participate in safety planning and take other action to increase safety from future domestic violence, sexual assault, or stalking, including temporary or permanent relocation.

ARTICLE IV - HEALTH, DENTAL, VISION, LIFE AND DISABILITY INSURANCE

Section 1. Health Insurance Plan.

A. For the employees covered by the terms of this Agreement, the City and the employees shall contribute the sums listed below per month per employee toward health insurance:

MEDICAL RATE PROVISIONS AND SCHEDULE

Health Insurance Benefit: The City shall provide health insurance coverage for the employee and any dependents which may include medical, dental and vision insurance plans. Effective January 1, 2024, the maximum contribution amount will increase from ~~\$2,243.70~~ to \$2,359.27 to \$2,557.07 per month for Executive Management and Mid-Management employees. Annual increases to the City's monthly contributions shall be based upon the average cost of all area HMO plans offered through the PERS Health Plan (~~2023 \$2,070.99/~~ 2024 \$2,191.06/ 2025 \$2,393.86) plus the DPO Dental Family rate (~~2023 \$146.90/~~ 2024 \$142.40/ 2025 \$137.40) and the Family Vision rate (~~2024 \$25.81/~~ 2025 \$25.81). Employees shall maintain the PERS Health Plan minimally at the employee-only coverage level, unless the employee demonstrates proof of other group coverage. Coverage under dental and vision plans shall be optional.

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- c) The employee must comply with all post-employment obligations outlined in the severance agreement, including but not limited to return of City property.
- d) Severance pay will be provided only for involuntary terminations without cause. It does not apply to voluntary resignations or terminations for cause.
- e) Severance pay shall be subject to all applicable taxes and withholdings required by law.
- f) Employees will be advised in writing to consult with an attorney before signing the severance agreement.



CITY OF CYPRESS

CITY COUNCIL REPORT

City Council Regular

10.

FROM: Matt Burton, Director of Finance and Administrative Services

DATE: 09/09/2024

SUBJECT: **Award On-call Contracts for Network Consulting Services**

RECOMMENDATION

1. Award a Professional Contract Services Contract to ADS Consulting Group, Inc. for On-Call Network Consulting Services; and
2. Award a Professional Contract Services Contract to LAN WAN Enterprise for On-Call Network Consulting Services.

DISCUSSION

The Information Technology (IT) division utilizes specialized expertise to assist with the operation, maintenance and enhancement of its computer network. This network is comprised of approximately 40 servers and 200 computer endpoints which support a variety of critical programs and services used by all departments. An on-call, or as-needed, service contract for network consulting enables IT to deliver projects and expedite project schedules by reducing the time spent soliciting multiple Requests for Proposals for individual projects from vendors specializing in network systems similar to Cypress's systems.

In July 2024, a request for qualifications (RFQ) for on-call network consulting was published and posted on the City's website and distributed to known technology consultants. The City received numerous proposals and IT personnel interviewed the three consulting companies that appeared most qualified. Two firms were identified to be the most qualified based on experience, credentials, and their scope of services. IT has used ADS Consulting Group, Inc. (ADS) for network support on an as-needed basis for more than 20 years, and they are uniquely qualified to support the City's IT network as they are the most familiar with the network and have provided excellent service during their time working for Cypress. LAN WAN Enterprise provides similar services to ADS, but also provides a broader scope of services that includes low voltage cabling, electrical work, and video production services.

BUDGET IMPACT

Sufficient amounts are included in the IT division's FY 2024-25 budget to provide for on-call support needs through the end of the year. Historically, the IT division spends between \$5,000 to \$15,000 annually for on-call consulting services for a variety of network and cybersecurity needs.

LEGAL REVIEW

The contracts have been reviewed by the City Attorney and approved as to form.

APPROVED BY: Peter Grant, City Manager

Attachments

Contract Services Agreement 2024 - ADS Consulting Group, Inc

Contract Services Agreement 2024 - LAN WAN Enterprise

AGREEMENT FOR CONTRACT SERVICES

By and Between

CITY OF CYPRESS

and

ADS Consulting Group, Inc.

CITY OF CYPRESS
AGREEMENT FOR CONTRACT SERVICES FOR
ON-CALL NETWORK CONSULTING

THIS AGREEMENT FOR CONTRACT SERVICES (herein "Agreement") is made and entered into this 10th day of September, 2024, by and between the CITY OF CYPRESS, a California municipal corporation ("City") and ADS Consulting Group, Inc. (herein "Contractor").

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Contractor shall perform the work or services set forth in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by reference. Contractor warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner.

1.2 Compliance With Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement.

1.4 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the "Special Requirements" attached hereto as Exhibit "B" and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit "B" and any other provisions of this Agreement, the provisions of Exhibit "B" shall govern.

2. COMPENSATION

2.1 Contract Sum. For on-call services rendered pursuant to this Agreement, Contractor shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "C" and incorporated herein by this reference.

2.2 Invoices. Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City's Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, City will use its best efforts to cause Contractor to be paid within forty five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by the City of any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.3 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum but not exceeding a total contract amount of Five Thousand Dollars (\$5,000) or in the time to perform of up to ninety (90) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. No claim for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding thirty (30) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for

any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

4. COORDINATION OF WORK

4.1 Representative of Contractor. Alan Sugano, CEO, ADS Consulting Group, Inc. is hereby designated as being the representative of Contractor authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Contractor and any authorized agents shall be under the exclusive direction of the representative of Contractor. Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, and shall keep City informed of any changes.

4.2 Contract Officer. The IT Manager, or such person as may be designated by the City Manager, is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and to make all decisions in connection therewith ("Contract Officer").

4.3 Prohibition Against Subcontracting or Assignment. Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

4.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent contractor of City with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages. The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Commercial General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, either

the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than either (i) bodily injury liability limits of \$100,000 per person and \$300,000 per occurrence and property damage liability limits of \$150,000 per occurrence or (ii) combined single limit liability of \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars, and any other automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(f) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or officers, employees or agents may apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this

Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsement to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City's Risk Manager or other designee of the City due to unique circumstances.

5.3 Indemnification. To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

a. Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorney's fees incurred in connection therewith;

b. Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

c. In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorney's fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional

services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records. Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services and shall keep such records for a period of three years following completion of the services hereunder. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records.

6.2 Reports. Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement or as the Contract Officer shall require.

6.3 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than the City without prior written authorization from the Contract Officer.

(b) Contractor shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives the City notice of such court order or subpoena.

(c) If Contractor provides any information or work product in violation of this Agreement, then the City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify the City should Contractor be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. The City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar

proceeding. Contractor agrees to cooperate fully with the City and to provide the City with the opportunity to review any response to discovery requests provided by Contractor.

6.4 Ownership of Documents. All studies, surveys, data, notes, computer files, reports, records, drawings, specifications, maps, designs, photographs, documents and other materials (the “documents and materials”) prepared by Contractor in the performance of this Agreement shall be the property of the City and shall be delivered to the City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by the City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Moreover, Contractor with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law. This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Orange, State of California.

7.2 Disputes; Default. In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue any legal action under this Agreement.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior to Expiration of Term. This Section shall govern any termination of this Contract except as specifically provided in the following Section for

termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon written notice to Contractor. In addition, the Contractor may terminate this Contract at any time for cause, upon sixty (60) days' advance written notice to City. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, but not exceeding the compensation provided therefore in the Schedule of Compensation Exhibit "C". In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.5 Termination for Default of Contractor. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

8. MISCELLANEOUS

8.1 Covenant Against Discrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class

8.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.3 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Cypress, 5275 Orange Avenue, Cypress, California 90630 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing.

Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

8.4 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

8.5 Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Waiver. No delay or omission in the exercise of any right or remedy by non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.7 Attorney's Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which any be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

8.8 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.9 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.10 Warranty & Representation of Non-Collusion. No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests"

pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor's Authorized Initials _____

8.11 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[Signatures on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

City of Cypress, a municipal corporation

Scott Minikus, Mayor

ATTEST:

Alisha Farnell, City Clerk

APPROVED AS TO FORM:
ALESHIRE & WYNDER, LLP

Fred Galante, City Attorney

CONTRACTOR:

ADS Consulting Group, Inc.

By: _____

Name: ALAN SUGANG

Title: PRESIDENT

By: _____

Name: KRISTINA KROLL

Title: SECRETARY

Address: 5 Albero Ct.

Rancho Palos Verdes, CA 90275

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF ORANGE

On _____, 2024 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)

☐ PARTNER(S) ☐ LIMITED
☐ TRUSTEE(S) ☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF ORANGE

On _____, 2024 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

- ☐ INDIVIDUAL
☐ CORPORATE OFFICER

TITLE(S)
- ☐ PARTNER(S) ☐ LIMITED
☐ GENERAL
☐ ATTORNEY-IN-FACT
☐ TRUSTEE(S)
☐ GUARDIAN/CONSERVATOR
☐ OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

EXHIBIT "A"

SCOPE OF SERVICES

A. SPECIFIC Requirements for Scope of SERVICES

A-1 Contractor shall provide professional network and systems support and various IT services on an on-call, task order, time and material, not-to-exceed basis, to the City of Cypress, including the following:

The Contractor shall perform network and systems upgrades, and network operations support on the City's network and systems infrastructure. The contractor shall be thoroughly capable of troubleshooting various network communication issues including fiber, copper, and wireless communication systems that are used for communication between each City location, partnering organizations, and the internet. In addition, the Contractor shall be capable of performing various types of network consulting services including network design, IT project management, and network security auditing.

A-2 Prior to starting any work, Contractor shall submit a proposed, detailed Task Order scope of services, fee proposal, schedule, and over-all project not to exceed estimate, to the Contract Officer for approval.

A-3 Scope of Services and number of hours for each Task shall be upon mutual agreement by the City and the Contractor.

B. General Requirements for Scope of SERVICES

B-1 Invoices: The Contractor shall submit not more than two invoices a month and shall obtain a copy of the accounts payable schedule. The invoice(s) will be in a format that is acceptable to Contract Officer and shall detail individual personnel who worked on the project, specific tasks performed, hours worked, billing rate, total costs, and previous billing history, percentage of work completed, percentage of dollars spent. The Contractor shall prepare invoices that show costs against each major milestone task.

The Contractor shall notify the Contract Officer when the cumulative compensation payable under any Task Order has reached 75% of the estimated not to exceed price. If at any time the Contractor has reason to believe that the total cost to the Authority for the performance of the Task Order will be greater or substantially less than the not to exceed estimate, the Contractor shall notify the City in writing to that effect and give its revised estimate of the total cost for the performance of the task Order. The notice shall state the estimated amount of additional funds required to continue performance for the remainder of the Task Order. In no event is the Contractor authorized to exceed the Task Order "not to exceed price" without prior written approval from the City.

B-2 Computer Files: At the conclusion of each Task Order, or mutually agreed milestones, the Contractor shall supply the City with a digital and editable copy of all files that are

included in the hard copy submittal. The Contractor shall use or transfer files into the following formats: Word Processing: Microsoft Word, Spreadsheets: Microsoft Excel, Databases: Microsoft Access, GIS: ArcView, Drawings: AutoCAD. All digital files shall be submitted electronically by file share or email dependent on size.

The City shall have the right to use, duplicate, modify or disclose the technical data and the information contained therein.

The Contractor agrees to provide any proprietary software or data used in conjunction with the project to the City, if requested, as long as the City pays for any additional licensing costs.

B-3 UNAUTHORIZED WORK: Any services not required by the terms of the final scope of work or proposal that are performed without written authority from the Contract Officer, will be considered as unauthorized and at the sole expense of the Contractor. Services so performed will not be paid for, and no extension in the period of performance shall be granted on account thereof.

EXHIBIT “B”

SPECIAL REQUIREMENTS (Superseding Contract Boilerplate)

- A. Section 3.4 shall be replaced with the following:

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services as may be requested by City from time-to-time. The initial term shall be effective September 10, 2024 until September 9, 2027.

The City shall have the right but not the obligation, in its sole and unfettered discretion, to extend the initial term of this Agreement for two, (1) year extended terms. In order to do so, City shall, no later than thirty (30) calendar days prior to the expiration of the initial term and subsequent term, give Contractor written notice, in the form and manner allowed by this Agreement, of its intention to extend the term of this Agreement which extension shall be according to the terms and conditions of this Agreement, unless the same is modified by the parties hereto in writing signed by the party to be charged.

- B. Business License Requirement for Contactor

B-1 Business License: Contractor agrees to obtain at their own expense and hold in good standing a business license with the City of Cypress for the entire term of the agreement.

EXHIBIT "C"

SCHEDULE OF COMPENSATION

- A. Contractor's fee shall be negotiated, for each Task Order, on a Time and Material, Not-to-Exceed basis, in accordance with the hourly rate schedule, attached hereto as Exhibit "C-1".
- B. All Task Orders must be performed within the budgetary limits established for each project, unless authorized otherwise, in advance in writing, by the Contract Officer and/or the Director of Finance.
- C. All Task Orders shall be specified in writing, including, but not limited to, the Not-to-Exceed fee for services rendered.

EXHIBIT "C-1"

HOURLY RATE SCHEDULE

**ADS Consulting Group, Inc.
August 2024**

<u>Labor Classification</u>	<u>Hourly Rate</u>
Network Consultant	\$160.00

Notes:

Mileage will be invoiced at the IRS mileage rate of the calendar year. The IRS mileage rate for 2024 is \$0.67 per mile.

EXHIBIT "D"

SCHEDULE OF PERFORMANCE

- A. Hourly rates, set forth in Exhibit "C-1", are to remain in effect for a period of (5) years starting from the date of full execution of this agreement.
- B. Specific work shall be implemented by means of Task Orders, issued in writing by the Contract Officer to the Contractor, including, but not limited to, a not-to-exceed fee for services rendered for each Task Order.
- C. In the case of emergency work, Contractor shall be available to provide services within 4 hours, in response to issuance of a Task Order by the Contract Officer.
- D. The Contractor shall provide a detailed schedule, in a format approved by the Contract Officer, for each Task Order. No work shall be authorized unless the Contract Officer has first approved the schedule.

AGREEMENT FOR CONTRACT SERVICES

By and Between

CITY OF CYPRESS

and

LAN WAN Enterprise

CITY OF CYPRESS
AGREEMENT FOR CONTRACT SERVICES FOR
ON-CALL NETWORK CONSULTING

THIS AGREEMENT FOR CONTRACT SERVICES (herein “Agreement”) is made and entered into this 10th day of September, 2024, by and between the CITY OF CYPRESS, a California municipal corporation (“City”) and LAN WAN Enterprise (herein “Contractor”).

NOW, THEREFORE, the parties hereto agree as follows:

1. SERVICES OF CONTRACTOR

1.1 Scope of Services. In compliance with all of the terms and conditions of this Agreement, the Contractor shall perform the work or services set forth in the “Scope of Services” attached hereto as Exhibit “A” and incorporated herein by reference. Contractor warrants that it has the experience and ability to perform all work and services required hereunder and that it shall diligently perform such work and services in a professional and satisfactory manner.

1.2 Compliance With Law. All work and services rendered hereunder shall be provided in accordance with all ordinances, resolutions, statutes, rules, and regulations of the City and any Federal, State or local governmental agency of competent jurisdiction.

1.3 Licenses, Permits, Fees and Assessments. Contractor shall obtain at its sole cost and expense such licenses, permits, and approvals as may be required by law for the performance of the services required by the Agreement.

1.4 Special Requirements. Additional terms and conditions of this Agreement, if any, which are made a part hereof are set forth in the “Special Requirements” attached hereto as Exhibit “B” and incorporated herein by this reference. In the event of a conflict between the provisions of Exhibit “B” and any other provisions of this Agreement, the provisions of Exhibit “B” shall govern.

2. COMPENSATION

2.1 Contract Sum. For on-call services rendered pursuant to this Agreement, Contractor shall be compensated in accordance with the “Schedule of Compensation” attached hereto as Exhibit “C” and incorporated herein by this reference.

2.2 Invoices. Each month Contractor shall furnish to City an original invoice for all work performed and expenses incurred during the preceding month in a form approved by City’s Director of Finance. By submitting an invoice for payment under this Agreement, Contractor is certifying compliance with all provisions of the Agreement. The invoice shall detail charges for all necessary and actual expenses by the following categories: labor (by sub-category), travel, materials, equipment, supplies, and sub-contractor contracts. Sub-contractor charges shall also be detailed by such categories. Contractor shall not invoice City for any duplicate services performed by more than one person.

City shall independently review each invoice submitted by the Contractor to determine whether the work performed and expenses incurred are in compliance with the provisions of this Agreement. Except as to any charges for work performed or expenses incurred by Contractor which are disputed by City, City will use its best efforts to cause Contractor to be paid within forty five (45) days of receipt of Contractor's correct and undisputed invoice; however, Contractor acknowledges and agrees that due to City warrant run procedures, the City cannot guarantee that payment will occur within this time period. In the event any charges or expenses are disputed by City, the original invoice shall be returned by City to Contractor for correction and resubmission. Review and payment by the City of any invoice provided by the Contractor shall not constitute a waiver of any rights or remedies provided herein or any applicable law.

2.3 Additional Services. City shall have the right at any time during the performance of the services, without invalidating this Agreement, to order extra work beyond that specified in the Scope of Services or make changes by altering, adding to or deducting from said work. No such extra work may be undertaken unless a written order is first given by the Contract Officer to the Contractor, incorporating therein any adjustment in (i) the Contract Sum for the actual cost of the extra work, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Contractor. Any increase in compensation of up to ten percent (10%) of the Contract Sum but not exceeding a total contract amount of Five Thousand Dollars (\$5,000) or in the time to perform of up to ninety (90) days may be approved by the Contract Officer. Any greater increases, taken either separately or cumulatively, must be approved by the City Council. No claim for an increase in the Contract Sum or time for performance shall be valid unless the procedures established in this Section are followed.

3. PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Contractor shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "D" and incorporated herein by this reference. When requested by the Contractor, extensions to the time period(s) specified in the Schedule of Performance may be approved in writing by the Contract Officer but not exceeding thirty (30) days cumulatively.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended because of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Contractor, including, but not restricted to, acts of God or of the public enemy, unusually severe weather, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, strikes, freight embargoes, wars, litigation, and/or acts of any governmental agency, including the City, if the Contractor shall within ten (10) days of the commencement of such delay notify the Contract Officer in writing of the causes of the delay. The Contract Officer shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the judgment of the Contract Officer such delay is justified. The Contract Officer's determination shall be final and conclusive upon the parties to this Agreement. In no event shall Contractor be entitled to recover damages against the City for

any delay in the performance of this Agreement, however caused, Contractor's sole remedy being extension of the Agreement pursuant to this Section.

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services but not exceeding one (1) year from the date hereof, except as otherwise provided in the Schedule of Performance (Exhibit "D").

4. COORDINATION OF WORK

4.1 Representative of Contractor. Rami Dababneh, Vice President, LAN WAN Enterprise is hereby designated as being the representative of Contractor authorized to act on its behalf with respect to the work and services specified herein and make all decisions in connection therewith. All personnel of Contractor and any authorized agents shall be under the exclusive direction of the representative of Contractor. Contractor shall utilize only competent personnel to perform services pursuant to this Agreement. Contractor shall make every reasonable effort to maintain the stability and continuity of Contractor's staff and subcontractors, and shall keep City informed of any changes.

4.2 Contract Officer. The IT Manager, or such person as may be designated by the City Manager, is hereby designated as being the representative the City authorized to act in its behalf with respect to the work and services specified herein and to make all decisions in connection therewith ("Contract Officer").

4.3 Prohibition Against Subcontracting or Assignment. Contractor shall not contract with any entity to perform in whole or in part the work or services required hereunder without the express written approval of the City. Neither this Agreement nor any interest herein may be assigned or transferred, voluntarily or by operation of law, without the prior written approval of City. Any such prohibited assignment or transfer shall be void.

4.4 Independent Contractor. Neither the City nor any of its employees shall have any control over the manner, mode or means by which Contractor, its agents or employees, perform the services required herein, except as otherwise set forth. Contractor shall perform all services required herein as an independent contractor of City with only such obligations as are consistent with that role. Contractor shall not at any time or in any manner represent that it or any of its agents or employees are agents or employees of City, or that it is a member of a joint enterprise with City.

5. INSURANCE AND INDEMNIFICATION

5.1 Insurance Coverages. The Contractor shall procure and maintain, at its sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement including any extension thereof, the following policies of insurance which shall cover all elected and appointed officers, employees and agents of City:

(a) Commercial General Liability Insurance (Occurrence Form CG0001 or equivalent). A policy of comprehensive general liability insurance written on a per occurrence basis for bodily injury, personal injury and property damage. The policy of insurance shall be in an amount not less than \$1,000,000.00 per occurrence or if a general aggregate limit is used, either

the general aggregate limit shall apply separately to this contract/location, or the general aggregate limit shall be twice the occurrence limit.

(b) Worker's Compensation Insurance. A policy of worker's compensation insurance in such amount as will fully comply with the laws of the State of California and which shall indemnify, insure and provide legal defense for the Contractor against any loss, claim or damage arising from any injuries or occupational diseases occurring to any worker employed by or any persons retained by the Contractor in the course of carrying out the work or services contemplated in this Agreement.

(c) Automotive Insurance (Form CA 0001 (Ed 1/87) including "any auto" and endorsement CA 0025 or equivalent). A policy of comprehensive automobile liability insurance written on a per occurrence for bodily injury and property damage in an amount not less than either (i) bodily injury liability limits of \$100,000 per person and \$300,000 per occurrence and property damage liability limits of \$150,000 per occurrence or (ii) combined single limit liability of \$1,000,000. Said policy shall include coverage for owned, non-owned, leased, hired cars, and any other automobile.

(d) Professional Liability. Professional liability insurance appropriate to the Contractor's profession. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon, arising out of or related to services performed under this Agreement. The insurance must be maintained for at least 5 consecutive years following the completion of Contractor's services or the termination of this Agreement. During this additional 5-year period, Contractor shall annually and upon request of the City submit written evidence of this continuous coverage.

(e) Additional Insurance. Policies of such other insurance, as may be required in the Special Requirements in Exhibit "B".

(f) Subcontractors. Contractor shall include all subcontractors as insureds under its policies or shall furnish separate certificates and certified endorsements for each subcontractor. All coverages for subcontractors shall be subject to all of the requirements stated herein.

5.2 General Insurance Requirements.

All of the above policies of insurance shall be primary insurance and shall name the City, elected and appointed officers, employees and agents as additional insureds and any insurance maintained by City or officers, employees or agents may apply in excess of, and not contribute with Contractor's insurance. The insurer is deemed hereof to waive all rights of subrogation and contribution it may have against the City, officers, employees and agents and their respective insurers. The insurance policy must specify that where the primary insured does not satisfy the self-insured retention, any additional insured may satisfy the self-insured retention. All of said policies of insurance shall provide that said insurance may not be amended or cancelled by the insurer or any party hereto without providing thirty (30) days prior written notice by certified mail return receipt requested to the City. In the event any of said policies of insurance are cancelled, the Contractor shall, prior to the cancellation date, submit new evidence of insurance in conformance with this Section 5.1 to the Contract Officer. No work or services under this

Agreement shall commence until the Contractor has provided the City with Certificates of Insurance, additional insured endorsement forms or appropriate insurance binders evidencing the above insurance coverages and said Certificates of Insurance or binders are approved by the City. City reserves the right to inspect complete, certified copies of and endorsement to all required insurance policies at any time. Any failure to comply with the reporting or other provisions of the policies including breaches or warranties shall not affect coverage provided to City.

The insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, The Key Rating Guide or in the Federal Register, and only if they are of a financial category Class VII or better, unless such requirements are waived by the City's Risk Manager or other designee of the City due to unique circumstances.

5.3 Indemnification. To the full extent permitted by law, Contractor agrees to indemnify, defend and hold harmless the City, its officers, employees and agents ("Indemnified Parties") against, and will hold and save them and each of them harmless from, any and all actions, either judicial, administrative, arbitration or regulatory claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions or liabilities whether actual or threatened (herein "claims or liabilities") that may be asserted or claimed by any person, firm or entity arising out of or in connection with the negligent performance of the work, operations or activities provided herein of Contractor, its officers, employees, agents, subcontractors, or invitees, or any individual or entity for which Contractor is legally liable ("indemnitors"), or arising from Contractor's or indemnitors' reckless or willful misconduct, or arising from Contractor's or indemnitors' negligent performance of or failure to perform any term, provision, covenant or condition of this Agreement, and in connection therewith:

a. Contractor will defend any action or actions filed in connection with any of said claims or liabilities and will pay all costs and expenses, including legal costs and attorney's fees incurred in connection therewith;

b. Contractor will promptly pay any judgment rendered against the City, its officers, agents or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations or activities of Contractor hereunder; and Contractor agrees to save and hold the City, its officers, agents, and employees harmless therefrom;

c. In the event the City, its officers, agents or employees is made a party to any action or proceeding filed or prosecuted against Contractor for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work, operation or activities of Contractor hereunder, Contractor agrees to pay to the City, its officers, agents or employees, any and all costs and expenses incurred by the City, its officers, agents or employees in such action or proceeding, including but not limited to, legal costs and attorney's fees.

Contractor shall incorporate similar indemnity agreements with its subcontractors and if it fails to do so Contractor shall be fully responsible to indemnify City hereunder therefore, and failure of City to monitor compliance with these provisions shall not be a waiver hereof. This indemnification includes claims or liabilities arising from any negligent or wrongful act, error or omission, or reckless or willful misconduct of Contractor in the performance of professional

services hereunder. The provisions of this Section do not apply to claims or liabilities occurring as a result of City's sole negligence or willful acts or omissions, but, to the fullest extent permitted by law, shall apply to claims and liabilities resulting in part from City's negligence, except that design professionals' indemnity hereunder shall be limited to claims and liabilities arising out of the negligence, recklessness or willful misconduct of the design professional. The indemnity obligation shall be binding on successors and assigns of Contractor and shall survive termination of this Agreement.

6. RECORDS, REPORTS, AND RELEASE OF INFORMATION

6.1 Records. Contractor shall keep, and require subcontractors to keep, such ledgers, books of accounts, invoices, vouchers, canceled checks, reports, studies or other documents relating to the disbursements charged to City and services performed hereunder (the "books and records"), as shall be necessary to perform the services required by this Agreement and enable the Contract Officer to evaluate the performance of such services and shall keep such records for a period of three years following completion of the services hereunder. The Contract Officer shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit and make records and transcripts from such records.

6.2 Reports. Contractor shall periodically prepare and submit to the Contract Officer such reports concerning the performance of the services required by this Agreement or as the Contract Officer shall require.

6.3 Confidentiality and Release of Information.

(a) All information gained or work product produced by Contractor in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Contractor. Contractor shall not release or disclose any such information or work product to persons or entities other than the City without prior written authorization from the Contract Officer.

(b) Contractor shall not, without prior written authorization from the Contract Officer or unless requested by the City Attorney, voluntarily provide documents, declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Contractor gives the City notice of such court order or subpoena.

(c) If Contractor provides any information or work product in violation of this Agreement, then the City shall have the right to reimbursement and indemnity from Contractor for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Contractor's conduct.

(d) Contractor shall promptly notify the City should Contractor be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. The City retains the right, but has no obligation, to represent Contractor or be present at any deposition, hearing or similar

proceeding. Contractor agrees to cooperate fully with the City and to provide the City with the opportunity to review any response to discovery requests provided by Contractor.

6.4 Ownership of Documents. All studies, surveys, data, notes, computer files, reports, records, drawings, specifications, maps, designs, photographs, documents and other materials (the “documents and materials”) prepared by Contractor in the performance of this Agreement shall be the property of the City and shall be delivered to the City upon request of the Contract Officer or upon the termination of this Agreement, and Contractor shall have no claim for further employment or additional compensation as a result of the exercise by the City of its full rights of ownership use, reuse, or assignment of the documents and materials hereunder. Moreover, Contractor with respect to any documents and materials that may qualify as “works made for hire” as defined in 17 U.S.C. § 101, such documents and materials are hereby deemed “works made for hire” for the City.

7. ENFORCEMENT OF AGREEMENT AND TERMINATION

7.1 California Law. This Agreement shall be interpreted, construed and governed both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Orange, State of California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in the County of Orange, State of California.

7.2 Disputes; Default. In the event that Contractor is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Contractor for any work performed after the date of default. Instead, the City may give notice to Contractor of the default and the reasons for the default. The notice shall include the timeframe in which Contractor may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, if circumstances warrant. During the period of time that Contractor is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. If Contractor does not cure the default, the City may take necessary steps to terminate this Agreement under this Article.

7.3 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement. Notwithstanding any contrary provision herein, Contractor shall file a statutory claim pursuant to Government Code Sections 905 et. seq. and 910 et. seq., in order to pursue any legal action under this Agreement.

Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.4 Termination Prior to Expiration of Term. This Section shall govern any termination of this Contract except as specifically provided in the following Section for

termination for cause. The City reserves the right to terminate this Contract at any time, with or without cause, upon written notice to Contractor. In addition, the Contractor may terminate this Contract at any time for cause, upon sixty (60) days' advance written notice to City. Upon receipt of any notice of termination, Contractor shall immediately cease all services hereunder except such as may be specifically approved by the Contract Officer. Except where the Contractor has initiated termination, the Contractor shall be entitled to compensation for all services rendered prior to the effective date of the notice of termination and for any services authorized by the Contract Officer thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officer. In the event the Contractor has initiated termination, the Contractor shall be entitled to compensation only for the reasonable value of the work product actually produced hereunder, but not exceeding the compensation provided therefore in the Schedule of Compensation Exhibit "C". In the event of termination without cause pursuant to this Section, the terminating party need not provide the non-terminating party with the opportunity to cure pursuant to Section 7.2.

7.5 Termination for Default of Contractor. If termination is due to the failure of the Contractor to fulfill its obligations under this Agreement, City may, after compliance with the provisions of Section 7.2, take over the work and prosecute the same to completion by contract or otherwise, and the Contractor shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Contractor for the purpose of set-off or partial payment of the amounts owed the City as previously stated.

8. MISCELLANEOUS

8.1 Covenant Against Discrimination. Contractor covenants that, by and for itself, its heirs, executors, assigns and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class in the performance of this Agreement. Contractor shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, religion, sex, gender, sexual orientation, marital status, national origin, ancestry, or other protected class

8.2 Non-liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Contractor, or any successor in interest, in the event of any default or breach by the City or for any amount, which may become due to the Contractor or to its successor, or for breach of any obligation of the terms of this Agreement.

8.3 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first-class mail, in the case of the City, to the City Manager and to the attention of the Contract Officer (with her/his name and City title), City of Cypress, 5275 Orange Avenue, Cypress, California 90630 and in the case of the Contractor, to the person(s) at the address designated on the execution page of this Agreement. Either party may change its address by notifying the other party of the change of address in writing.

Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

8.4 Integration; Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements and understandings, if any, between the parties, and none shall be used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

8.5 Severability. In the event that part of this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining portions of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its invalidity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

8.6 Waiver. No delay or omission in the exercise of any right or remedy by non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. A party's consent to or approval of any act by the other party requiring the party's consent or approval shall not be deemed to waive or render unnecessary the other party's consent to or approval of any subsequent act. Any waiver by either party of any default must be in writing and shall not be a waiver of any other default concerning the same or any other provision of this Agreement.

8.7 Attorney's Fees. If either party to this Agreement is required to initiate or defend or made a party to any action or proceeding in any way connected with this Agreement, the prevailing party in such action or proceeding, in addition to any other relief which any be granted, whether legal or equitable, shall be entitled to reasonable attorney's fees, whether or not the matter proceeds to judgment.

8.8 Interpretation.

The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

8.9 Counterparts.

This Agreement may be executed in counterparts, each of which shall be deemed to be an original, and such counterparts shall constitute one and the same instrument.

8.10 Warranty & Representation of Non-Collusion. No official, officer, or employee of City has any financial interest, direct or indirect, in this Agreement, nor shall any official, officer, or employee of City participate in any decision relating to this Agreement which may affect his/her financial interest or the financial interest of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any corporation, partnership, or association in which (s)he is directly or indirectly interested, or in violation of any State or municipal statute or regulation. The determination of "financial interest" shall be consistent with State law and shall not include interests found to be "remote" or "noninterests"

pursuant to Government Code Sections 1091 or 1091.5. Contractor warrants and represents that it has not paid or given, and will not pay or give, to any third party including, but not limited to, any City official, officer, or employee, any money, consideration, or other thing of value as a result or consequence of obtaining or being awarded any agreement. Contractor further warrants and represents that (s)he/it has not engaged in any act(s), omission(s), or other conduct or collusion that would result in the payment of any money, consideration, or other thing of value to any third party including, but not limited to, any City official, officer, or employee, as a result of consequence of obtaining or being awarded any agreement. Contractor is aware of and understands that any such act(s), omission(s) or other conduct resulting in such payment of money, consideration, or other thing of value will render this Agreement void and of no force or effect.

Contractor's Authorized Initials R-D

8.11 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of said party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which said party is bound. This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the parties.

[Signatures on the following page.]

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first-above written.

CITY:

City of Cypress, a municipal corporation

Scott Minikus, Mayor

ATTEST:

Alisha Farnell, City Clerk

APPROVED AS TO FORM:
ALESIRE & WYNDER, LLP

Fred Galante, City Attorney

CONTRACTOR:

LAN WAN Enterprise

By:



Name: Ban Owens

Title: CEO

By:



Name: Rami Dababneh

Title: Executive vice president

Address: 17500 Red Hill Ave., Ste. 120
Irvine, CA 92614

Two corporate officer signatures required when Contractor is a corporation, with one signature required from each of the following groups: 1) Chairman of the Board, President or any Vice President; and 2) Secretary, any Assistant Secretary, Chief Financial Officer or any Assistant Treasurer. CONTRACTOR'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONTRACTOR'S BUSINESS ENTITY.

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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

STATE OF CALIFORNIA

COUNTY OF ORANGE

On _____, 2024 before me, _____, personally appeared _____, proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature: _____

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the document and could prevent fraudulent reattachment of this form

CAPACITY CLAIMED BY SIGNER

☐

INDIVIDUAL

☐

CORPORATE OFFICER

TITLE(S)

☐

PARTNER(S)

☐

LIMITED

☐

GENERAL

☐

ATTORNEY-IN-FACT

☐

TRUSTEE(S)

☐

GUARDIAN/CONSERVATOR

☐

OTHER _____

DESCRIPTION OF ATTACHED DOCUMENT

TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER IS REPRESENTING:

(NAME OF PERSON(S) OR ENTITY(IES))

SIGNER(S) OTHER THAN NAMED ABOVE

CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT

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EXHIBIT “A”

SCOPE OF SERVICES

A. SPECIFIC Requirements for Scope of SERVICES

A-1 Contractor shall provide professional network and systems support and various IT services on an on-call, task order, time and material, not-to-exceed basis, to the City of Cypress, including the following:

The Contractor shall perform network and systems upgrades, and network operations support on the City’s network and systems infrastructure. The contractor shall be thoroughly capable of troubleshooting various network communication issues including fiber, copper, and wireless communication systems that are used for communication between each City location, partnering organizations, and the internet. In addition, the Contractor shall be capable of performing various types of network consulting services including network design, IT project management, and network security auditing.

A-2 Prior to starting any work, Contractor shall submit a proposed, detailed Task Order scope of services, fee proposal, schedule, and over-all project not to exceed estimate, to the Contract Officer for approval.

A-3 Scope of Services and number of hours for each Task shall be upon mutual agreement by the City and the Contractor.

B. General Requirements for Scope of SERVICES

B-1 Invoices: The Contractor shall submit not more than two invoices a month and shall obtain a copy of the accounts payable schedule. The invoice(s) will be in a format that is acceptable to Contract Officer and shall detail individual personnel who worked on the project, specific tasks performed, hours worked, billing rate, total costs, and previous billing history, percentage of work completed, percentage of dollars spent. The Contractor shall prepare invoices that show costs against each major milestone task.

The Contractor shall notify the Contract Officer when the cumulative compensation payable under any Task Order has reached 75% of the estimated not to exceed price. If at any time the Contractor has reason to believe that the total cost to the Authority for the performance of the Task Order will be greater or substantially less than the not to exceed estimate, the Contractor shall notify the City in writing to that effect and give its revised estimate of the total cost for the performance of the task Order. The notice shall state the estimated amount of additional funds required to continue performance for the remainder of the Task Order. In no event is the Contractor authorized to exceed the Task Order “not to exceed price” without prior written approval from the City.

B-2 Computer Files: At the conclusion of each Task Order, or mutually agreed milestones, the Contractor shall supply the City with a digital and editable copy of all files that are

included in the hard copy submittal. The Contractor shall use or transfer files into the following formats: Word Processing: Microsoft Word, Spreadsheets: Microsoft Excel, Databases: Microsoft Access, GIS: ArcView, Drawings: AutoCAD. All digital files shall be submitted electronically by file share or email dependent on size.

The City shall have the right to use, duplicate, modify or disclose the technical data and the information contained therein.

The Contractor agrees to provide any proprietary software or data used in conjunction with the project to the City, if requested, as long as the City pays for any additional licensing costs.

B-3 UNAUTHORIZED WORK: Any services not required by the terms of the final scope of work or proposal that are performed without written authority from the Contract Officer, will be considered as unauthorized and at the sole expense of the Contractor. Services so performed will not be paid for, and no extension in the period of performance shall be granted on account thereof.

EXHIBIT “B”

SPECIAL REQUIREMENTS (Superseding Contract Boilerplate)

- A. Section 3.4 shall be replaced with the following:

3.4 Term. Unless earlier terminated in accordance with Article 7 of this Agreement, this Agreement shall continue in full force and effect until completion of the services as may be requested by City from time-to-time. The initial term shall be effective September 10, 2024 until September 9, 2027.

The City shall have the right but not the obligation, in its sole and unfettered discretion, to extend the initial term of this Agreement for two, (1) year extended terms. In order to do so, City shall, no later than thirty (30) calendar days prior to the expiration of the initial term and subsequent term, give Contractor written notice, in the form and manner allowed by this Agreement, of its intention to extend the term of this Agreement which extension shall be according to the terms and conditions of this Agreement, unless the same is modified by the parties hereto in writing signed by the party to be charged.

- B. Business License Requirement for Contactor

B-1 Business License: Contractor agrees to obtain at their own expense and hold in good standing a business license with the City of Cypress for the entire term of the agreement.

EXHIBIT “C”

SCHEDULE OF COMPENSATION

- A. Contractor’s fee shall be negotiated, for each Task Order, on a Time and Material, Not-to-Exceed basis, in accordance with the hourly rate schedule, attached hereto as Exhibit “C-1”.
- B. All Task Orders must be performed within the budgetary limits established for each project, unless authorized otherwise, in advance in writing, by the Contract Officer and/or the Director of Finance.
- C. All Task Orders shall be specified in writing, including, but not limited to, the Not-to-Exceed fee for services rendered.

EXHIBIT “C-1”

HOURLY RATE SCHEDULE

**LAN WAN Enterprise
August 2024**

<u>Labor Classification</u>	<u>Hourly Rate</u>
Onsite\Remote Level 1 Support	\$120
Onsite\Remote Level 1 Support After Hours	\$140
Council Meetings Extended Hours	\$140
Project Services \ Senior Engineer	\$175
Senior Security CEH \Solutions architect	\$175
Onsite\Remote Senior Support After Hours	\$195

EXHIBIT “D”

SCHEDULE OF PERFORMANCE

- A. Hourly rates, set forth in Exhibit “C-1”, are to remain in effect for a period of (5) years starting from the date of full execution of this agreement.
- B. Specific work shall be implemented by means of Task Orders, issued in writing by the Contract Officer to the Contractor, including, but not limited to, a not-to-exceed fee for services rendered for each Task Order.
- C. In the case of emergency work, Contractor shall be available to provide services within 4 hours, in response to issuance of a Task Order by the Contract Officer.
- D. The Contractor shall provide a detailed schedule, in a format approved by the Contract Officer, for each Task Order. No work shall be authorized unless the Contract Officer has first approved the schedule.